

# ANZ eMATCHING TERMS OF USE

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AUSTRALIA AND NEW ZEALAND BANKING GROUP  
LIMITED (ABN 11 005 357 522)  
LEVEL 5, 100 QUEEN STREET  
MELBOURNE VICTORIA 3000

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## ANZ eMATCHING TERMS OF USE

### 1. ANZ eMATCHING SERVICE

- 1.1. ANZ eMatching is an electronic platform that allows users to access the Confirmation for a Transaction on-line and confirm that the details are correct or query if there is a discrepancy. We will make available this service known as "ANZ eMatching" to you in order to facilitate electronic confirmation of Transactions.
- 1.2. ANZ eMatching services will be supplied through the ANZ Website or any other electronic link which we may designate from time to time.
- 1.3. We will provide you with instructions for the operation and use of ANZ eMatching. You agree to use ANZ eMatching strictly in accordance with these instructions and the security procedures or measures (if any) we will provide.
- 1.4. You are responsible for the accuracy and authorisation of all your Electronic Instructions and must ensure that any Electronic Instruction issued through ANZ eMatching is correct, complete and authorised.
- 1.5. We may act on and process all Electronic Instructions issued or transmitted through ANZ eMatching using the password, encryption keys or other access procedures and security information referable to you without making any enquiries unless we are on notice that the Electronic Instruction is unauthorised, not authentic or in breach of any relevant security measure, or may (but are not obliged to) enquire about or attempt to verify the authenticity of any instructions.
- 1.6. We will provide you with the instructions for use of ANZ eMatching referred to above on receipt from you of any information that we require to enable you to use ANZ eMatching.

### 2. eMATCHING AVAILABILITY

- 2.1. We maintain and test ANZ eMatching and endeavour to provide a reliable service. However, electronic services are subject to interruption or breakdown for a variety of reasons due to circumstances outside ANZ's reasonable control. Access to and use of ANZ eMatching is offered on an "as is, as available basis" only.
- 2.2. You should ensure that you have adequate contingency plans to enable you to provide instructions by other means if there is any interruption to, delay in, or suspicion or withdrawal of the operation of ANZ eMatching.
- 2.3. If ANZ eMatching is unavailable when required, please contact your Relationship Manager or our Markets Operations Global Confirmations team on (03) 8655 3682 for options and assistance to confirm a transaction via another method or regarding any concerns.

### 3. CONFIRMATION OF A TRANSACTION USING ANZ eMATCHING

- 3.1. Once a Transaction has been entered between you and ANZ, we will enter the details into ANZ eMatching and will send you an email advising that there is a Transaction for you to view in ANZ eMatching.
- 3.2. The terms of any Confirmation provided through ANZ eMatching are subject to the applicable Master Agreement.
- 3.3. You must notify our Markets Operations Global Confirmations team on (03) 8655 3682 if you do not receive an electronic confirmation within one (1) Business Day of the date on which you entered a Transaction.

### 4. RESTRICTIONS ON ANZ eMATCHING

- 4.1. We may impose specific limits and restrictions on your use of ANZ eMatching and we may alter or, withdraw ANZ eMatching on a permanent basis at any time where it is reasonably necessary to protect your or our own interests. We will give you 30 days prior notice of such action and will endeavour to provide a comparable replacement service as soon as reasonably practicable.
- 4.2. We may, where we reasonably consider it is necessary to do so, withdraw or restrict ANZ eMatching without any prior notice where there has been a change in Law or is required by Law or where it is reasonably required to protect your interests (including, but not limited to the removal of inactive Users).

### 5. SECURITY

- 5.1. You must ensure that all passwords, encryption keys or other access procedures and security information for the use of ANZ eMatching are kept completely secure and confidential and are used in accordance with any instructions we provide. You agree to notify us immediately if you suspect that the security of any such access procedure or security information may have been compromised or any unauthorised use may have occurred. Despite this, you remain liable for all Transactions that are processed by us before such notification.
- 5.2. ANZ eMatching and the ANZ Website have numerous security features. However, these are in addition to and do not reduce or otherwise limit your level of reliance on your own internal risk controls to prevent unauthorised or incorrect instructions or information being sent to ANZ.

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### 6. LIABILITY & INDEMNITY

6.1. You acknowledge and agree that to the extent permitted by law, ANZ, its agents and representatives will not be liable for any Loss or damage that you suffer or incur or which may arise from or in any way in connection with:

- (a) your use of ANZ eMatching including the transmission of Electronic Instructions other than in accordance with these terms;
- (b) any delay or failure to receive an Electronic Instruction for whatever reason;
- (c) the interception of any instruction or information transmitted by you via ANZ eMatching or any unauthorised use of ANZ eMatching;

except to the extent that such Loss or damage is caused by the fraud, negligence or wilful misconduct of ANZ, its agents or representatives.

6.2. No party is liable to any other party for any Indirect Loss.

6.3. You agree to indemnify and keep indemnified ANZ and its agents and representatives and make good, all Losses including legal costs (being the actual legal costs incurred by ANZ) that ANZ, its agents and representatives may suffer, incur or sustain in connection with or related to:

- (a) your access or use of ANZ eMatching other than in accordance with these terms or any instructions, procedures, directions or guidance that ANZ may from time to time reasonably impose or provide in relation to the operations or use of ANZ eMatching, including, without limitation, any identity checks, verification procedures or other security procedures that ANZ may use to establish authenticity of Electronic Instructions;
- (b) any claim made against ANZ by any third party relating to or in connection with, these eMatching Terms;
- (c) ANZ exercising, enforcing or preserving rights, powers or remedies in connection with these eMatching Terms,

except to the extent that such Loss, was caused by the negligence, wilful misconduct, fraud or mistake (except for any mistake caused by any act or omission by you, your agent or a third party) of ANZ, its agents, representatives or appointed receivers.

### 7. USE OF DATA

7.1. You acknowledge that our information systems will record and track your use of ANZ eMatching. You acknowledge that, unless you notify us

otherwise, we or any of our branches or offices in any jurisdiction may use such information for our internal business purposes and the internal business purposes of our related corporations including but not limited to:

- (a) providing you with information about products and services that may be of interest to you; and
- (b) enhancing the services offered through ANZ eMatching to you.

7.2. You acknowledge that we may disclose information supplied by you to third parties provided that we will only disclose such information to third parties:

- (a) in general terms where you cannot be specifically identified; or
- (b) where we have given you notification of the intended disclosure and you have not objected to that disclosure; or
- (c) where we believe disclosure is reasonably necessary to assist a law enforcement agency or an agency responsible for national security in the performance of their functions; or
- (d) where we are authorised, required or permitted by law to disclose the information.

### 8. USERS

8.1. You must:

- (a) appoint various trusted individuals to be your Users; and
- (b) establish and comply with suitable internal management rules for the operation of, use and review of the use of the ANZ eMatching service, including any audit material; and
- (c) establish Permissions which reflect your internal authorisation requirements and take account of any potential risk of fraud; and
- (d) monitor the use of the ANZ eMatching service and the use of Access Methods (as defined below); and
- (e) not use ANZ eMatching for any purpose other than to access the ANZ eMatching service; and
- (f) only use the ANZ eMatching service for your own confidential internal use and for the purpose expressly set out in this document and, in particular, you must not:
  - (i) grant any third party access to the ANZ eMatching service; or
  - (ii) operate the ANZ eMatching service on behalf of, or for the benefit of, any third party,

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- except to the extent expressly agreed by ANZ; and
- (g) acquire, maintain and operate all equipment and other facilities required for your use of the ANZ eMatching service; and
  - (h) comply with any procedures required by ANZ when using the ANZ eMatching service.

### 9. MISCELLANEOUS

- 9.1. We may amend, modify or supplement these terms at any time by giving you 30 days prior notice in writing in a manner permitted under clause 9.2. Notwithstanding clause 9.1 ANZ may at any time amend this agreement without prior notice to comply withm or reduce the risk of non-compliance with any Law, or where the amendments are to simplify these terms, correct a mistake, inconsistency or omission or any amendment of an administrative nature and such amendment is not detrimental to you.
- 9.2 Any notice or other communication to be made in connection with these terms must be in writing and may be given in any manner set out below to the address or number or in accordance with the electronic messaging system or e-mail details last notified to ANZ and will be deemed effective:
- (a) if delivered in person or by courier, on the date it is delivered;
  - (b) if sent by ordinary mail (not certified or registered mail), six (6) Business Days after posting (or ten (10) Business Days after posting if sent to or from a place outside the country of receipt)
  - (c) if sent by certified or registered mail (airmail, if overseas) or equivalent (return receipt requested), on the date that mail is delivered or its delivery is attempted;
  - (d) if sent by facsimile transmission, on the date that the transmission is received in legible form;
  - (e) if sent by e-mail on the date that it is delivered;
  - (f) if sent by electronic messaging system, at the date and time that it was received at the recipient's address for service of that electronic service;
  - (g) if made available by ANZ at ANZ's website or other electronic address, on the date and time that ANZ notifies you (in a manner permitted under this clause 9.2) that it is made available on ANZ's website or other electronic address; or
  - (h) if sent by any other method of delivery that has been agreed between you and ANZ

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

- 9.4 These eMatching Terms shall be governed by and construed in accordance with laws of the State of Victoria and the parties submit to the non-exclusive jurisdiction of the courts of Victoria.

### 10. DEFINITIONS

In these eMatching Terms:

**"Access Methods"** means all passwords, user names, logon identifiers, PINs, smartcards and any other authentication methods.

**"ANZ," "us" or "we"** means Australia and New Zealand Banking Group Limited (A.B.N. 11 005 357 522) and its successors and assigns.

**"ANZ eMatching"** has the meaning in clause 1.1.

**"ANZ Website"** means the site(s) delivering content on or through the internet, accessible at the internet address [www.anz.com](http://www.anz.com) or at such other internet address as we may designate from time to time.

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

**"Business Day"** means a day on which commercial banks are open for general banking business in Sydney.

**"Confirmation"** means evidence confirming a Transaction and exchanged between the parties using ANZ eMatching or any other method agreed between the parties.

**"Electronic Instruction"** means any electronic instruction, information, message or communication issued or transmitted through ANZ eMatching.

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

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

**“Loss”** means all losses, liabilities, damage, costs and expenses, delay or diminution in value.

**“Master Agreement”** means an ISDA Master Agreement between you and us or the Terms and Conditions for Trading in Foreign Exchange and Derivatives Transactions provided to you by us.

**“Permission”** means any permission which may be assigned to a User to enable them to perform functions in relation to ANZ eMatching.

**“eMatching Terms”** means these ANZ eMatching Terms of Use.

**“Transaction”** includes any transaction that can be entered under a Master Agreement.

**“User”** means a person nominated by you as a user and subject to any change subsequently notified by you to ANZ in a manner acceptable to ANZ.

**“you”** means a party to these eMatching Terms other than ANZ. If there are more than one, “you” means each of them individually and every two or more of them jointly. You includes your successors and assigns.

