

# Terms of Facilities

1 June 2014

## 1 Use of the Facilities

- 1.1 The Facilities are a secure and convenient way to make additional contributions to and withdraw money from your account.
- 1.2 By investing in the Trust you agree to be bound by these Terms for the use of the Facilities. However, you will only be bound by the Terms relating to the Periodic Payment and Cheque Facilities if you elect to receive these Facilities.
- 1.3 Costs that apply to the Facilities are set out in the Fee Flyer which forms part of the PDS. General information about costs and how you will be notified of any changes to them is set out in clause 11.
- 1.4 If you want further information about the Facilities including costs, please contact JBWere Investor Services.

## 2 Telephone Withdrawal Facility

- 2.1 The 'Telephone Withdrawal Facility' is an arrangement which enables you to withdraw amounts by telephone.
- 2.2 Before processing any instructions, you will be required to correctly identify your account name and number, and comply with any other security procedures which the Trustee may consider appropriate.
- 2.3 If you provide withdrawal instructions by telephone, the Trustee will pay the amount by:
  - (a) crediting your pre-nominated account with an Australian Financial Institution; or
  - (b) providing a cheque to you.
- 2.4 If a cheque is provided, the Trustee will:
  - (a) send the cheque to your recorded address; or
  - (b) hold the cheque for collection by you or your authorised representative from JBWere's Melbourne office.
- 2.5 You need to make sure that:
  - (a) your pre-nominated account can accept payments; and
  - (b) you notify the Trustee in writing when you change or close your pre-nominated account.

## 3 Facsimile and Mail Instructions Facility

- 3.1 The 'Facsimile and Mail Instructions Facility' is an arrangement which enables you to withdraw amounts by way of written instructions by facsimile or mail.
- 3.2 If you provide written instructions, the Trustee will pay the amount by:
  - (a) crediting an account you nominate with an Australian Financial Institution; or
  - (b) providing a cheque to you, or to a nominated third party.
- 3.3 If a cheque is provided, the Trustee will:
  - (a) send the cheque to your recorded address; or
  - (b) hold the cheque for collection by you (or your authorised representative) or the third party from JBWere's Melbourne office.

## 4 Deposit Book Facility

- 4.1 The 'Deposit Book Facility' is a facility that allows you to add to your account by making a Counter Deposit at any branch of NAB. You may be able to make a Counter Deposit at branches of other Australian Financial Institutions.
- 4.2 Counter Deposits of cash, cheques made payable to cash, and money orders are not acceptable.
- 4.3 Cheques are to be made payable to you or to MLC Investments Limited.
- 4.4 Counter Deposits must be accompanied by a deposit slip from your Deposit Book issued by the Trustee.
- 4.5 The Trustee may accept a Counter Deposit accompanied by a different deposit slip; however, you understand that this may lead to delayed or incorrect processing of the Counter Deposit.
- 4.6 All cheques must be cleared before those funds can be withdrawn.

## 5 EFT Facilities

- 5.1 The 'EFT Facilities' are the arrangements that enable you to make an Electronic Funds Transfer and include the following payment methods:
  - (a) direct credits;
  - (b) direct debits;
  - (c) periodic payments;
  - (d) electronic funds transfers; and
  - (e) BPAY Inbound payments.

They allow you to set up standing instructions so that you can schedule regular payments from your account and to also make one-off transfers.

### Direct Credits

- 5.2 You can arrange for direct credits (for example, payment of your salary by an employer) to be made to the Trust. Any amounts received will be added to your account.
- 5.3 To establish a direct credit, you must provide the payer with your BSB and account number.

### Direct Debits

- 5.4 You can arrange for a direct debit payment by providing the BSB and your account details to an Australian Financial Institution or debiting party and authorising them to periodically withdraw funds from your account.
- 5.5 You can vary or revoke a direct debit authorisation by giving an instruction to the Australian Financial Institution or debiting party, or to the Trustee.
- 5.6 You agree that the Trustee may, in its discretion, instruct NAB to dishonour a request for a direct debit, for example if the Trustee has requested to see a valid authority from a debiting party and not been provided with it.
- 5.7 If your access to the direct debit facility is terminated for any reason, the Trustee will (or will instruct NAB to) contact the financial institutions or debiting parties that set up your arrangements. You should also contact them about terminating your outstanding direct debit authorisations.

## **Periodic Payments**

5.8 You can instruct the Trustee to make fixed payments from your account on regular intervals (for example, rent payments). You can establish a periodic payment using your Application Form or by completing a Periodic Payment Form.

5.9 You can vary or cancel your periodic payments at any time by providing instructions to the Trustee in writing. You must give the Trustee 2 business days' notice for this to take effect.

## **Electronic Funds Transfers**

5.10 You can make an electronic funds transfer from your account to accounts held with other Australian Financial Institutions. To effect a funds transfer you must provide in writing the account name, BSB and account number for the Australian Financial Institution account you require the transfer to be made to and the amount and date of the payment.

5.11 You can add funds to your account by making, or instructing a payer to make, an electronic funds transfer. To do this you must use, or provide to a payer, the BSB and your account number for the Trust.

## **BPAY – Inbound payments**

5.12 You can add funds to your account by making BPAY payments from other accounts with an Australian Financial Institution.

5.13 To make a BPAY payment you must provide your Australian Financial Institution with the Biller Code and your Reference number, which will be made available to you on confirmation of your investment.

## **Trustee's right to dishonour EFT withdrawal instructions**

5.14 The Trustee may refuse to accept your withdrawal instructions under any of the EFT Facilities if two or more EFTs in a continuous six-month period made, permitted or authorised by you have been dishonoured by the Trustee.

## **6 Cheque Facility**

6.1 The 'Cheque Facility' is an arrangement that enables you to write cheques with a personalised cheque book.

6.2 You can provide withdrawal instructions in respect of your account by drawing cheques using the cheque book that the Trustee issues to you.

6.3 A cheque you draw under the Cheque Facility:

- (a) must not be made out to cash;
- (b) must be clearly completed and signed, specifying the person to whom it is payable, its amount (in words and figures) and the date that you (or a person on your behalf) signed; and
- (c) is crossed and marked 'not negotiable'.

6.4 If you want to stop a cheque not yet presented for payment, you must ask the Trustee. You may still be liable to the holder of the cheque, even if the Trustee is able to do so.

6.5 The Trustee can instruct NAB to dishonour any cheque signed or drawn on your behalf. For example, when:

- (a) the cheque is incorrectly signed; or
- (b) the required payment (plus any fees) would result in your account balance being less than the Required Minimum Balance;
- (c) the cheque contains a dollar amount in words which differs from the amount in figures; or
- (d) your use of the Cheque Facility has been cancelled.

## **7 Settlement Authority**

7.1 The 'Settlement Authority' is an arrangement that allows you to settle securities transactions by making withdrawals from or investments to your account. The Settlement Authority can only be used to settle transactions arranged through JBWere or another party approved by JBWere.

7.2 You agree that the completion of the Settlement Authority is a standing instruction to make investments to or withdrawals from your account which are necessary to execute your settlement instructions, until you provide the Trustee with written notice revoking the Authority, or instruct otherwise.

## **8 Internet Funds Transfer Facility**

8.1 The 'Internet Funds Transfer Facility' is an arrangement that enables you to transfer funds online from your account to your pre-nominated account with an Australian Financial Institution.

8.2 You can provide withdrawal instructions at [jbwere.com](http://jbwere.com) (or such other website as the Trustee notifies from time to time).

8.3 You need to make sure that:

- (a) your pre-nominated account can accept payments; and
- (b) you notify the Trustee in writing when you change or close your pre-nominated account.

## **9 Investments and Withdrawals – how do they work?**

9.1 All money invested and withdrawn through the Facility are processed through a Trust Drawings Account.

9.2 An investment of money using the Facilities will result in the issue of Units in the Trust. The amount of Units issued will be the equivalent of the amount of the investment minus any applicable fees.

9.3 Any Units issued where the payment is subsequently dishonoured will be cancelled.

9.4 If the Facilities are used to make a withdrawal from your account, the amount of the withdrawal (plus any applicable fees) will be debited from your account by redeeming the equivalent number of Units.

9.5 The Trustee may place restrictions on withdrawals from your account when the Trust is not liquid.

9.6 You must maintain the Required Minimum Balance at all times. The Trustee may dishonour a withdrawal request if there are insufficient funds in your account to cover the withdrawal and stay above the Required Minimum Balance.

9.7 Most investments made using the Facilities are not cleared immediately (for example, there may be a delay before an amount deposited can be accessed).

## 10 Terms applicable to all Facilities

10.1 This clause 10 applies to all Facilities.

### Liability

10.2 To the extent permitted by law, you irrevocably indemnify the Trustee, JBWere, and NAB Group against any Claim by a third party for any loss or liability incurred in connection with:

- (a) your use of the Facility;
- (b) your breach of any Terms of a Facility;
- (c) any payment made, purported, or omitted to be made by you in relation to a Facility;

except if a Claim is the direct result of the Trustee's, JBWere's, or the NAB Group's (as relevant) negligence, fraud, breach of trust or wilful default.

You agree to pay us a sum equal to such loss when we ask.

10.3 To the extent permitted by law, you (and any person claiming through your capacity as a Unitholder) irrevocably discharge and release the Trustee, JBWere and the NAB Group from any Claim for any loss or liability incurred by you or the other person in connection with the events described in clause 10.2(a), (b), and (c), except if Claims are a direct result of the Trustee's, JBWere's, or the NAB Group's (as relevant) negligence, fraud, breach of trust or wilful default.

10.4 Clauses 10.2 and 10.3 continue to apply after you have terminated any interest in the Trust.

### Security

10.5 You agree to comply with security procedures as determined by the Trustee from time to time.

10.6 You must safeguard all security documentation, including usernames, passwords and PINs provided to you in relation to a Facility, to avoid any fraudulent or unauthorised use of the Facilities.

10.7 You must notify the Trustee if your cheque book is lost or stolen. You must not give your cheque book to anyone who is not authorised to use it.

10.8 You are responsible for any loss to the Trustee or the Trust as a direct or indirect result of any fraudulent or unauthorised use of any security documentation provided to you for use with the Facilities. If you become aware that any security documentation has been lost or stolen, you must notify the Trustee as soon as possible.

10.9 The Trustee may treat a person ('third party') who purports to have your authority to use your security details (including your PIN) as having been authorised by you, unless:

- (a) you have previously provided notice of loss or theft; or
- (b) you have specifically advised the Trustee in writing that the third party's use is not permitted or authorised.

10.10 The Trustee may suspend or cancel your access to any Facility without prior notice for any reason, including if the Trustee:

- (a) believes that use of your security details, (including the password, username and PIN) or Facility may cause loss to you or to the Trustee;
- (b) believes that the use of your security details (including the password, username and PIN) is being misused or has been used to perform an unauthorised transaction;
- (c) believes that the security of any Facility or the Trustee's systems may have been compromised.

### General

10.11 You agree that these Terms are in addition to any requirements in the Constitution or other documents, for giving instructions to the Trustee.

10.12 You agree that for all instructions you provide to the Trustee for use of the Facilities:

- (a) must be accurate and complete (such as correct amounts);
- (b) the Trustee is not required to check the adequacy of any instructions provided by you; and
- (c) any error in instructions that you provide to the Trustee may result in an instruction being effected incorrectly or not being effected at all.

10.13 The Trustee will not effect a withdrawal instruction where it reasonably believes that the instruction is not valid, including where information provided is incomplete or inaccurate or if a legal restriction applies.

10.14 The Trustee reserves the right to stop or reverse a withdrawal instruction which it has already processed, where the Trustee reasonably believes that the instruction was processed in error, or that it may breach a relevant law.

10.15 The Trustee may vary these Facility Terms by notifying you of these changes on [jbwere.com](http://jbwere.com)

10.16 The Trustee may terminate or suspend one or more of the Facilities:

- (a) by notice to you, if you have breached the Terms for the use of a Facility or if the Trustee believes that a fraud or security risk applies;
- (b) by notice to all Unitholders, if the termination or suspension is to apply to all Unitholders; or
- (c) by notice to a class of Unitholders, if the suspension or termination is to apply to a class of Unitholders.

10.17 Your Facilities will also be cancelled if the Trustee receives a notice:

- (a) from you requesting cancellation;
- (b) of your death or incapacity, being a natural person; or
- (c) that you are insolvent.

10.18 Subject to clauses 10.14, 10.15 and 10.16, the Trustee will use reasonable efforts to provide the Facilities on a continuing basis and provide reliable data and information. However, the Trustee is not liable for any loss, liability, or expense, incurred by you in connection with any suspension or delay in access to a Facility, or any error, theft, or corruption of data transmitted via a Facility.

10.19 A withdrawal instruction may not be able to be revoked or stopped by you once the Trustee receives the instruction.

10.20 If you use a Facility, you consent to the Trustee and NAB providing to any third party any details necessary or convenient to operate the Facility.

10.21 The Trustee may provide or offer you any additional or replacement facility. The Trustee will notify you of the terms that apply to the new Facility.

10.22 In the event of an inconsistency between the Constitution and these Terms, the Constitution prevails to the extent of the inconsistency.

10.23 All references in these Terms to conduct by you, include conduct by persons authorised by you (including signatories), or taken to be authorised under clause 10.9.

## 11 Fees and charges

11.1 There are three categories of fees and charges that may be charged by the Trustee in relation to the Facilities:

- (a) Transaction-related fees – fees in respect of the use of the Facilities;
- (b) incidental fees for certain services or special instructions – for example, fees for the provision of bank cheques, fees on telegraphic transfers and fees on special instructions; and
- (c) transaction taxes – if any charges or taxes are payable in connection with your account, or in connection with the Trust Drawings Account as a result of your applications and withdrawals (for example, stamp duty), then the Trustee may pass those charges on to you.

Fees and charges may also be charged by NAB or other Australian Financial Institutions in connection with your use of the Facilities, and debited to your account. You will be taken to have authorised the debiting of those fees and charges in accordance with clause 9.4.

11.2 Fees and charges, including incidental fees for certain services or special instructions and transaction taxes, will be notified to:

- (a) all Unitholders from time to time; or
- (b) a particular Unitholder within one month after the occurrence of the relevant fee.

## 12 Relationship between NAB and the Trustee

12.1 The Trustee and NAB are “related bodies corporate” as defined in the Corporations Act 2001 (Cth). NAB does not stand behind the Trustee in respect of its obligations under this agreement.

12.2 The Trustee is not authorised to carry on a banking business and the provision of the Facilities under this agreement does not represent deposit-taking activities by the Trustee.

12.3 Unless required by law, nothing in these Terms should be read as providing that NAB holds deposits for you or has any other liability towards you.

12.4 You agree that NAB provides services to the Trustee rather than you and acts solely on the instructions of the Trustee in processing any transactions under the Facilities. Unitholders have no rights against NAB.

12.5 NAB may dishonour payments if the Trustee is in default under the agreement between it and NAB.

12.6 You agree that you will be bound by any restrictions imposed by the Trustee on the Facilities, for example, maintaining the Required Minimum Balance.

In the Terms and the Application Form, unless stated otherwise:

**Australian Financial Institution** means an institution with an Australian BSB (bank, state, branch) number.

**Claim** means any action, proceeding, account, claim, demand and tax against a person, their respective directors, officers, and employees.

**Constitution** means the constitution for the Trust dated 18 October 2012 as modified, or repealed and replaced from time to time.

**Corporations Act** means the Corporations Act 2001 (Cth), and all subordinate legislation in respect of that Act, as amended from time to time.

**Counter Deposit** means a deposit made by you, or on your behalf, in the form of a credit to the Trust Drawings Account through branches of NAB or any other Australian Financial Institution and includes cheques but excludes Electronic Funds Transfers.

**Dollars** or **\$** means Australian dollars.

**Facilities** means the Deposit Book Facility, the EFT Facilities, the Cheque Facility, the Settlement Authority, the Telephone Withdrawal Facility, the Facsimile and Mail Instructions Facility, the Internet Funds Transfer Facility and any additional or replacement arrangement to facilitate deposits or withdrawals which the Trustee offers or provides in accordance with clause 10.21 and ‘Facility’ means any one of them.

**JBWere** means JBWere Pty Ltd ABN 68 137 978 360.

**NAB** means National Australia Bank Limited ABN 12 004 044 937.

**NAB Group** means NAB and its related bodies corporate.

**PIN** means a personal identification number issued to you.

**Required Minimum Balance** means the minimum account balance as determined by the Trustee from time to time and set out in the PDS.

**Trust** means the JBWere Cash Trust.

**Trust Drawings Account** means a bank account with NAB held by the Trustee, and which is a basic deposit product (as that term is defined in the Corporations Act). It is used by the Trustee for accepting investments into the Trust and making withdrawals or payments requested by Unitholders under the Facilities.

**Trustee** means the responsible entity for the Trust, being MLC Investments Limited ABN 30 002 641 661.

**Unit** has the same meaning as in the Constitution.

**Unitholder** means a person registered as the holder of a Unit and includes:

- (a) persons jointly so registered; and
- (b) persons previously registered in the case of any clauses dealing with the liability of a Unitholder after terminating investment in the Units.

**Withdrawal** means the process under clause 9.4 by which a Unitholder’s request to withdraw funds using the Facilities results in the redemption of Units held by the Unitholder.

**you** means the Unitholder to whom these Terms apply.

## Interpretation

In the Terms, unless stated otherwise:

- (a) headings are for ease of reference only and do not affect their meaning;
- (b) the singular includes the plural and vice versa and words importing a gender include other genders;
- (c) other grammatical forms of defined words or expressions have corresponding meanings;
- (d) words and expressions importing natural persons include partnerships, bodies corporate, associations, governments and governmental and local authorities and agencies;
- (e) words and expressions not otherwise defined have the same respective meanings as in the Constitution; and
- (f) time or times are Melbourne time, and business days are business days in Melbourne.