

JBWERE CLIENT TERMS AND CONDITIONS

SECTION A – ACCOUNT OPENING

1. ACCEPTANCE OF APPLICATION

- 1.1 On acceptance of your application, we agree to provide you with Services in accordance with the Terms and Conditions. By using any of the Services you will be bound by the Terms and Conditions as amended from time to time.
- 1.2 We reserve the right to decide not to provide any particular Services to you.
- 1.3 If there is any inconsistency between the Terms and Conditions and any prior agreement or arrangement between us and you relating to the provision of the Services, the Terms and Conditions will apply to the extent of the inconsistency, unless the other agreement specifically provides otherwise.

2. OPENING AN ACCOUNT

- 2.1 When you first ask us to provide you Services and we accept that request, we will open an Account in your name once we have received your completed and signed Application Form and verified your personal details. **You acknowledge that we will not be able to arrange to buy or sell Investments on your behalf until we have received a signed Application Form and independently verified the relevant information as required by the NZX Rules and Regulations and applicable laws.**
- 2.2 If we provide one or more Cash Accounts for you in connection with your Investment transactions, the provisions of Section F will apply to those Cash Accounts.

SECTION B – BROKING SERVICES

3. PROCEDURE FOR BUYING AND SELLING INVESTMENTS

- 3.1 The Terms and Conditions in this Section B apply to all Broking Services. Broking Services are provided by JBWere.

3.2 If you wish to buy or sell any Investments, you may give us Authorised Instructions in one of the following ways:

- (a) by telephone to your JBWere representative;
- (b) by personal attendance at our offices; or
- (c) by letter, email or facsimile marked to the attention of your JBWere representative.

3.3 You acknowledge that should your request be made via facsimile, email or letter, we will not be responsible for any loss or damage, whether direct, indirect or consequential that may arise as a result of a delay in actioning your request for whatever reason. You accept that responsibility lies with you to ensure that your facsimile or letter request has been received and actioned by your JBWere representative.

3.4 We reserve the right to cancel, reject or refuse to accept any instruction or order given by you or your Authorised Representative in our absolute discretion, for any reason. We will promptly notify you or your Authorised Representative, as appropriate, of any such action we take.

4. APPOINTMENT OF BROKER

4.1 JBWere facilitates trading in Investments, including by instructing the Broker pursuant to a trading agreement between JBWere and the Broker. We may instruct the Broker to the extent required to enable your instructions to be carried out completely. You agree to be responsible for any actions in respect of trading through the Account.

4.2 You agree that where we enter into or instruct the Broker to enter into an Investment transaction on your behalf, you will:

- (a) before placing any orders, be in a position to pay for any Investments purchased or have a presently exercisable and unconditional right to vest in a buyer any Investments sold, as the case may be;
- (b) where Investments have been purchased, pay the consideration for Investments purchased on your behalf in accordance with clause 5.1 below; and

- (c) where Investments have been sold, deliver them in such form as would constitute valid delivery between NZX Market Participants (brokers), and pay all associated duties or taxes before the time and date for settlement specified on the contract note issued in relation to the Investment transaction.
- 4.3 **You acknowledge that:**
- (a) **we may, upon obtaining Authorised Instructions from you (via any of the prescribed methods in clause 3.2), execute or instruct the Broker to execute an order to buy or sell Investments at our careful discretion;**
- (b) **in the absence of specific execution instructions, your order will be executed at the price and volume available on the NZX or any other recognised stock exchange (subject to any limit imposed by you) which may be different to the price at which the Investments are trading or volume of relevant Investments that is available at the time you give us Authorised Instructions; and**
- (c) **if you provide us with specific execution instructions for your order, and those instructions differ to the general instructions set out in paragraph (b) above, then the specific execution instructions will take precedence.**
- 4.4 In facilitating Investment transactions we will act as your agent and you will undertake as primary obligor all obligations with respect to the transactions.
- 4.5 After we have carried out an Investment transaction we or the Broker will forward to you a contract note. This can be done electronically if you have provided an email address to us for this purpose, either on the Application Form or otherwise. You agree that if we or the Broker issue you with a contract note, it will, in the absence of an omission or error and the subsequent reissue of that contract note, constitute conclusive evidence of the Investment transaction to which the contract note relates. You must notify us within 10 Business Days of receiving a contract note of any irregularities in the contract note. Unless you raise any irregularity within that timeframe the contract note will be conclusive and binding on you.
- 4.6 You agree that we or the Broker may reissue a contract note to correct any errors or omissions, and these Terms and Conditions, after necessary changes have been made, will be binding with respect to the reissued contract note.
- 5. PURCHASE AND PAYMENT FOR INVESTMENTS**
- 5.1 You must pay the purchase price for any Investments acquired on your behalf directly to us, together with brokerage and any other applicable fees and charges. Cash will not be accepted in payment of any sums due under these Terms and Conditions. Payment details can be found under the 'Money and Property Handling Procedures' in clause 36 of these Terms and Conditions. Before buying any Investments on your behalf, we may require you to lodge funds into a specified bank account to cover the purchase price for the Investments and applicable fees and charges. We will not be required to act on instructions until you have complied with any such requirement.
- 5.2 Payment of the purchase price of any Investments or any sum due under clauses 4.2, 5.1 and 5.3 must be made in time to reach JBVere in cleared funds by the second Business Day following the purchase date, for settlement on the third Business Day (or in the case of clause 5.3, by the second Business Day after the demand has been made).
- 5.3 If any moneys owing by you to us are not paid on the due date or your Account has a debit balance for any reason then without prejudice to any of our other rights:
- (a) you will pay interest on the net amount owing, at the rate of 3% per annum above the overdraft rate charged by our bankers. This interest will accrue on a daily basis from the date the amount becomes overdue to the date of actual payment; and
- (b) all moneys paid by you will be applied firstly in payment of any interest you owe us and secondly in payment of the principal sum.

6. SALE OF INVESTMENTS

6.1 After a transfer of your Investments has been validly executed, you will receive a statement from the share registry recording the transfer unless the relevant Investments were held in custody by the Custodian.

6.2 In relation to Investments listed on the NZX that are sold to your order, we will hold them unregistered until you give us a valid shareholder number and Authorisation Code (previously FIN). If we do not receive a valid shareholder number and Authorisation Code within three Business Days from the date of the contract note, CHO will have rights under the C&S Rules, including to carry forward the failed settlement position, buy in securities or cancel the transaction and seek compensation.

6.3 Following valid transfer, the proceeds of the sale will be released (after deducting brokerage and other fees) as per your Authorised Instructions for settlement.

6.4 You agree and acknowledge that your Authorisation Code may be used and retained by us subject to the following conditions:

- (a) your Authorisation Code will be encrypted and stored in our internal systems. Where the Authorisation Code is in a written format, it will be stored in a secure area accessible only by authorised personnel;
- (b) we will use your Authorisation Code only for the purpose of facilitating the sale of your Investments on your behalf upon your Authorised Instructions;
- (c) you acknowledge that where unauthorised access to your Authorisation Code is gained by any person, and where that person also has access to your common shareholder number ("CSN"), one or more forms of your identification and the ability to replicate your signature, there is a risk that that person will be able to sell, and obtain proceeds from the sale of your Investments by varying the settlement instructions held on file. Where authorised access to your Authorisation Code is granted, that person will require your CSN to effect any transaction on your account. If the instructions vary from

that of our records (for example, the settlement instructions) then we will require confirmation in writing from you; and

- (d) we will have unlimited access to the NZX listed Investments held by you.

6.5 We undertake that we will at all times protect your Authorisation Code from unauthorised use and/or access.

7. CLIENT CLEARING AND SETTLEMENT

7.1 The following disclosure is made pursuant to Rule 15.9.1 of the NZX Participant Rules in connection with trades executed for you on the markets provided by NZX:

- (a) the Relevant Clearing Participant carries out the clearing and settlement of trades executed for you in accordance with the C&S Rules and the Depository Rules;
- (b) under the C&S Rules, the clearing and settlement terms of each trade executed for you will be novated in accordance with the C&S Rules and the Relevant Clearing Participant will become principal in the resulting relevant settlement transaction and take on all of the clearing and settlement terms for that relevant settlement transaction and you agree to this novation pursuant to, and on the terms and conditions provided for under the C&S Rules to the full extent required by law;
- (c) your rights and obligations in relation to the clearing and settlement of a relevant settlement transaction will be limited to any rights against, and any obligations to, the Trading Participant and you will not have any rights against, or obligations to, the Relevant Clearing Participant (except where the Trading Participant is the Relevant Clearing Participant) or the CHO in relation to the clearing and settlement of the relevant settlement transaction;
- (d) the liability of CHO, CDO, the Depository Nominee (as defined in the NZX Participant Rules), New Zealand Clearing and Depository Corporation Limited and NZX to any

- person (including you) is limited or excluded by, and is subject to, the provisions of Section 8 of the C&S Rules and Section 9 of the Depository Rules;
- (e) you grant to the Trading Participant at all times, full and exclusive rights, power and authority to bind you under the C&S Rules and to authorise the application of your assets in accordance with Rule 18.10 of the NZX Participant Rules;
- (f) you may not assert against CDO or the Depository Nominee (as defined in the NZX Participant Rules) or any person acting on behalf of CDO or the Depository Nominee (or both of them), any proprietary, equitable, contingent, future or partial interest in any funds or securities held in a settlement account or a depository account; and
- (g) Goldman Sachs & Partners New Zealand Limited, whose address is Level 38, Vero Centre, 48 Shortland Street, Auckland 1010, phone number (09) 357 3200, acts as JBWere's Clearing Participant pursuant to a trading agreement between that company and JBWere.
- 7.2 Please retain these Terms and Conditions for your records.
- 8. DEFAULT**
- 8.1 Where you fail to comply with your obligations pursuant to these Terms and Conditions or the NZX Rules and Regulations or the rules and regulations of any other applicable recognised stock exchange, in respect of an Investment transaction or otherwise, we may, or we may instruct the Broker to, in addition to any other rights we have under these Terms and Conditions and after making a written or verbal demand on you, sell, borrow, purchase or take possession or custody of, as we may determine in our absolute discretion, sufficient Investments the subject of the Investment transaction or otherwise held by us or the Broker or otherwise forming part of your Portfolio in order to settle the relevant transaction or offset any position held by or on behalf of you, at your risk and expense, which expense shall include, without limitation:
- (a) brokerage;
- (b) borrowing costs or losses incurred by reason of purchasing or borrowing Investments; and
- (c) any other losses or other reasonable expenses incurred by us in acting pursuant to this clause, the NZX Rules and Regulations or the rules and regulations of any other applicable recognised stock exchange.
- In addition, we may take such other action, or refrain from taking such other action, as we consider to be reasonable or necessary to protect our position.
- 9. DISCLOSURE OF INTERESTS**
- 9.1 You:
- (a) acknowledge that we may deal on our own account and on behalf of our Related Companies as principal on the NZX or other recognised stock exchanges from time to time and that we (or our Related Companies) may be a party to a transaction with you;
- (b) consent to us charging you, in an "as principal" transaction, brokerage, commission or any other fee which would otherwise be applicable to the transaction if it were not an "as principal" transaction;
- (c) agree that the consent given by you in paragraph (b) may only be withdrawn by notice in writing to us; and
- (d) acknowledge that your orders may be matched with opposite orders for Investment transactions on the NZX on behalf of our other clients or the Broker's other clients.
- 9.2 You acknowledge that:
- (a) we and any other Prescribed Person may or may not have an interest in:
- (i) an Investment which you may or may not have an interest in;

- (ii) an Investment which we are recommending to you; or
- (iii) an Investment which you may buy or sell.
- (b) we may or may not be acting as principal in an Investment for which you may or may not have an interest in; and
- (c) we may or may not be acting as agent for the buyer and seller in a transaction and may be earning income from both parties to that transaction.

- (ii) if the Investments proposed or provided as margin cover are suspended, delisted, placed in receivership or liquidation or the issuer of those Investments has its operations in any way restricted (suspended), the additional margin cover shall be the extent that the original margin cover has been reduced by the deduction of the suspended Investments; or

- (iii) if there is a fall in the market price of any Investments provided as margin cover, the additional margin cover shall be the extent required to make up the shortfall.

10. SHORT SALES

10.1 If you give us Authorised Instructions to make a short sale, we may, in our discretion, instruct the Broker to make a short sale on your behalf. Any such short sales must be made in accordance with the NZX Rules and Regulations. Currently:

- (a) prior to making a short sale you must provide margin cover of a minimum of 15% of the short sale contract price, which must be provided in accordance with our instructions in cash or Investments (as valued in accordance with the NZX Rules and Regulations);
- (b) you may be required to provide additional margin cover in the following circumstances:
 - (i) if there is a rise in the market price of an Investment which has been short sold and the short sale position is still open, in which case the additional margin cover must be equal to a minimum of 10% of the amount of the increase in the market price for that Investment, provided that the seller shall not be obliged to seek such additional margin cover until the rise exceeds 10% of the contract price of the Investments short sold;

- (c) if you do not provide any margin cover required by the beginning of the next normal trading session after the demand is made, JBWere may proceed to close out the short sale at your risk and expense.

11. ALLOCATION POLICY

11.1 Where at any particular time we are unable to facilitate both our client orders and our principal orders out of Investments purchased or sold, we will allocate the relevant Investments to the client orders and the principal orders at our discretion taking into account:

- (a) the overriding obligation that we act in the best interests of our clients;
- (b) the size of each client's order comparative to any other client orders and our principal orders;
- (c) the nature of the Authorised Instructions or discretion given to us by a client;
- (d) the time each order, whether client or principal, was received;
- (e) the nature of the market for the Investments to be allocated

- (particularly volume and price volatility); and
- (f) such other relevant factors as we may consider appropriate.
- 12. RISK WARNINGS**
- 12.1 You acknowledge the following risks in relation to the sale and purchase of Investments:
- (a) The buying and selling of Investments can be high risk. You will be exposed to the volatility of the sharemarkets of New Zealand, Australia and any other markets on which Investments may be traded from time to time. The price and value of Investments can fall as well as rise. Substantial fluctuations can occur in the value of Investments over time.
- (b) The value of Investments may be affected by the general economic climate, commodity prices, currency movements, changing government policy and other factors beyond our control. As a result, no guarantee can be given in respect of the future value or earnings and capital appreciation of any Investment.
- (c) Variations in legislation and government policies generally could materially affect the value of Investments.
- (d) Any variation in the taxation laws of New Zealand, Australia or any other country where Investments may be traded or held from time to time could materially affect the value of Investments.
- (e) Any variation in exchange rates could materially affect the value of Investments.
- (f) Any variation in short and long-term interest rates could materially affect the value of Investments.
- (g) The past performance of any Investments is not necessarily a guide to the future performance of those Investments.
- (h) The selling or purchasing of an unhedged option, warrant, futures contract or other derivative runs the risk of losing the entire Investment or more or of causing significant losses in a relatively short period of time.
- (i) If you enter into a short sale transaction and there is adverse market movement then you could suffer unlimited losses.
- (j) If you enter into a futures contract and prices change you could be forced to purchase Investments at a greater price than they are currently trading or to sell Investments at a lesser price than they are currently trading.
- (k) If you purchase an option or warrant and prices change you may not be able to exercise that option or warrant at a price that is less than the price at which the underlying Investment is currently trading.
- (l) You should make your own Investment decisions based on your investment objectives, risk profile and individual circumstances.
- SECTION C - CUSTODIAL SERVICES**
- 13. CUSTODIAL TERMS**
- 13.1 The Terms and Conditions in clauses 13 to 21 apply when we have accepted your application for Standard Custodial Services and the Terms and Conditions in clauses 13 to 22 apply when we have accepted your application for Premium Services. Subject to clause 22, the Services supplied to you under this Section C are provided by the Custodian.
- 13.2 When we provide Standard Custodial Services or Premium Services to you, we will open one or more Cash Accounts for you and funds comprised in your Portfolio will be held in such Cash Account(s), each of which will be operated in accordance with this Section C and Section F of the Terms and Conditions.

14. STANDARD OF CARE

14.1 The Custodian shall, in performing its obligations pursuant to the Terms and Conditions, use all reasonable care, skill and diligence and in particular will equal or exceed the standard of care, skill and diligence a reasonable custodian would exercise in the same circumstances, as well as that which may reasonably be expected of a Trustee Company as that term is defined in the Trustee Companies Act 1967.

14.2 In particular, the Custodian shall maintain accounting systems and systems of internal control which are designed to ensure:

- (a) the safeguarding of assets held on behalf of clients;
- (b) transactions in relation to the Portfolio are conducted in accordance with Authorised Instructions;
- (c) transactions and balances in relation to the Portfolio are reported in accordance with the underlying accounting records;
- (d) the accurate and timely recording of purchases and sales of Investments; and
- (e) the accurate and timely recording of all income arising from assets comprised in the Portfolio.

14.3 The Custodian shall ensure that, at least once annually, its auditor audits its accounting systems and systems of internal control.

14.4 The Custodian shall maintain professional indemnity insurance with a reputable insurer at levels and against risks which are prudent in relation to its business and consistent with the professional indemnity insurance maintained by entities operating similar businesses.

15. CUSTODY OF PORTFOLIO

15.1 The Custodian will hold and will deal with the Portfolio only in accordance with the Terms and Conditions and any Authorised Instructions. You represent and warrant to us that:

- (a) you are the beneficial owner of the Investments held within the

Portfolio or you act as trustee on behalf of the beneficial owner;

(b) you will provide details of the beneficial owner if required by the Custodian; and

(c) subject to any security interest created under clause 21 of these Terms and Conditions, the Investments within the Portfolio are free and clear of any lien, charge, encumbrance, security interest or other impediment.

15.2 Subject to the other provisions of the Terms and Conditions:

(a) you retain beneficial ownership of all Investments in the Portfolio; and

(b) to the extent that legal title to any of the Investments in the Portfolio is held by the Custodian, the Custodian holds that title for you as a bare trustee only.

15.3 Investments held in a clearing system will be held in accordance with the rules and practices of that clearing system.

15.4 The Custodian shall maintain appropriate records and registers with respect to the Portfolio, and any transfer or release of Investments in the Portfolio. In particular, the Custodian shall separately identify the Portfolio in its books, as distinct from the Investments of other clients, including any Investments held in a clearing system. The Custodian shall, at your request, or as is agreed from time to time, provide you with such information relating to the Portfolio as is reasonably requested by you. Fees may apply to certain information requests.

15.5 You must arrange for the transfer to the Custodian of that part of the Portfolio not within the control of the Custodian as at the date of signing the Application Form as soon as is practicable, but in any event within 30 days of the date of signing the Application Form. We reserve the right to charge fees from the date on which the Account was opened.

15.6 The Custodian is authorised to appoint one or more sub-custodians to hold any part of the Portfolio and to maintain any Cash Account(s) and/or to carry out any other custodial services provided under the Terms and Conditions. Notwithstanding any such appointment, the Investments held by the sub-custodian shall

- remain part of the Portfolio and the provisions of the Terms and Conditions shall apply with all necessary modifications.
- 15.7 The Custodian may refuse to hold certain assets in trust for you including but not limited to assets which attract ongoing commitments to pay future calls of capital, life insurance policies and assets which are not financial products. You acknowledge that if we agree to hold partly paid assets on trust for you, you will pay all financial obligations relating to the partly paid assets and us holding the partly paid assets on your behalf. We may require you to deposit sufficient cleared funds in a Cash Account to enable future calls to be met.
- 16. DEALING WITH THE PORTFOLIO**
- 16.1 All income, realised gains and other payments due to you with respect to the Portfolio will be credited to one or more Cash Accounts. Unless the Custodian receives an Authorised Instruction to the contrary, all uninvested money in the Portfolio will be placed by the Custodian in one or more Cash Accounts.
- 16.2 The Custodian is authorised to pay money into any Cash Account maintained by it on your behalf under clause 13.2 as it considers appropriate in carrying out its functions under the Terms and Conditions.
- 16.3 The Custodian is authorised to acquire, dispose of, deal with or exercise any rights in respect of the Portfolio:
- (a) for any purpose, upon receipt of specific Authorised Instructions to do so, or in accordance with standing Authorised Instructions;
 - (b) to redeem any Investment in the Portfolio on its maturity and collect any income, gain or other payment in respect of any Investment in the Portfolio;
 - (c) to grant in favour of any sub-custodian or Broker a lien over all or any part of the Portfolio to secure any expenses or outlays incurred or paid by the sub-custodian in accordance with the provisions of the sub-custodian agreement;
 - (d) to attend to all non-discretionary details in connection with the sale, exchange, substitution, purchase,
- transfer and other dealings with the Investments in the Portfolio; and
- (e) as otherwise permitted by the Terms and Conditions.
- 16.4 The Custodian is also authorised to:
- (a) appoint the Broker in connection with the handling of transactions relating to the Portfolio;
 - (b) sign and deliver on your behalf any documents (including your affidavit, declaration or certificate of ownership) which are required pursuant to the Terms and Conditions, to obtain payment of income from any Investment, and otherwise to service or carry out its obligations or obtain its rights as Custodian of the Portfolio; and
 - (c) on receipt of Authorised Instructions, execute forms of proxy, and other necessary authorisations relating to your attendance at securityholder meetings and voting on any of the Investments in the Portfolio.
- Without limiting the above, the Custodian must exercise rights such as scrip issues, rights entitlements and voting rights in relation to Investments only in accordance with Authorised Instructions.
- 16.5 The Custodian shall receive all notices of bonus, rights and other issues or options in relation to Investments held in the Portfolio and, subject to clause 16.6, shall use its best endeavours to pass notification of your interest to you for your instruction. The Custodian shall take no further action with respect to such notices until it receives Authorised Instructions in the timeframe required. In particular, the Custodian shall not exercise any voting rights unless instructed how to vote.
- 16.6 You acknowledge that in relation to Investments issued in markets outside of New Zealand some rights (including, but not limited to, dividend re-investment plans) may not be made available to you.
- 16.7 The Custodian shall not be obliged to complete the acquisition of any Investments issued or exercise any options or other rights unless sufficient cleared funds are held on your behalf in the relevant Cash Account to satisfy the relevant payment obligation.

- 16.8 When the Custodian sells Investments following an Authorised Instruction, a duplicate contract note will be forwarded to you.
- 16.9 All Investments acquired or held pursuant to this clause 16 or otherwise acquired while we are providing Standard Custodial Services or Premium Services to you shall be deemed to be included in the Portfolio and shall be held and dealt with in accordance with the Terms and Conditions.
- 16.10 The Custodian will notify you of any call on any Investment in the Portfolio promptly following the receipt of such notice. The Custodian shall, unless it receives an Authorised Instruction to the contrary at least three Business Days prior to the date on which the call is due, use its best endeavours to meet such call on or before the due date. However, the Custodian shall not be obliged to meet such calls in whole or in part unless sufficient cleared funds are held on your behalf in the relevant Cash Account as required by clause 16.12.
- 16.11 A nominated representative of the Custodian will, if the appropriate Authorised Instruction is received, at your cost, attend and vote at meetings as the Authorised Representative of the registered holder of Investments in the Portfolio.
- 16.12 The Custodian will not be liable for any inability to exercise or late exercise of any right or power or late performance of any obligation in connection with any Investment unless:
- (a) the Custodian has received timely Authorised Instructions with regard to the exercise or performance of any such right, power or obligation; and
 - (b) the Custodian is in actual possession of the Investment; and
 - (c) where applicable, sufficient cleared funds are held on your behalf in the relevant Cash Account maintained by it on your behalf under clause 13.2, at least three Business Days prior to the date on which such right or power is to be exercised or the obligation performed; and
 - (d) the liability is not excluded under clause 55.
- 16.13 The Custodian is entitled at any time and in its absolute discretion to delegate or sub-contract to any person (which may include any Related Company or any other third party) the performance of any of its functions, authorities, duties and discretions under the Terms and Conditions.
- 17. OTHER CLIENTS**
- 17.1 You acknowledge that the Custodian may buy or sell Investments for a number of its clients simultaneously in order to achieve economies of scale. However, the Custodian will at all times maintain the systems and records described in clause 15.4 to distinguish the Portfolio from any other Investments bought and sold by the Custodian.
- 18. CLIENT REPRESENTATIONS**
- 18.1 Subject to any Secured Facility (as that term is defined in clause 21.1) and the provisions of the Terms and Conditions, you represent and warrant that the Investments in the Portfolio are, and will remain, free from any charge or other adverse interest and that the Custodian may deal with the Portfolio as if it were beneficially owned by you. Subject to any Secured Facility, the Custodian is not obliged to recognise any equity or interest of any other person with respect to the Portfolio.
- 19. REPORTS**
- 19.1 The Custodian will provide the following reports (which may be separate or combined) on a quarterly basis by no later than 20 Business Days following the end of each calendar quarter:
- (a) portfolio valuation report;
 - (b) transaction analysis report;
 - (c) cash flow statement; and
 - (d) performance report (where applicable).
- Reports can be provided to you electronically if you have provided an email address to us, either on the Application Form or otherwise.
- 19.2 Each year the Custodian will also provide an annual income statement to 31 March of that

year by no later than 20 Business Days after the relevant 31 March.

19.3 You acknowledge that the information and/or calculations contained in the reports specified in clause 19.1:

(a) may be based on information provided by you or other third parties, and as such, if the information provided is incomplete or inaccurate, the reports may consequently be incomplete and inaccurate; and

(b) are intended to assist you in making your own taxation planning decisions and does not constitute taxation advice by JBWere, the Custodian or any other person.

19.4 You agree to provide the Custodian or JBWere, as the case may be, with all information and documents necessary for the Custodian to provide the reports to you.

19.5 If you notify us in writing through your JBWere representative that you wish to receive the Non-standard Asset Reporting Service we will include each Non-standard Asset in your Portfolio for the purpose of providing you with portfolio valuation reports.

19.6 In providing the Services to you under clause 19.5, we will rely on valuation information provided by you, the issuer of the relevant Non-standard Asset and other third parties. However, we will not independently verify this information and we take no responsibility whatsoever for the accuracy of this information or any valuation based on this information.

19.7 For the purposes of calculating fees and charges, the assets comprising the Portfolio will include your Non-Standard Assets unless we agree with you otherwise.

20. CASH ACCOUNT

20.1 You represent to the Custodian that, before placing any order for the acquisition of Investments or the lodgement of any deposit, you will have sufficient funds in the relevant Cash Account maintained by it on your behalf under clause 13.2 to pay for any Investments purchased or deposits made.

20.2 You agree that any buying and selling of Investments on your behalf, and the lodgement

of secured and unsecured deposits with financial institutions on your behalf, pursuant to the Terms and Conditions shall be effected solely through the Custodian as additions to, or disposals from, the Portfolio. All Investments or deposits or margins acquired or lodged on your behalf shall be held by the name of the Custodian on your behalf as part of the Portfolio. All money arising from the sale of any Investment, or the repayment of any deposit, shall be paid to the Custodian to be held in a Cash Account as part of the Portfolio.

21. COLLATERAL AGREEMENTS

21.1 If you are from time to time a party to a margin lending agreement, borrowing facility or other secured arrangement with Margin Lending (NZ) Limited ("Security Counterparty") whereby you grant a security interest over all or part of your Investments ("Secured Facility"), you agree and acknowledge that:

(a) the Custodian will separately identify and maintain any Investments that are subject to the Secured Facility. The terms of the Secured Facility will apply to those Investments and the remainder of Section C of the Terms and Conditions will apply to your other Investments that are held by the Custodian;

(b) Investments that are held by the Custodian on your behalf may become 'Collateral' (as defined or described in the Secured Facility) in accordance with the terms of the Secured Facility and you authorise the Custodian to act in accordance with the terms of the Secured Facility in respect of the Collateral;

(c) if at any time you have been given 'margin call advice' (as defined or described in the Secured Facility) and you have not complied strictly with the terms of that margin call advice by 2.00pm New Zealand time on the Business Day immediately after the day on which you are notified of the 'margin call advice', in addition to any other remedies the Security Counterparty or the lender may have against you under the terms of the Secured Facility, you will be deemed to have provided Authorised Instructions to the Custodian to:

- (i) lodge with the Security Counterparty additional approved securities satisfactory to the Security Counterparty to be held in accordance with the terms of the Secured Facility;
 - (ii) pay to the Security Counterparty such amounts from the relevant Cash Account as are required to satisfy the terms of the 'margin call advice'; or
 - (iii) perform any combination of the above; and
- (d) the terms of the Secured Facility will, in the event of inconsistency, take precedence over the remainder of Section C of the Terms and Conditions. In the exercise of its powers under Section C of the Terms and Conditions, the Custodian agrees not to breach or cause a breach of the relevant Secured Facility and you agree not to cause the Custodian to breach the Secured Facility.
- 21.2 For the avoidance of doubt, we may not be able to act on your Authorised Instructions in respect of any Investments for so long as these Investments are held pursuant to a Secured Facility.
- 21.3 Any Investments held by a Security Counterparty pursuant to the Secured Facility which are released from the security arrangements to which the Secured Facility relates, shall be held by the Custodian in accordance with the Terms and Conditions until you instruct the Custodian otherwise.
- 21.4 Any liabilities incurred by you in relation to such Secured Facility will be reflected in your Portfolio and may impact the value of your Portfolio.
- 22. PREMIUM SERVICES**
- 22.1 The Premium Services are provided by JBWere and the Custodian.

- 22.2 In opening an Account for Premium Services, you appoint us to provide the Premium Services in addition to the Standard Custodial Services.

SECTION D - INTERNATIONAL CUSTODY

23. INTERNATIONAL CUSTODIAL SERVICES

- 23.1 If you instruct us to purchase Investments in a market other than New Zealand and you are not a Standard Custodial Services client or a Premium Services client then, subject to Section E of the Terms and Conditions, those Investments will be held in custody on your behalf in accordance with this Section D. Investments to which this Section applies are referred to as your "Offshore Portfolio" for the purposes of this Section D.
- 23.2 International Custodial Services are provided by the Custodian.
- 23.3 If you subsequently become a Standard Custodial Services client or a Premium Services client then the Terms and Conditions set out in Section C will apply to the custody of your Investments instead of the Terms and Conditions in this Section D.
- 23.4 When we provide International Custodial Services to you, we will open one or more Cash Accounts for you for the purpose of receiving income and other payments due to you with respect to your Offshore Portfolio. The Cash Account(s) will be operated in accordance with this Section D and Section F of the Terms and Conditions.

24. STANDARD OF CARE

- 24.1 In performing its obligations pursuant to Section D of the Terms and Conditions, the Custodian shall comply with clause 14 of the Terms and Conditions, which sets out the requirements for standards of care and systems.

25. CUSTODY OF OFFSHORE PORTFOLIO

- 25.1 The Custodian will hold and will deal with the Offshore Portfolio only in accordance with the Terms and Conditions in this Section D and any Authorised Instructions. You represent and warrant to us that:

- (a) you are the beneficial owner of the Investments held within the Offshore Portfolio or you act as trustee on behalf of the beneficial owner;
- (b) you will provide details of the beneficial owner if required by the Custodian; and
- (c) the Investments within the Offshore Portfolio are free and clear of any lien, charge, encumbrance, security interest or other impediment and are fully paid.
- 25.2 Subject to the other provisions of the Terms and Conditions:
- (a) you retain beneficial ownership of all Investments in the Offshore Portfolio; and
- (b) to the extent that legal title to any of the Investments in the Offshore Portfolio is held by the Custodian, the Custodian holds that title for you as a bare trustee only.
- 25.3 Investments held in a clearing system will be held in accordance with the rules and practices of that clearing system.
- 25.4 The Custodian shall maintain appropriate records and registers with respect to the Offshore Portfolio, and any transfer or release of Investments in the Offshore Portfolio. In particular, the Custodian shall separately identify the Offshore Portfolio in its books, as distinct from the Investments of other clients, including any Investments held in a clearing system. The Custodian shall, at your request, or as is agreed from time to time, provide you with such information relating to the Offshore Portfolio as is reasonably requested by you. Fees may apply to certain information requests.
- 25.5 The Custodian is authorised to appoint one or more sub-custodians to hold any part of the Offshore Portfolio and to maintain any Cash Account(s) and/or to carry out any other services provided under the Terms and Conditions. Notwithstanding any such appointment, the Investments held by the sub-custodian shall remain part of the Offshore Portfolio and the provisions of the Terms and Conditions shall apply with all necessary modifications.
- 25.6 The Custodian may refuse to hold certain assets in trust for you including but not limited to assets which attract ongoing commitments to pay future calls of capital, life insurance policies and assets which are not financial products. You acknowledge that if we agree to hold partly paid assets in trust for you, you will pay all financial obligations relating to the partly paid assets and us holding the partly paid assets on your behalf. We may require you to deposit sufficient cleared funds in a Cash Account to enable future calls to be met.
- 26. DEALING WITH THE OFFSHORE PORTFOLIO**
- 26.1 All income due to you with respect to the Offshore Portfolio will be credited to one or more Cash Accounts opened for your benefit under clause 23.4 and held pursuant to the Terms and Conditions in this Section D and Section F.
- 26.2 The Custodian is authorised to acquire, dispose of, deal with or exercise any rights in respect of the Offshore Portfolio:
- (a) for any purpose, upon receipt of specific Authorised Instructions to do so;
- (b) to collect any income other payment in respect of any Investment in the Offshore Portfolio;
- (c) to grant in favour of any sub-custodian or Broker a lien over all or any part of the Offshore Portfolio to secure any expenses or outlays incurred or paid by the sub-custodian in accordance with the provisions of the sub-custodian agreement;
- (d) to attend to all non-discretionary details in connection with the sale, exchange, substitution, purchase, transfer and other dealings with the Investments in the Offshore Portfolio; and
- (e) as otherwise permitted by the Terms and Conditions.
- 26.3 The Custodian is also authorised to:
- (a) appoint the Broker in connection with the handling of transactions relating to the Offshore Portfolio;

- (b) sign and deliver on your behalf any documents (including any affidavit, declaration or certificate of ownership) which are required pursuant to the Terms and Conditions, to obtain payment of income from any Investment, and otherwise to service or carry out its obligations or obtain its rights as Custodian of the Offshore Portfolio; and
- (c) on receipt of Authorised Instructions, execute forms of proxy, and other necessary authorisations relating to your attendance at securityholder meetings and voting on any of the Investments in the Offshore Portfolio.
- Without limiting the above, the Custodian must exercise rights such as scrip issues, rights entitlements and voting rights in relation to Investments only in accordance with Authorised Instructions.
- 26.4 The Custodian shall receive all notices of bonus, rights and other issues or options in relation to Investments held in the Offshore Portfolio and, subject to clause 26.5, shall use its best endeavours to pass notification of your interest to you for your instruction. The Custodian shall take no further action with respect to such notices until it receives Authorised Instructions in the timeframe required. In particular, the Custodian shall not exercise any voting rights unless instructed how to vote.
- 26.5 You acknowledge that in relation to Investments comprised in your Offshore Portfolio some rights (including, but not limited to, dividend re-investment plans) may not be made available to you.
- 26.6 The Custodian shall not be obliged to complete the exercise of any options or other rights unless sufficient cleared funds are held on your behalf in the relevant Cash Account to satisfy the relevant payment obligation.
- 26.7 Subject to clause 23.3, all Investments acquired or held pursuant to this clause 26 shall be deemed to be included in the Offshore Portfolio and shall be held and dealt with in accordance with the Terms and Conditions.
- 26.8 The Custodian will not be liable for any inability to exercise or late exercise of any right or power or late performance of any obligation in connection with any Investment unless:
- (a) the Custodian has received timely Authorised Instructions with regard to the exercise or performance of any such right, power or obligation; and
- (b) the Custodian is in actual possession of the Investment; and
- (c) where applicable, sufficient cleared funds are held on your behalf in the relevant Cash Account, at least three Business Days prior to the date on which such right or power is to be exercised or the obligation performed; and
- (d) the liability is not excluded under clause 55.
- 26.9 The Custodian is entitled at any time and in its absolute discretion to delegate or sub-contract to any person (which may include any Related Company or any other third party) the performance of any of its functions, authorities, duties and discretions under the Terms and Conditions.
- 27. OTHER CLIENTS**
- 27.1 You acknowledge that the Custodian may buy or sell Investments for a number of its clients simultaneously in order to achieve economies of scale. However, the Custodian will at all times maintain the systems and records described in clause 25.4 to distinguish the Offshore Portfolio from any other Investments bought and sold by the Custodian.
- 28. CLIENT REPRESENTATIONS**
- 28.1 You represent and warrant that the Investments in the Offshore Portfolio are, and will remain, free from any charge or other adverse interest and that the Custodian may deal with the Offshore Portfolio as if it were beneficially owned by you. The Custodian is not obliged to recognise any equity or interest of any other person with respect to the Offshore Portfolio.
- 29. REPORTS**
- 29.1 The Custodian will provide the following reports (which may be separate or combined) on a

quarterly basis by no later than 20 Business Days following the end of each calendar quarter:

- (a) holding report; and
- (b) cash flow statement.

Reports can be provided to you electronically if you have provided an email address to us, either on the Application Form or otherwise.

29.2 You acknowledge that the information and/or calculations contained in the reports specified in clause 29.1:

- (a) may be based on information provided by you or other third parties, and as such, if the information provided is incomplete or inaccurate, the reports may consequently be incomplete and inaccurate; and
- (b) are intended to assist you in making your own taxation planning decisions and does not constitute taxation advice by JBWere, the Custodian or any other person.

29.3 You agree to provide the Custodian or JBWere, as the case may be, with all information and documents necessary for the Custodian to provide the reports to you.

SECTION E - ISSUER SPONSORSHIP

30. SECURITYHOLDER REFERENCE NUMBERS

30.1 Where you have requested that your Australian Investments not be held in custody, those Australian Investments will be held in the Australian "CHESS" system on an issuer sponsored basis. The registered holder will receive a Securityholder Reference Number ("SRN") in respect of each holding. You acknowledge that:

- (a) you are responsible for all communications with share registries, including change of personal details and notification of banking details for dividend and distribution payments;
- (b) you are responsible for holding your SRN's and protecting them from unauthorised use and/or access;

(c) if you lose an SRN you authorise us to contact the relevant registry to retrieve the SRN and we reserve the right to pass the costs of retrieving it from the relevant registry on to you;

(d) we reserve the right to manually check your holding prior to processing an instruction to sell any Investments held through SRN; and

(e) you will be responsible for all brokerage, borrowing and other costs, fail fees and other penalties, costs and losses that may arise as a result of overselling or other errors relating to the sale of issuer sponsored Investments.

SECTION F – CASH ACCOUNT

31. CASH ACCOUNT TERMS AND CONDITIONS

31.1 The Terms and Conditions set out in this Section F apply to the maintenance of Cash Accounts. Services supplied to you under this Section are provided by the Custodian.

31.2 If you are a Custodial Services Client we will provide one or more Cash Accounts for you. If you are a Broking Services client but not a Custodial Services client you may request a Cash Account and we may choose to provide you this Service, at our discretion. References in this Section F to 'a' or 'the' Cash Account are references to each Cash Account we provide for you.

31.3 If we make a Cash Account available to you, your funds will be held on trust for you in one or more bank accounts, each of which will be held with an Account Provider. Each Cash Account may, at our discretion from time to time, be either an account in the name of the Custodian (being a pooled account or a separate account maintained for you) or an account in your own name.

31.4 The Terms and Conditions relating to the Cash Account will be subject to the terms and conditions imposed by the relevant Account Provider from time to time, which will prevail to the extent of any inconsistency with these Terms and Conditions.

32. AUTHORITY

32.1 From the opening of the Cash Account, you:

- (a) agree to the Terms and Conditions in this Section F;
- (b) authorise the Custodian to deal with the Cash Account in accordance with the Terms and Conditions; and
- (c) agree to sign all documents and provide such other form of authority, details or information as the Custodian or any Account Provider requires, or is prepared to accept, in order to authorise the Custodian to hold and deal with your funds in the Cash Account on your behalf.
- 32.2 Subject to the other provisions of the Terms and Conditions:
- (a) you retain beneficial ownership of all your funds in the Cash Account; and
- (b) to the extent that legal title to any of the funds in the Cash Account is held by the Custodian on your behalf, the Custodian holds that title for you as a bare trustee only.
- 33. DEALING WITH THE CASH ACCOUNT**
- 33.1 Regardless of whether a Cash Account is in your name or the name of the Custodian, the Custodian is authorised to:
- (a) settle the Investment transactions that you or your Authorised Representative instruct JBWere to carry out on your behalf using your funds in the Cash Account;
- (b) deposit the proceeds received by JBWere or the Custodian on your behalf, in respect of a sale, redemption, close out or other disposal of Investments instructed by you or your Authorised Representative, into the Cash Account;
- (c) withdraw part or all (as necessary) of your funds in the Cash Account for an application for, payment or part payment for, purchase of, exercise of, or settlement of, Investments instructed by you;
- (d) withdraw funds from your Cash Account in order to pay any fee,
- expense or liability which you are required to pay under the Terms and Conditions;
- (e) transfer money to any other Cash Account for your benefit as the Custodian considers appropriate in carrying out its functions under the Terms and Conditions;
- (f) withdraw part or all (as necessary) of your funds in the Cash Account for any other purpose upon receipt of Authorised Instructions from you to do so; and
- (g) otherwise deal with and obtain information about the Cash Account as it requires from time to time.
- Provided that for some Cash Accounts, the Custodian may not provide all of the functions listed in sub-clauses (a) to (e) above.
- 33.2 You authorise the relevant Account Provider (on the basis that this authority may be relied on by the Account Provider and enforced in accordance with the Contracts (Privity) Act 1982) to provide to JBWere and the Custodian such information regarding the relevant Cash Account as may be necessary or expedient to enable the Cash Account to be operated in the manner contemplated by the Terms and Conditions.
- 33.3 You agree that you will only make withdrawals from the relevant Cash Account by utilising the facilities approved by JBWere and will only communicate with the Account Provider in relation to the Cash Account through JBWere and not in any other manner.
- 33.4 In the event that any Cash Account has a debit balance for any reason, the interest provisions in clause 5.3 will apply.
- 33.5 JBWere and the Custodian shall not be liable to you for any loss or expense which you incur as a result of the relevant Cash Account being operated in the manner contemplated by the Terms and Conditions and you acknowledge that you are solely responsible for ensuring that sufficient funds are maintained in that Cash Account to enable it to be operated in the manner contemplated by the Terms and Conditions and for ensuring that the Terms and Conditions relating to that Cash Account are complied with.
- 33.6 JBWere and the Custodian will not be liable for any late exercise of any right or power or late

performance of any obligation in connection with any Investment unless:

- (a) where applicable, sufficient cleared funds are held on your behalf in the relevant Cash Account, at least three Business Days prior to the date on which such right or power is to be exercised or the obligation performed; and
 - (b) the liability is not excluded under clause 55.
- 33.7 We may terminate the Cash Account (and the Services related to it), in part or as a whole at our discretion, on notice to you, in which case your funds in the Cash Account will be returned to you or a replacement Service will be provided to you at our discretion.

34. REPORTS

- 34.1 The Custodian will provide to you a report on your funds in the Cash Account on a quarterly basis by no later than 20 Business Days following the end of each calendar quarter. Reports can be provided to you electronically if you have provided an email address to us, either on the Application Form or otherwise.
- 34.2 You acknowledge that the information and/or calculations in the reports specified in clause 34.1 above are intended to assist you in making your own taxation planning decisions and do not constitute taxation advice by JBWere, the Custodian or any other person.

35. INTEREST EARNED ON CASH ACCOUNT

- 35.1 Interest may accrue on your funds in the Cash Account. If interest applies, the interest you receive, or are entitled to receive, on your funds in the Cash Account will be at a rate to be determined by the Custodian and will vary from time to time and depending on the type of Services we provide to you. Contact your JBWere representative for the current rate. You agree that the Custodian is entitled to earn a margin on interest earned on the Cash Account at a rate to be determined by us from time to time.
- 35.2 When interest becomes payable on your funds in the Cash Account, your interest will be automatically credited to your funds in the Cash Account.

SECTION G - GENERAL TERMS AND CONDITIONS

The Terms and Conditions contained in this Section G apply to all Accounts that you may have with us and all Services that we provide you.

36. MONEY AND PROPERTY HANDLING PROCEDURES

- 36.1 Payment of money to JBWere may be made by:
- (a) cheque payable to JBWere (NZ) Pty Ltd; or
 - (b) direct credit to the JBWere (NZ) Pty Ltd bank account number advised to you by your JBWere representative.
- 36.2 Payment of money to the Custodian may be made by:
- (a) cheque payable to JBWere (NZ) Nominees Limited; or
 - (b) direct credit to the Custodian's bank account number advised to you by your JBWere representative.
- 36.3 The bank account referred to in clause 36.1 is a Client Funds Account operated by JBWere in accordance with the NZX Participant Rules. Any interest earned on funds held in this account will be retained by JBWere, for its own benefit. Otherwise, we are not able to use your funds for our benefit or for the benefit of any other person.
- 36.4 You may deliver any property (for example, documents) to us at any of the addresses set out in clause 38.1 below. This property will be held securely. Property will not be held in trust for you.
- 36.5 As an NZX Market Participant, we are required to meet the capital adequacy regulations laid down by the NZX. Compliance with the NZX Participant Rules is internally monitored on a periodic basis as required by the NZX. Further, our money and property handling transactions as well as internal systems and controls are audited by an internal audit function.
- 36.6 Full accounting records are kept of all moneys received on your behalf and on behalf of other clients. A copy of the records relating to your Account may be requested by you at any time during business hours and will be provided to you at no charge.

37. DEPOSITORY ACCOUNTS

acting on behalf of CDO or the
Depository Nominee (or both).

37.1 In the event that we elect to use a Depository Account as a Client Funds Account or for the purposes of holding Securities held in a Custody Account then:

- (a) under the Depository Rules:
- (i) CDO and the Depository Nominee must recognise the Depository Participant in whose name a Depository Account is held as the sole beneficial owner of Securities or funds held in that Depository Account;
- (ii) CDO and the Depository Nominee must not, except as ordered by a court of competent jurisdiction or as is otherwise expressly provided by the Depository Rules, be liable for, bound by or compelled in any way to see to the execution of any trust or equity affecting the ownership of, or incidental rights to, any funds or securities held in a Depository Account, nor to recognise the Depository Participant in whose name the Depository Account is held as holding any funds or Securities held in a Depository Account on trust nor to recognise any proprietary, equitable, contingent, future or partial interest in any funds or securities held in a Depository Account or any other right, except the beneficial right of ownership of the Depository Participant in whose name the Depository Account is held; and
- (b) you shall not assert any such proprietary or equitable interest or other right against CDO, the Depository Nominee or any person

38. DETAILS OF YOUR NZX ADVISER AND ASSOCIATE ADVISER

38.1 Your NZX Adviser or Associate Adviser is employed by JBWere. He or she can be contacted at the following addresses:

Auckland

Level 38 Vero Centre 48 Shortland Street Auckland 1010	PO Box 2085, Shortland Street Auckland 1140 New Zealand
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Telephone (09) 927 1200
Facsimile (09) 927 1300

Christchurch

Level 6, HSBC Tower 62 Worcester Boulevard Christchurch 8013 New Zealand	PO Box 2655 Christchurch 8013 New Zealand
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Telephone (03) 364 5610
Facsimile (03) 364 5611

Wellington

Level 4 NZX Centre 11 Cable Street Wellington 6001 New Zealand	PO Box 29 Wellington 6011 New Zealand
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Telephone (04) 801 1429
Facsimile (04) 801 1430

38.2 The Custodian can be contacted as follows:

Level 38 Vero Centre 48 Shortland Street Auckland 1010 New Zealand	Private Bag 92085 Victoria Street West Auckland 1142 New Zealand
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Telephone (09) 927 1200
Facsimile (09) 927 1300
Freephone (0800) 555 555

39. YOUR ACKNOWLEDGEMENTS AND WARRANTIES

39.1 You represent and warrant that:

- (a) all information provided by you in the Application Form or as notified to us from time to time is complete and correct and is not misleading and you agree that we may rely on that information, unless and until we receive written notice from you of any change;
- (b) you are not a Prescribed Person;
- (c) you have the legal right and power to enter into the agreement comprised by these Terms and Conditions and transactions contemplated by these Terms and Conditions;
- (d) all of your obligations in connection with these Terms and Conditions and the transactions thereunder are valid, binding on and enforceable against you;
- (e) if you are a body corporate, you are duly incorporated and validly existing; and
- (f) by entering into Investment transactions and/or using other Services you are not contravening the laws of the jurisdiction in which you reside or causing us to violate any applicable laws.
- 39.2 If you are a trustee:
- (a) you agree that these Terms and Conditions will bind you in both a personal capacity and in your capacity as trustee; and
- (b) you represent and warrant that:
- (i) you can be indemnified out of the assets of the trust for all liabilities incurred under these Terms and Conditions; and
- (ii) you have properly exercised your trust powers and have full authority under the trust to enter into these Terms and Conditions; and
- (iii) for the purposes of this clause 39.2, 'the Terms and Conditions' includes any ancillary documentation executed at the same time as you open the Account(s).
- 39.3 Each of the representations and warranties in clauses 39.1 and 39.2 is deemed to be repeated each time you or your Authorised Representative gives us instructions and each time you make a payment to us.
- 40. AUTHORISED INSTRUCTIONS**
- 40.1 Subject to clause 40.2, Authorised Instructions may be given verbally or in writing (including in electronic form) and we may act on any such instructions given by you or your Authorised Representative.
- 40.2 We can require you to provide Authorised Instructions in writing. In addition, changes to Authorised Representatives, payment of any sums to a third party and registering any Investments in the name of any person other than the account holder requires written instructions given by all account holders.
- 41. AUTHORISED REPRESENTATIVES**
- 41.1 You agree that if you have appointed an Authorised Representative to deal on your behalf, then we may act upon the Authorised Instructions of any Authorised Representative without necessarily checking the authority of that person. Unless instructed otherwise in writing we are entitled to presume that where the client is a company, each director of that company is an Authorised Representative.
- 41.2 The JBWere Group is not liable in respect of anything any member of the JBWere Group does or does not do or you do or do not do in reliance on any notice or instruction given by a person we reasonably believe to be you or your Authorised Representative.
- 41.3 If there is more than one Authorised Representative, we may act on the Authorised Instructions of any one Authorised Representative.
- 41.4 Where the Authorised Representative does not have the authority to undertake transactions on your behalf, you will indemnify each of the Indemnified Parties against any losses, liabilities,

- costs, charges or expenses that any of the Indemnified Parties may incur as a result of the operation by the Authorised Representative on the Account.
- 41.5 You will procure that each Authorised Representative warrants, represents and undertakes that:
- (a) he or she is authorised on your behalf to ask us to carry out all instructions that he or she gives us;
 - (b) he or she will use the Account with us to trade only on your behalf; and
 - (c) if he or she undertakes Investment transactions on behalf of any other person (including another company or trust) he or she will advise us and ask us to set up another Account.
- 41.6 The Authorised Representative agrees to personally indemnify each of the Indemnified Parties against any losses, liabilities, costs, charges or expenses that any of the Indemnified Parties may incur as a result of any failure by the Authorised Representative to comply with the warranties, representations and undertakings set out in clause 41.5.

42. ACCOUNT HOLDERS

- 42.1 If your Account is in two or more names:
- (a) the liabilities of all Account holders are joint and several;
 - (b) a right given to those parties under these Terms and Conditions is a right given severally to each of them; and
 - (c) a representation, warranty or undertaking made by those parties is made by each of them.
- 42.2 Unless you notify us otherwise in writing and subject to clause 40.2, we may, but are not required to, accept Authorised Instructions from any one of the joint applicants named in the Application Form.
- 42.3 You acknowledge that we will not be able to open Accounts in the name of minors.

43. CONFLICT OF INTEREST

- 43.1 You agree that in buying, selling or otherwise dealing with Investments, we may act at the same time for you and other persons and you authorise us to do so.
- 43.2 You acknowledge that from time to time JBWere may be able to offer preferential allocation of Investments to enable participation in initial public securities offerings and that JBWere is entitled to offer these opportunities to such clients as it may, in its discretion, determine.
- 43.3 You acknowledge that we, a Related Company of us or some other person connected to us or it may have a direct, indirect or professional interest in any company, Investments or other matter which is the subject of possible investment advice or transaction, as the case may be.

44. ADVICE SERVICES

- 44.1 We may provide you with information and financial advice and other Advice Services from time to time to enable you to monitor and manage your Investments. We are not obliged to actively manage or monitor your Investments provided that if we provide Premium Services to you we will carry out a periodic review of your Portfolio.
- 44.2 To the extent that we provide you with investment advice, we will ensure that due skill and care, diligence and efficiency is involved in the process. However, we do not guarantee the repayment of capital or the performance of any Investment or otherwise make any representation concerning the performance of your Investments. Advice is necessarily based on information provided to us by other people and may not have been independently verified by us.
- 44.3 You agree to:
- (a) at the request of JBWere or its agent, provide such persons with all information relating to your investment objectives, financial situation and particular needs which is sufficient and necessary for these persons to provide Advice Services to you; and
 - (b) notify JBWere or its agent (as relevant) of any change in your circumstances or of any relevant

new information concerning your investment objectives, financial situation and particular needs, such that JBWere or its agent (as relevant) has sufficient information to provide informed Advice Services to you.

you owe us, irrespective of any amounts paid to your credit and even though your Account may at any time be or seem to be in credit.

44.4 We have the right to charge you a separate fee in respect of Advice Services we provide to you.

44.5 You acknowledge that we do not provide legal, tax, regulatory or accounting advice and you will seek and rely on your own advice in these areas.

45. CHARGES

45.1 As remuneration for the Services, you will pay us such fees and charges as are applicable at the relevant time, including any fees imposed by the Broker, unless otherwise agreed.

45.2 If you request us to bill you in a currency other than New Zealand dollars, you will be advised of the amount to be paid in that currency, and you must pay that amount in accordance with these Terms and Conditions.

45.3 You grant us a Security Interest in all Investments (including the Proceeds thereof), and a lien over all documents, held or controlled by us for you as security for all moneys now or at any other time owing by you to us for any reason. In addition to any other right which we have under these Terms and Conditions and the PPSA, you agree that we may set off sums due to us or our Related Companies against amounts that we hold for you in any Account.

45.4 The Security Interest created by clause 45.3 will attach in the case of:

(a) any existing Investment, as soon as you open an Account or the Terms and Conditions otherwise become effective; and

(b) any after-acquired Investments, as soon as you acquire any rights, title or interest in those Investments.

You acknowledge that we have made no agreement with you for the attachment of the Security Interest at a later date.

45.5 Until the Security Interest created under clause 45.3 is released by us, that Security Interest is a running and continuing security for all amounts

45.6 You acknowledge that you have waived your rights under sections 114, 120(2) and 121 of the PPSA.

46. GUARANTOR UNDERTAKING AND INDEMNITY

46.1 At least one Guarantor is required for all company applicants and all trust applicants where the trustees comprise only corporate trustees and/or professional trustees. The Guarantor:

(a) hereby unconditionally and irrevocably guarantees to JBWere, the Custodian, any Related Companies of any such entity, or other agents of any such entity payment of all monies now or at any time hereafter owing by you to any such party on your Account(s) for any reason whatsoever and the due, punctual and proper performance and observance by you of all your obligations under these Terms and Conditions;

(b) hereunder indemnifies each of the Indemnified Parties against all loss, damage and expense which any of the Indemnified Parties may incur by reason of your default in payment of any sum owing on your Account(s) pursuant to these Terms and Conditions or for any other reason whatsoever;

(c) agrees that each and every amount payable hereunder shall be payable to us or Custodian upon written demand by the relevant entity;

(d) agrees that this Guarantor Undertaking and Indemnity shall be a continuing guarantor undertaking and indemnity and the liability of the Guarantor hereunder shall constitute a principal obligation of the Guarantor and shall not be abrogated, prejudiced or affected by the granting of time or other concession, waiver or forbearance to sue on our behalf or by any other act, omission, matter, circumstance or law whereby the Guarantor as a

surety only would, but for the provisions of this clause, have been released from liability; and

- (e) agrees where more than one person constitutes the Guarantor then they are jointly and severally bound by the Guarantor Undertaking and Indemnity.

47. CURRENCY

- 47.1 All currency exchange risks in respect of your transactions will be borne by you. Any conversion from one currency to another that is required to be made or arranged by us to perform or enforce any transaction may be effected in the manner and at the time as we in our absolute discretion decide. A fee will be charged for this service.

48. INTERNET SERVICES

- 48.1 If you are registered to use the Internet Services, you agree that when you use the Internet Services you will be bound by the terms and conditions displayed on our website from time to time ("Internet Services Terms and Conditions").
- 48.2 These Terms and Conditions are in addition to the Internet Services Terms and Conditions. If there is any inconsistency between these Terms and Conditions and the Internet Services Terms and Conditions, the Internet Services Terms and Conditions will prevail in respect of the provision of Internet Services to the extent of the inconsistency.

49. EFFECT OF DEATH OR INCAPACITY

- 49.1 You agree, if you are an individual, that:
- (a) if you should die while you have one or more Accounts open with us, your personal representative(s) will ratify and confirm all acts and things that we have lawfully done or caused to be done pursuant to these Terms and Conditions between the date of your death and receipt by us of notice of your death and will indemnify each of the Indemnified Parties in respect of these acts or things; and

- (b) the authority which you have conferred on us by these Terms and Conditions will continue to operate and have full force and effect notwithstanding that you may subsequently become incapable.

50. TAXATION

- 50.1 The JBWere Group shall not have any responsibility or any liability at any time for any of your taxation obligations except to the extent required by law or to the extent otherwise provided in these Terms and Conditions. You shall be responsible for paying all New Zealand income tax and other taxes, levies and duties of whatsoever nature imposed in New Zealand or elsewhere upon you in respect of, or arising out of, these Terms and Conditions and for complying with your obligations under New Zealand or any other jurisdiction's legislation including, but not limited to, obtaining a tax number, registering for goods and services tax (if required) and filing all appropriate tax returns. You may be entitled to claim tax paid back under a double taxation treaty. You are responsible for making such a claim.
- 50.2 If we are required by law to make any taxation deduction, withholding or payment from any amount to be credited to you under these Terms and Conditions then, unless a valid exemption certificate is presented by you to us, such deduction shall be made from the amount to be credited to you, and will be remitted to the Commissioner of Inland Revenue or other applicable taxation authority as required. If you do not provide your JBWere representative with the rate at which withholding tax should be deducted and your IRD number, withholding tax may be deducted at the highest withholding tax rate.
- 50.3 For the purposes of New Zealand taxation requirements your country of residence is as shown in the Application Form. You must promptly notify us in writing of any changes in the country of residence.
- 50.4 You indemnify each of the Indemnified Parties and undertake to keep each of the Indemnified Parties at all times fully and effectively indemnified from and against any tax, penalty, interest or other charge, cost or expense in relation to such tax, sought to be recovered from any of the Indemnified Parties by the Commissioner of Inland Revenue or other applicable taxation authority that may arise at

- any time in respect of your taxation obligations as a result of these Terms and Conditions.
- 50.5 The amounts payable under these Terms and Conditions to you do not include any goods and services tax ("GST") which may be due in accordance with the Goods and Services Tax Act 1985. If a supply is chargeable with GST, or assessed by the Commissioner of Inland Revenue as being neither exempt nor zero-rated, then you must pay to us, GST in addition to compensation demanded by us.
- 51. TAPED TELEPHONE CONVERSATIONS**
- 51.1 You agree and specifically consent to us or our Related Companies electronically recording and monitoring telephone conversations with you, with or without automatic tone warning device, for the purpose of verification of instructions and for administrative and compliance purposes including recording and identifying the calling telephone from which you or any Authorised Representative instructs us.
- 52. PRIVACY ACT 1993**
- 52.1 Unless you advise us in writing to the contrary, you authorise:
- (a) us to collect information about you, your Guarantor and the Authorised Representatives directly from you or from the Custodian, any sub-custodian, agent, Broker, Account Provider, Security Counterparty and any other person providing Services pursuant to these Terms and Conditions;
- (b) us to hold and disclose personal information about you, your Guarantor and the Authorised Representatives to any Broker, Custodian, any sub-custodian, Account Provider, Security Counterparty, agent and their respective Related Companies and agents ("Recipients") as necessary for the purposes of carrying out your instructions, administering your Account and otherwise providing Services to you and for our own marketing purposes and for the Recipients to hold and disclose such information as necessary for the purposes of providing Services;
- (c) us and each of the Recipients to hold and disclose information about you, your Guarantor and the Authorised Representatives where required under law or the NZX Rules and Regulations or any other regulation or by any regulatory authority;
- (d) us to obtain from a credit reporting agency a credit report concerning you, your Guarantor's and your Authorised Representatives' credit information if we consider it relevant to determine whether to agree to perform the services, or administer your Account, or to collect unpaid accounts from you;
- (e) us to give to and to seek from any credit provider, personal information about you, your Guarantor and the Authorised Representatives, including about credit arrangements. You understand and acknowledge that this information may include any information about you, your Guarantor and the Authorised Representatives' creditworthiness, credit history or credit capacity;
- (f) us to obtain and use financial information about you, and provide financial information about you to any adviser used by you;
- (g) us to report any overdue payments owing to us by you to other credit providers or credit reporting agencies or collection agencies; and
- (h) us and each of the Recipients to hold and disclose personal information for the purposes of satisfying the account opening or anti-money laundering requirements of us or any third party with whom we deal with in respect of your Investments.
- 52.2 Except as authorised by this clause 52, or as required by law, we undertake not to provide personal information acquired in connection with your Account(s) to other persons unless you or the Authorised Representatives authorise that disclosure pursuant to, or otherwise under, the Privacy Act 1993.
- 52.3 You agree to provide us (at our request) with the names and details of one or more credit referees to assist us in assessing your creditworthiness.

- 52.4 You authorise us to provide your personal information to the Broker if we are required to under the terms of our trading agreement with the Broker.
- 52.5 We may terminate your Account and/or suspend Services under these Terms and Conditions if you, your Guarantor, or any Authorised Representative fails to provide us with any information that is requested under this clause 52.
- 52.6 You, your Guarantor and your Authorised Representatives are entitled to see, and to have corrected, any information that we hold about you, your Guarantor or your Authorised Representatives.
- 52.7 Your personal information can be subject to regulatory review (by the NZX, Financial Markets Authority or other regulator). In the case of a regulatory breach, the regulator may not have to keep your personal information confidential.
- 53. CONFIDENTIALITY**
- 53.1 You will and we will at all times respect and protect the confidentiality of information acquired under these Terms and Conditions (except as may be otherwise required by law or the rules of any market in which an Investment is acquired or as may be required by us in the carrying out of our duties under these Terms and Conditions, including such disclosures to our Related Companies or advisers as we deem necessary). No Related Company of ours is obliged to disclose to you or any other person any information if disclosure would or might be a breach of duty or confidence to any other person or would be contrary to any laws.
- 54. UNSOLICITED ELECTRONIC MESSAGES ACT 2007**
- 54.1 You consent to receiving commercial electronic messages from us from time to time in connection with the Services or otherwise and without a functional unsubscribe facility.
- 55. LIMITATION OF LIABILITY**
- 55.1 Nothing in these Terms and Conditions is intended to limit any of your rights under the Consumer Guarantees Act 1993 where:
- (a) the Services contemplated by these Terms and Conditions are of a kind ordinarily acquired for personal, domestic or household use or consumption; and
- (b) you are not acquiring the Services for a business purpose.
- 55.2 Subject to this clause:
- (a) we will not be liable to you or any other person for any loss unless such loss or damage is caused by any breach of these Terms and Conditions by us or the wilful default, negligence or breach of trust on the part of us (as the case may be);
- (b) any liability we may have to you will be limited to direct losses incurred by you and we will not be liable to you for any consequential or indirect loss, including economic loss; and
- (c) the provisions of this clause relating to limitation of liability shall extend to:
- (i) our Related Companies, the Custodian and their respective Related Companies, all the directors, officers, agents and employees of JBWere and its Related Companies including the Custodian; and
- (ii) all corporate entities in which we may have an interest; and
- (iii) all entities which may distribute publications in which we may have an interest.
- 55.3 We exclude all conditions, warranties or terms implied by statute, general law or custom except to the extent that such exclusion would contravene any statute or cause this provision to be void. Subject to clause 55.1, our liability for a breach of any provision implied by law which cannot be excluded is limited in the case of goods, to the replacement of the goods or the supply of the equivalent goods or in the case of Services, the supplying of the Services again.
- 55.4 These Terms and Conditions will extend to the Custodian and all Related Companies of

- JBWere and the Custodian and their respective directors, officers, agents, and employees, to the extent that these Terms and Conditions give those parties rights. Those parties are intended to have a benefit under these Terms and Conditions and to be able to enforce these Terms and Conditions for the purposes of the Contracts (Privity) Act 1982.
- 55.5 The liability of each of JBWere and the Custodian under the Terms and Conditions is several, and not joint and several, and neither shall be liable for the acts or omissions of the other.
- 56. INDEMNITY**
- 56.1 You agree to indemnify each of the Indemnified Parties against any losses, liabilities, costs, charges or expenses incurred by any of the Indemnified Parties arising out of, or in connection with, these Terms and Conditions including, but not limited to, the provision of Services. This includes, without limitation, losses, liabilities, costs, charges or expenses arising from your failure to perform any of your obligations to us, or to make any payment, under these Terms and Conditions (except insofar as any loss, liability, cost, charge or expense is caused by the gross negligence, fraud or dishonesty of any Indemnified Party). We hold the benefit of this indemnity on trust for each Indemnified Party on the basis that we may amend these Terms and Conditions without the consent of any Indemnified Party.
- 57. NOTICES**
- 57.1 Each notice or other communication to be given or made by a party under these Terms and Conditions shall:
- (a) be given or made in writing by email, by facsimile or by letter;
- (b) be given or made to that party at the email address, address or facsimile number, and marked for the attention of the person (if any), from time to time designated by that party to the other for the purposes of these Terms and Conditions; and
- (c) subject to (d) below, not be effective until actually received by that party provided that any notice, instruction or communication actually received after 5pm on a Business Day, or on a day which is not a Business Day, will be deemed not to have been received until the next Business Day; and
- (d) in the case of notices or other communications given by post, be deemed to be received on the second Business Day after posting (or such other guaranteed delivery period as may be applicable).
- 57.2 The initial email address, address, facsimile number and person (if any) so designated by each party, are set out in the Application Form.
- 57.3 We are entitled to rely upon any communication reasonably believed to be sent or given by you or any Authorised Representative. If any communication is received by telephone or is sent to us via email or facsimile from a person or persons purporting to be authorised to give the communication, you:
- (a) indemnify each of the Indemnified Parties against any loss, cost, damage, expense or liability sustained or incurred by any of the Indemnified Parties as a result of acting or omitting to act wholly or partly in accordance with such communication; and
- (b) agree that we will not be liable for, and you will not make any claim against us arising out of:
- (i) the lack of authenticity or validity of any such communication received by us and purporting to be given in accordance with these Terms and Conditions; or
- (ii) us having acted or omitted to act wholly or partly in accordance with any such communication, provided such an omission is not caused by our negligence, willful default or fraud.
- 57.4 If you or any Guarantor comprises more than one person:
- (a) a notice:

- (i) given to one of those persons is deemed to have been given to all such persons;
- (ii) given to us by one of those persons is deemed to have been given by all such persons;
- (b) any consent, instruction or authorisation given by one of those persons is deemed to be given by all such persons.
- Notwithstanding anything else in these Terms and Conditions, we are not required to act on any notice, instruction or other communication received from you unless it is signed by you or your Authorised Representative.
- 57.5 Please note this clause does not apply to the giving and receiving of Authorised Instructions to buy or sell Investments, which is provided for in clause 3.2 of these Terms and Conditions.
- 58. AMENDMENT**
- 58.1 You can amend:
- (a) your client details; and
- (b) your Authorised Representative details,
- by giving us not less than ten (10) Business Days' notice in writing.
- 58.2 Subject to relevant New Zealand legislation and clause 60.1(c) of these Terms and Conditions, we can amend these Terms and Conditions by giving one month's prior notice in writing to you.
- 58.3 If we wish to offer additional Services, we can amend and/or add further schedules to these Terms and Conditions with effect from the date you first use that new or varied Service.
- 59. AGENTS AND ASSIGNMENT**
- 59.1 You authorise us to instruct any broker, overseas broker, custodian or other agent for the purposes of carrying out our obligations under the Terms and Conditions. We are not responsible for the acts or omissions of any third party. To the extent that any such agent imposes obligations on us in respect of you,
- your Portfolio or any Account then you will be bound by those obligations.
- 59.2 You shall not assign or transfer any of your rights or obligations under these Terms and Conditions. We may assign all or any of our rights, and transfer all or any of our obligations, under these Terms and Conditions to any person or persons. You acknowledge that the Broker may change from time to time.
- 60. LEGISLATION, RULES AND REGULATIONS**
- 60.1 You acknowledge and agree that:
- (a) you and all Investment transactions we undertake or instruct the Broker to undertake on your behalf will be subject to:
- (i) the NZX Rules and Regulations, and the decisions, requirements, customs and usages of the NZX;
- (ii) all applicable rules and regulations, and the decisions, requirements, customs and usages of any other recognised stock exchange, as these may apply from time to time; and
- (iii) all applicable legislation in New Zealand, and in the country in which the Investments are traded,
- and accordingly, all actions taken by us in accordance with clauses 60.1(a)(i) to (iii) above will be treated as being in compliance with these Terms and Conditions and will override any inconsistent provision contained in these Terms and Conditions;
- (b) these Terms and Conditions are subject to the NZX Rules and Regulations as well as other applicable laws that are in force from time to time and accordingly, we are unable to accept instructions which will prevent us from complying with our obligations under the NZX Rules and Regulations;
- (c) these Terms and Conditions will be deemed to be amended as

necessary to reflect any amendment to, or to otherwise comply with, the NZX Rules and Regulations or any other legislation and (where applicable) the effective date for such amendments to the Terms and Conditions will be the date any such amendment comes into force; and

- (d) we may do all things necessary or incidental to allow us to provide the Services and to act in compliance with these Terms and Conditions and applicable laws and other requirements (including, but not limited to, those referred to in sub-clause (a) above).

60.2 You agree to provide us with any further information we may request in order for us to comply with our obligations under all applicable laws, regulations and requirements (of New Zealand and any other jurisdiction and including, but not limited to, requirements of the Settlement System operated by the NZX or its Related Companies or any other applicable system of a recognised stock exchange) and agree that we may provide that information to a third party if required to do so.

61. SEVERANCE

61.1 Subject to clause 61.2, if any provision of these Terms and Conditions is, or becomes unenforceable, illegal or invalid for any reason, it shall be deemed to be severed from these Terms and Conditions without affecting the enforceability, legality, validity or application of the remainder of these Terms and Conditions.

61.2 Any provision of these Terms and Conditions which is void, prohibited or unenforceable in a jurisdiction (but not in other jurisdictions) is ineffective in that jurisdiction to the extent only that the provision is void, prohibited or unenforceable in that jurisdiction.

62. DEALINGS WITH RELATED COMPANIES

62.1 Each of JBWere and the Custodian in their absolute discretion may arrange for any transaction to be effected with, or through the agency of, any of its Related Companies (whether as a principal on its own account or as agent for another Related Company or any other person). In particular, but without limitation, foreign exchange transactions may

be entered into and money may be placed on deposit with any Related Company of JBWere, the Custodian or any other third party.

62.2 No Related Company will be liable to account, or disclose to you any profit, banker's margin, commission, remuneration, mark-up or mark-down made or received or any interest received or earned by the Related Company by reason of a transaction or any connected transaction. Any Related Company may be remunerated by both parties where it matches purchases and sales on your behalf with those of another client and this will be disclosed to you if required by law.

63. GOVERNING LAW

63.1 These Terms and Conditions are governed by the laws of New Zealand and the parties submit to the non-exclusive jurisdiction of the courts of New Zealand in respect of any dispute or proceeding arising out of these Terms and Conditions.

64. TERMINATING THE ACCOUNT(S)

64.1 Subject to applicable legislation, your Account will be terminated upon the occurrence of any of the following events:

(a) by notice in writing from either you or us to the other party; or

(b) upon us becoming insolvent.

64.2 Termination of your Account under clause 64.1(a) will be effective upon receipt of notice. When terminating your Account you should provide Authorised Instructions for the Custodian to transfer or otherwise deal with your Portfolio.

64.3 Termination of your Account does not affect any rights or obligations that have arisen before that time.

64.4 The provisions of clauses 53 (Confidentiality), 54 (Unsolicited Electronic Messages Act 2007), 55 (Limitation of Liability) and 56 (Indemnity) of these Terms and Conditions are continuing obligations and shall continue after termination of your Account.

64.5 The termination of your Account does not affect any:

(a) transactions that have been entered into on your behalf before termination;

- (b) claim for accrued or unpaid amounts (including, but not limited to, fees and expenses) incurred in respect of the period prior to termination; or
- (c) other claims which any party may have against the other which accrued prior to termination.

64.6 On termination, we shall have no further obligations to you and we shall or shall facilitate the transfer, redemption, sale or other dealing with your Investments as instructed by you or your Authorised Representative prior to termination. If no Authorised Instructions are given within 20 Business Days of notice to terminate being given, then you will be deemed to have given Authorised Instructions to us to take reasonable steps to close your Account and transfer your Investments into your name.

64.7 We reserve the right to charge you a fee for information or services provided to you after termination of your Account.

65. DEFINITIONS

65.1 In these Terms and Conditions, unless the context otherwise requires:

"Account" means an account with JBWere, and the Custodian (if applicable) opened in your name in accordance with the Terms and Conditions;

"Account Provider" means any bank, deposit taker or other financial institution (whether in New Zealand or overseas), at our discretion from time to time;

"Advice Services" has the meaning set out in the definition of "Services";

"Application Form" means the Investment Account Application Form completed by you for the purposes of establishing an Account;

"Authorisation Code" or **"FIN"** means an alphanumeric identifier issued by NZX, an issuer or a Securities Registry, to a security holder that provides authority to access the shareholder's account at the Securities Registry;

"Authorised Instruction" means an instruction given by you or any Authorised Representative to the Custodian or JBWere (as applicable) in accordance with the Terms and Conditions;

"Authorised Representative" means the person(s) named as such in the Application Form, as amended by notice in writing from you from time to time (and in respect of whom a specimen signature must be provided to us);

"Broker" means:

(a) in respect of New Zealand Investment transactions, one or more NZX Trading Participants as defined in the NZX Participant Rules; and

(b) in respect of Investment transactions outside New Zealand, any broker or market participant on a recognised stock exchange;

"Broking Services" has the meaning set out in the definition of "Services";

"Business Day" means any day (other than a Saturday or Sunday) on which banks are open for business in Auckland, Christchurch and Wellington and on which the NZX is open for trading;

"C&S Rules" means the Clearing and Settlement Rules issued by CHO, as amended from time to time;

"Cash Account" means an account maintained with, at our discretion from time to time, an Account Provider (and previously also known as a "Call Facility" for some clients);

"CDO" means New Zealand Depository Limited, including its board of directors, senior executives, employees, agents, and any person acting under its delegated authority;

"CHO" means New Zealand Clearing Limited, including its board of directors, senior executives, employees, agents, and any person acting under its delegated authority;

"Clearing Participant" and **"Client Funds Account"** have the meaning set out in the NZX Participant Rules.

"CSN" has the meaning ascribed to it in clause 6.4 of these Terms and Conditions;

"Custodial Services" has the meaning set out in the definition of "Services";

"Custodian" means JBWere Nominees and/or other custodial company as nominated by JBWere from time to time;

"Custody Account", "Depository Account", "Depository Nominee" and "Depository Participant" each have the meaning set out in the NZX Participant Rules;

"Depository Rules" means the Depository Operating Rules issued by CDO, as amended from time to time;

"GST" has the meaning ascribed to it in clause 50.5 of the Terms and Conditions;

"Guarantor" means:

- (c) the person or persons named as such in the Application Form as Guarantor(s);
- (d) any other person or persons who agree at any time to be named as a Guarantor(s) under the Terms and Conditions,

and, if the context requires, where the Guarantor consists of more than one person, a reference to "Guarantor" means any one or more of those persons;

"Guarantor Undertaking and Indemnity" means the guarantor undertaking and indemnity set out in clause 46 of these Terms and Conditions;

"Indemnified Parties" means each of JBWere and the Custodian and their respective Related Companies and each entity's respective directors, officers, agents and employees;

"International Custodial Services" has the meaning set out in the definition of "Services";

"Internet Services" means the order information and research services offered online by JBWere in accordance with the Internet Services Terms and Conditions and as displayed on JBWere's website;

"Internet Services Terms and Conditions" has the meaning set out in clause 48.1 of the Terms and Conditions;

"Investment" includes, without limitation, any form of money or security or participatory security (each as defined in the Securities Act 1978), futures contract (as defined in the Securities Markets Act 1988 (but without regard

to the exclusions contained in section 37(2) of that Act)) and any interest in any real or personal property;

"JBWere" means JBWere (NZ) Pty Ltd (ABN 13 138 488 418), registered in New Zealand as an overseas company;

"JBWere Group" means JBWere and each of its Related Companies from time to time;

"JBWere Nominees" means JBWere (NZ) Nominees Limited, a New Zealand incorporated company;

"Legal Title Transfer System" means an electronic system used to effect transfer of legal title to securities in accordance with the Depository Rules;

"Market Participant" has the meaning ascribed to it in the NZX Participant Rules;

"Non-standard Asset" means any Investment approved by us in writing which is not held by the Custodian;

"Non-standard Asset Reporting Service" means the Service described in clause 19.5;

"NZX" means NZX Limited;

"NZX Rules and Regulations" means the rules and regulations made by NZX and its subsidiaries which are in force from time to time including, but not limited to, the NZX Listing Rules, the NZX Participant Rules, the NZX Futures and Options Rules, the NZX Derivatives Market Rules, the C&S Rules and the Depository Rules;

"Offshore Portfolio" has the meaning set out in clause 23.1;

"Portfolio" means any Investments held by the Custodian or any sub-custodian on your behalf from time to time and includes any gains, dividends and other income arising from your initial Investments and any money held in a Cash Account;

"PPSA" means the Personal Property Securities Act 1999;

"Premium Services" has the meaning set out in the definition of "Services";

"Prescribed Person" means:

- (a) a Market Participant;

- (b) a director, partner, managing principal, or responsible executive, shareholder or employee of a Market Participant ("the restricted group"), and includes:
- (i) any one of the restricted group acting under a discretion conferred by any of the persons referred to in paragraphs (c) to (e);
 - (ii) any person over whom any one of the restricted group has influence for that person's investment decisions except in the ordinary course of a client advising relationship; and
 - (iii) any person where any one of the restricted group has a direct or indirect beneficial interest in that person's property;
- (c) the immediate family of a person referred to in paragraphs (a) to (b);
- (d) a family company and a family trust of a person referred to in paragraphs (a) to (b); and
- (e) where a Market Participant or a person referred to in paragraphs (a) to (b) is a body corporate, any body corporate or other entity controlled by that body corporate,

but the shareholders of a Market Participant will not be Prescribed Persons if that Market Participant is an issuer;

"Proceeds" has the meaning in section 16 of the PPSA;

"Recipient" has the meaning ascribed to it in clause 52.1(b) of these Terms and Conditions;

"Related Company" has the meaning in section 2(3) of the Companies Act 1993 (read as if the expression 'company' in that subsection included any body corporate of any jurisdiction);

"Relevant Clearing Participant" means the clearing participant named in clause 7.1(g) of

these Terms and Conditions or as otherwise notified to you from time to time;

"Secured Facility" has the meaning ascribed to it in clause 21.1 of these Terms and Conditions;

"Security Counterparty" has the meaning ascribed to it in clause 21.1 of these Terms and Conditions;

"Securities Registry" means a company, organisation or firm that is appointed by an issuer to maintain its securities registers and that is able to access the Legal Title Transfer System to enable that company, organisation or firm to register the transfer of securities of that issuer;

"Security Interest" has the meaning in section 17 of the PPSA;

"Services" includes the following:

- (a) "Broking Services", comprising:
 - (i) facilitating the buying and selling of Investments on your behalf;
 - (ii) arranging lodgement of secured and unsecured deposits with financial institutions; and
 - (iii) arranging access to margin loan facilities and cash management facilities;
 - (iv) the provision of other services, for example, internet access to services provided by us, as we may agree with you from time to time;
- (b) the provision, by the Custodian, of the following types of administration, nominee, custody and reporting services ("Custodial Services") in respect of Investments:
 - (i) "Standard Custodial Services", being the services described in Section C (excluding clause 22);
 - (ii) "Premium Services" being, in addition to the Standard Custodial

Services a periodic review of your Portfolio and other premium services as are offered from time to time, and for the avoidance of doubt "Personal Advice Services" are Premium Services for the purposes of the Terms and Conditions; and

(iii) "International Custodial Services", being the services described in Section D; and

(c) the provision by JBWere of financial advice including (but not limited to) portfolio strategy advice, product information, general financial market information and research in respect of specific Investments ("Advice Services");

"Settlement System" means the facilities and systems used by CHO and/or CDO to effect the clearing and settlement of securities transactions;

"SRN" has the meaning set out in clause 30.1;

"Standard Custodial Services" has the meaning set out in the definition of "Services";

"tax" includes any present or future tax, levy, impost, duty, rate, deduction or withholding of any nature and whatever called, imposed or levied by any governmental agency or authority, together with any interest, penalty, charge, fee or other amount imposed or made on, or in relation to, any of the foregoing;

"Terms and Conditions" means these Terms and Conditions, as updated, amended and supplemented from time to time;

"Trading Participant" has the meaning ascribed to it in the NZX Participant Rules;

"us" or **"we"** or **"our"** means JBWere and/or JBWere Nominees, as the context requires;

"you" means the applicant(s) named in the Application Form of the address shown in that Application Form.

65.2 References: In these Terms and Conditions, unless the context otherwise requires:

- (a) headings are to be ignored in construing these Terms and Conditions;
- (b) the singular includes the plural and vice versa;
- (c) one gender includes the other genders;
- (d) references to parties include individuals, companies, trusts and other corporations and entities and vice versa;
- (e) a reference to a statute or other law includes regulations and other instruments under it and consolidations, amendments, re-enactments or replacements of any of them (whether before or after the date of this agreement);
- (f) reference to any document includes reference to that document (and, where applicable, any of its provisions) as amended, novated, supplemented, or replaced from time to time;
- (g) "written" and "in writing" include any means of reproducing words, figures or symbols in a tangible and visible form; and
- (h) reference to a section, clause, sub-clause, schedule or a party is a reference to that section, clause, sub-clause, schedule or party in these Terms and Conditions unless stated otherwise.