

Amending Deed

Dated

JBWere Limited (ABN 68 137 978 360) (“Operator”)

Amending Deed

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Amending Deed Details

Date

Party		Operator
Operator	Name	JBWere Limited
	ABN	68 137 978 360
	Address	Level 31, 405 Bourke Street, Melbourne Vic
		3000

- Recitals**
- A** The Operator is the sole party to the Original Document.
 - B** The Operator wishes to amend the Original Document on the terms set out in this deed.
 - C** With effect on and from the Effective Date, the Original Document is amended and restated in accordance with this document.
-

Amending Deed

General terms

1 Interpretation

These meanings apply unless the contrary intention appears:

Effective Date means the date of this deed.

Original Document means the “Custody Service Deed – JBWere Multi-Asset Platform IDPS” dated 19 April 2013 by JBWere Limited.

2 Amendments

As from the Effective Date, the Original Document is amended as set out in the marked up copy of the Original Document attached as Annexure A to this document.

3 Confirmation and acknowledgement

3.1 Confirmation

The Operator confirms that, except as provided for in clause 2 (“**Amendments**”), no other amendments are to be made to the Original Document.

3.2 Conflict

If there is a conflict between the Original Document and this document, the terms of this document prevail.

4 Costs

The Operator agrees to pay its own costs in relation to the preparation and execution of this deed.

5 Governing law

This document is governed by the law in force in Victoria and the Operator submits to the non-exclusive jurisdiction of the courts of that place. Any court cases involving this deed can be held in the courts of any state or territory of Australia with jurisdiction to consider matters related to this deed. The parties submit to the non-exclusive jurisdiction of the courts of that place. If the laws of the state or territory where a party resides includes mandatory protections that are available to them (including because they are an individual or small business), then this clause does not operate to exclude those protections.

EXECUTED as a deed

Amending Deed

Signing page

DATED: _____

EXECUTED by JBWERE LIMITED in)
accordance with section 127(1) of the)
Corporations Act 2001 (Cth) by authority)
of its directors:)

.....)
Signature of director)

.....)
Name of director (block letters))

.....)
Signature of director/company)
secretary*)
*delete whichever is not applicable

.....)
Name of director/company secretary*)
(block letters))
*delete whichever is not applicable

Amending Deed
Annexure A (clause 2 (“Amendments”))

JBWere Multi-Asset Platform IDPS - Custody Service Deed

Dated

JBWere Limited (ABN 68 137 978 360) ("Operator")

King & Wood Mallesons

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JBWere Multi-Asset Platform IDPS - Custody Service Deed Details

Parties	Operator	
Operator	Name	JBWere Limited
	ABN	68 137 978 360
	Address	Level 31, 405 Bourke Street, Melbourne VIC 3000
	Telephone	03 9906 5000

Governing law	Victoria
Date of deed	See Signing page

JBWere Multi-Asset Platform IDPS - Custody Service Deed

General terms

1 Definitions and interpretation

1.1 Definitions

In this deed these words and phrases have the following meaning unless the contrary intention appears:

ASIC means the Australian Securities and Investments Commission or any regulatory body which replaces it or performs its functions.

ASIC Relief means an exemption or declaration granted by ASIC which gives relief from certain requirements of the Corporations Act.

Asset means an asset, including any property, right and income, held by the Operator under this deed.

Business Day means a day other than a Saturday or Sunday on which banks are open for general banking business in Melbourne.

Client means a person Registered as a Client in respect of a Service that has not been terminated (including persons jointly Registered).

Client Representative means, in relation to a Client, any agent or representative appointed by the Client in accordance with a Contract.

Contract means a document, other than this deed, prepared by or on behalf of the Operator specifying the terms on which the Operator provides a Service to a Client, as amended, supplemented or replaced from time to time and, to avoid doubt, includes any offering document for the Service.

Corporations Act means the Corporations Act 2001 (Cwlth), and a reference to the Corporations Act or a provision of it includes a reference to the Corporations Act or that provision as modified by any applicable ASIC Relief.

Custodian means a person holding or appointed to hold Assets under clause 3.2(d) and includes any sub-custodian.

Governmental Agency means any government or any governmental, semigovernmental, administrative, fiscal or judicial body, department, commission, authority, tribunal, agency or entity.

GST means a goods and services tax, value added tax, consumption tax or a similar tax or a tax on services only.

GST Act means A New Tax System (Goods and Services Tax) Act 1999 (Cwlth).

IDPS means the investor directed portfolio service operated by the Operator as part of the JBWere Multi-Asset Platform.

Instruction means an instruction, including a standing instruction, given by or on behalf of a Client to the Operator in accordance with clause 8.1(a).

Law means any law (including any common law and principle of equity), regulation, order, official policy, directive, request, requirement or guideline of any Governmental Agency and includes the interpretation, application or administration of any of the above.

Minimum Holding Amount means a minimum holding amount determined by the Operator under clause 4.2.

Operator means the person named in the Details as the operator of the Services (and any successor for the time being) and refers to that person only in that capacity.

Permitted Asset means an asset, or a class of asset, determined by the Operator from time to time that may be transferred or delivered to, or acquired or accepted by, the Operator under a Service.

Portfolio means, in relation to a Client, all of the Assets held by the Operator on trust for that Client and all accretions to those Assets.

Register means the register of Clients kept by or on behalf of the Operator.

Registered means recorded in the Register and **Registration** has a corresponding meaning.

Related Body Corporate has the meaning it has in the Corporations Act.

Security Interest means any interest granted by a Client to a third party in respect of an Asset or Assets of the Client.

Security Interest Holder means a person whose Security Interest is noted on the Register in accordance with a notice referred to in clause 6.2(a).

Service means the custody service provided by the Operator in relation to the IDPS and any other service which is the subject of this deed.

Tax means all kinds of taxes, duties, imposts, deductions and charges imposed by a government (including GST), together with interest and penalties.

Transaction means any dealing by or on behalf of the Operator in relation to an Asset.

User Pays Fees means any cost incurred in relation to:

- (a) an entitlement to a payment or a payment to or from a Client's Portfolio in respect of the Client; or
- (b) anything a Client asks or Instructs the Operator to do or omit to do,

which the Operator reasonably considers should be borne by that Client.

1.2 Interpretation

Unless the contrary intention appears, in this deed:

- (a) a statute, ordinance, code or other Law includes regulations and other instruments under it and consolidations, amendments, re-enactments or replacements of any of them;
- (b) terms defined in the Corporations Act are used with their defined meaning;

- (c) the singular includes the plural and vice versa;
- (d) the meaning of general words is not limited by specific examples introduced by “including”, “for example” or “such as” or similar expressions;
- (e) amend includes vary, delete or replace;
- (f) person includes a firm, a partnership, a body corporate, an unincorporated association and an authority;
- (g) the cover page, contents, headings, footnotes, and finding lists are for convenience only and do not affect interpretation;
- (h) a reference to a year (other than a Financial Year), quarter or month means a calendar year, calendar half-year, calendar quarter or calendar month respectively;
- (i) a reference to a monetary amount is a reference to the currency of Australia unless otherwise specified; and
- (j) a reference to a document (including this deed) includes any variation or replacement of it.

1.3 Other documents

A document does not become part of this deed by reason only of that document referring to this deed or vice versa, or any electronic link between them.

1.4 Severance

If all or part of any provision of this deed is void or invalid or would otherwise result in all or part of this deed being void or invalid in a jurisdiction for any reason, then it is severed for that jurisdiction. This does not affect the validity or operation of any other provision of this deed or of that provision in any other jurisdiction.

1.5 Governing Law

This deed is governed by the Law in force in the place set out in the Details. Any court cases involving this deed can be held in the courts of any state or territory of Australia with jurisdiction to consider matters related to this deed. The parties submit to the non-exclusive jurisdiction of the courts of that place. If the laws of the state or territory where a party resides includes mandatory protections that are available to them (including because they are an individual or small business), then this clause does not operate to exclude those protections.

1.6 Other restrictions and obligations excluded

To the maximum extent permitted by Law or this deed otherwise expressly recognises, all restrictions on the exercise of the Operator’s powers or obligations which might otherwise be implied or imposed by Law are excluded.

2 The Services

2.1 Term

The Services:

- (a) commence on the date of this deed specified in the Details; and
- (b) continue until terminated in accordance with this deed or by operation of Law.

2.2 Name

- (a) A Service may be operated under any name the Operator determines and may be operated under more than one name.
- (b) If:
 - (i) a Service is operated under a name that implies an association with an Operator; and
 - (ii) that Operator retires or is removed,its successor as Operator must, unless otherwise approved by the former Operator, change the name of the Service to a name that does not imply an association with the former Operator or its business.

2.3 Change of Operator

- (a) The Operator:
 - (i) may retire as the operator of the Services on not less than 1 month's notice to Clients (or any shorter period as they agree); and
 - (ii) must retire as the operator of the Services if required by Law.
- (b) On retirement, the Operator may appoint in writing another person to be the Operator.
- (c) Any replacement Operator must execute a deed by which it covenants to be bound by this deed as if it had originally been a party to it
- (d) When it retires or is removed, the Operator is released from all obligations in relation to the Services arising after the time it retires or is removed, although this does not affect any claim or action against the Operator that a Client may have for a breach by the Operator of its obligations to the relevant Client in relation to the change of Operator.

3 How Assets are held

3.1 Declaration of trust

The Operator declares that it will hold each Client's Portfolio on trust for the relevant Client on and subject to the terms of this deed. Subject to this deed, a Client is absolutely and beneficially entitled to all Assets forming part of the Client's Portfolio.

3.2 Holding Assets

- (a) The Operator may hold an Asset:
 - (i) separately from the Assets held for other Clients; or
 - (ii) mixed with property and rights of any other person (including Assets held on trust for another Client).
- (b) Where the Operator mixes an Asset of a Client with property and rights of any other person, the Operator must keep or cause to be kept the Asset separately identified as far as practicable in its own records.
- (c) If the Operator considers it impracticable to keep Assets of Clients separately identified in relation to its own records:
 - (i) the Operator may mix Assets of a Client with property and rights of other persons without such records; and
 - (ii) the interests of Clients in the relevant Assets will be as tenants in common in such shares or proportions as are shown in the Operator's records.
- (d) Subject to the Law, the Operator may have Assets held by a Custodian on its behalf, or may arrange for a Custodian to hold Assets directly on trust for Clients.

3.3 Transfer of assets between Clients

- (a) Despite any other provision of this deed, the Operator may give effect to, Instructions or perform any of its functions, by amending its own records (including, without limitation, records of beneficial ownership of Assets by Clients).
- (b) Where the Operator gives effect to Instructions, or performs any of its functions, by amending its records according to clause 3.3(a), the Operator may retain, and is not liable to account to a Client for, any related benefit, including any profit, commission, remuneration or the amount of any cost that would otherwise have been incurred by the Operator.

4 Applying for a Service

4.1 Application

- (a) An applicant for a Service must complete a form approved by the Operator if the Operator requires. The form may be completed or transmitted electronically if approved by the Operator.

- (b) The Operator may reject an application in whole or in part without giving any reason for the rejection.

4.2 Minimum amounts

The Operator may set minimum amounts for applications, Transactions or holdings in relation to:

- (a) a Portfolio;
- (b) an asset or group of assets; or
- (c) a Service,

and may alter or waive those amounts at any time.

4.3 Currency

Where it is necessary for the purposes of an application for a Service to convert one currency to another, the conversion is to be made at a rate reasonably determined by the Operator.

4.4 Registration

- (a) The Operator must maintain a Register.
- (b) An applicant becomes a Client when the Operator Registers the applicant as a Client.

5 Transfer, transmission and joint holders

5.1 Transfer of Portfolio interest

To the extent permitted by Law, the beneficial interest in a Client's Portfolio may be transferred subject to this clause 5.

5.2 Form of transfer

Transfers must be:

- (a) in a form approved by the Operator;
- (b) accompanied by any evidence the Operator reasonably requires to show the right of the transferor to make the transfer; and
- (c) if the Operator requires, be presented for Registration duly stamped.

5.3 Operator may refuse

The Operator may refuse to record any transfer of a beneficial interest in a Portfolio in the Register without giving any reason for the refusal.

5.4 When transfer is effective

A transfer is not effective until Registered.

5.5 Joint tenancy

Where Clients are Registered jointly as holders of a beneficial interest in a Portfolio:

- (a) they hold as joint tenants and not as tenants in common unless the Operator otherwise agrees;
- (b) the Operator may accept and act on Instructions from either, or all, of those Clients;
- (c) a payment, delivery or transfer by the Operator to one of those Clients satisfies the Operator's obligation to all of those Clients; and
- (d) they are jointly and severally liable in respect of all payments including payments under clauses 10.5 and 11.5.

5.6 Death or legal disability of Client

If a Client dies or becomes subject to a legal disability such as bankruptcy or insanity, only the survivor (where the deceased was a joint holder) or the legal personal representative (in any other case) will be recognised as having any claim to the beneficial interest in the Client's Portfolio.

5.7 No recognition of trust or other interests

Subject to clause 6, where a Client is acting as a trustee or otherwise on behalf of another person, the Operator, its agents and delegates:

- (a) will only recognise the Client as having an interest in the relevant Portfolio; and
- (b) are not bound to take notice of any trust, equity (whether express, implied or constructive) or any other interest of any other person in the Portfolio.

6 Security interests

6.1 Operator determines when clause applies

The Operator may determine in accordance with Law when this clause 6 applies to a Service or a Portfolio and when it ceases to apply. If the Operator determines that it ceases to apply:

- (a) this clause 6 continues to apply to all Security Interests noted on the Register at the time of that determination; and
- (b) the Operator must not accept any further notices under clause 6.2 after the time of that determination.

6.2 Form of notice

The Operator may determine the form of notice which:

- (a) a Client or their duly appointed agent must give to the Operator for a Security Interest to be noted on the Register; and

- (b) a Security Interest Holder must give to the Operator in order for a Security Interest to be removed from the Register.

6.3 Entry of Security Interests on the Register

If a Client or their duly appointed agent gives the Operator a notice as referred to in clause 6.2(a), the Operator must cause a note of the Security Interest Holder's interest to be recorded in the Register in respect of the relevant Client.

6.4 Operator not bound

The Operator is not taken to be bound by, or obliged to enquire into, the terms of any Security Interest of which it has notice.

6.5 Removal of Security Interests from the Register

If a Security Interest Holder's interest is noted on the Register in respect of a Client, the Operator may not, subject to the Operator's rights under a Contract, give effect to a transfer or realisation of that Client's affected Assets without the written permission of the Security Interest Holder.

6.6 Rights attaching to Assets in respect of which a Security Interest is recorded

Subject to the Law, while a Security Interest remains entered on the Register:

- (a) if the Operator receives an Instruction that it must act in accordance with the instructions of a Security Interest Holder, the Operator may act on that Instruction (notwithstanding any contrary Instruction from the Client) until it is revoked by the Client or their duly appointed agent with the written consent of the Security Interest Holder;
- (b) when acting in good faith, the Operator is not liable either to the Client or to the Security Interest Holder if a payment made to the Client or Security Interest Holder is not in accordance with clause 6.6(a);
- (c) the Operator may provide to the Security Interest Holder any notice or information which would normally be provided to the Client; and
- (d) if the Operator becomes aware that a dispute has arisen between a Client and a Security Interest Holder as to any right to a payment relating to Assets in respect of which the Security Interest is noted on the Register, the Operator may either:
 - (i) pay the disputed amount to the Security Interest Holder; or
 - (ii) pay the disputed amount into any court in which proceedings in relation to the dispute are to be conducted,

and the Operator will not be liable either to the Client or the Security Interest Holder for any consequences of so doing.

7 Terminating and suspending a Service

7.1 Termination by the Client

A Client may terminate a Service in relation to the Client in any manner reasonably approved by the Operator.

7.2 Termination by the Operator

Having regard to clause 9.5 and the Law, the Operator may terminate a Service in relation to a Client:

- (a) by giving reasonable notice to the Client; or
- (b) without notice to the Client in circumstances specified in a Contract.

7.3 Action on termination

On termination of a Service in respect of a Client, the Operator:

- (a) is not required to perform any Instruction in connection with the Service that
 - (i) has not been completed by the Operator prior to termination; or
 - (ii) was received by the Operator after termination;
- (b) must complete any Transaction in connection with the Service which the Operator or any Custodian is under an obligation to complete at the time of termination; and
- (c) must, subject to clause 7.3(d):
 - (i) deliver or transfer; or
 - (ii) pay the proceeds of realisation of,

the Assets of the Client affected by the termination, to the Client or as the Client otherwise Instructs; and
- (d) may retain for itself Assets of the Client, or proceeds of realisation of Assets of the Client, affected by the termination to pay any amount to which the Operator is entitled, or is required to pay to any other person, under this deed, a Contract, or the Law.

7.4 Assets that cannot be delivered or transferred

If, on termination of a Service in respect of a Client, the Operator cannot, for any reason:

- (a) deliver, transfer or pay an Asset of the Client affected by the termination in accordance with the Client's Instructions; or
- (b) obtain Instructions from the Client for the delivery, transfer or payment of an Asset of the Client affected by the termination, then without limiting any of the Operator's other rights,

then subject to the Law:

- (c) the Operator may deliver, transfer or pay the Asset to ASIC or any other Government Agency which, in the Operator's reasonable opinion, is an appropriate holder of the Asset; and
- (d) on such delivery, transfer or payment occurring, the Operator has no further responsibility or liability to the Client in respect of the Asset; and

- (e) the Operator will take reasonable steps to notify the Client of a delivery, transfer or payment under paragraph 7.4(c).

7.5 Minimum holding

Without limiting clause 7.2, the Operator may terminate a Service in relation to a Client if:

- (a) the performance of any Instruction from the Client, or the termination by the Client of another Service, would result in the Client holding less than the then relevant Minimum Holding Amount; or
- (b) the Operator increases a Minimum Holding Amount and the Operator has given 30 days' notice to the Client who holds less than the then current Minimum Holding Amount.

7.6 Payment from the Assets

The Operator is not obliged to pay the proceeds of realisation of any Assets of a Client out of the Operator's own funds.

7.7 Sums owed to the Operator

The Operator may deduct from the proceeds of realisation of a Client's Assets any money due to it by the Client.

7.8 Suspension of the Service

- (a) The Operator may suspend a Service in accordance with clause 9 for such period as it considers necessary or desirable including, without limitation, for such time as fees and charges payable to the Operator remain unpaid. The Operator may also suspend a Service in accordance with clause 9 where it is reasonably necessary to take such action to prevent an anticipated breach of the law of Australia or of any other country, to prevent potentially fraudulent activity or a scam, to manage any risk or to prevent an anticipated material loss to you or us arising from the misuse or unauthorised use of the Service (or where a product or service provided under a Contract is subject to a suspension, block, delay or similar action).
- (b) The Client agrees that it will provide any information that the Operator reasonably requests connected with the Service or Instructions. The Operator may continue any action under clause 7.8(a) until it receives a satisfactory response. The Client acknowledges that if the Operator is not satisfied with the Client's responses or the Client fails to respond in a timely manner then the Operator may take this into account when deciding whether or not to terminate the Service under clause 7.2.

8 Instructions

8.1 How instructions can be given

- (a) A Client may only give an Instruction to the Operator in a form and in a manner reasonably required by the Operator.
- (b) An Instruction continues in force until it is cancelled, suspended or lapses in accordance with a Contract.

- (c) Subject to clause 8.6, a later Instruction will prevail over an earlier Instruction to the extent of any inconsistency between them.

8.2 The Operator must comply with Instructions

Subject to clause 8.3, the Operator must:

- (a) act in accordance with Instructions received by it; and
- (b) subject to a Contract, use reasonable endeavours to give effect to an Instruction as soon as practicable after receipt.

8.3 When the Operator is not required to comply with Instructions

Having regard to clause 9.5 and subject to the Law, the Operator is not obliged to act in accordance with an Instruction if:

- (a) the Instruction is not given in accordance with clause 8.1(a) or the Instruction has been cancelled, suspended or lapsed in accordance with clause 8.2(b);
- (b) the Operator reasonably considers that the Instruction is ambiguous or unclear;
- (c) the Operator has reasonable grounds to doubt:
 - (i) that the Instruction is authentic, genuine or properly given; or
 - (ii) in the case of an Instruction given by a person on behalf of a Client, the authority of the person to give that Instruction;
- (d) the Operator considers that acting in accordance with the Instruction would or might:
 - (i) be inconsistent with the Law, this deed, a Contract, or another Instruction given by the Client;
 - (ii) result in a Client holding less than a Minimum Holding Amount;
 - (iii) be impracticable for any reason;
 - (iv) require the Operator to acquire or accept something that is not a Permitted Asset;
- (e) the Operator is not indemnified to its reasonable satisfaction against liability it may incur in connection with acting on that Instruction;
- (f) the Operator has reasonable grounds to consider that the Client:
 - (i) will not pay; or
 - (ii) has not made arrangements which the Operator considers satisfactory for payment of,

any unpaid amounts, or amounts which the Operator considers will become payable;
- (g) a Service is suspended or terminated;

- (h) the Client giving the Instruction is in breach in any material respect of this deed or a Contract;
- (i) the Operator considers that the Client has not done, or may not do, such things as the Operator reasonably requires for the purpose of acting in accordance with the Instruction; or
- (j) the Operator is permitted or required under the terms of a Contract not to act in accordance with the Instruction.

8.4 When the Operator may act without Instructions

If the Operator has not received Instructions in relation to any matter, the Operator may, subject to the Law:

- (a) do anything that this deed or a Contract permits or contemplates;
- (b) reverse or rectify a Transaction under clause 8.5; and
- (c) attend to all details in connection with a Portfolio which do not require the exercise of the Operator's discretion, as if the Operator had received Instructions.

8.5 Reversing Transactions

- (a) The Operator may act in relation to any Portfolio so as to reverse or otherwise rectify any Transaction affected by it in breach of this deed.
- (b) The Client bears the cost of reversing or rectifying a Transaction under clause 8.5(a), except to the extent that the Operator is liable for that cost under clause 10.1.

8.6 When the Client has agreed not to vary an Instruction

Notwithstanding clause 8.1(c) and clause 8.2, if a Client has given a standing instruction that the Client has agreed not to vary (including under a Contract) and the Operator has relied on that instruction, the Operator may continue to act on that standing Instruction despite any subsequent inconsistent Instruction from the Client or any attempt by the Client to withdraw that standing Instruction.

9 Powers of the Operator

9.1 General powers

- (a) Subject to clause 8.2(a) and this deed, the Operator has all the legal capacity and powers both inside and outside Australia in respect of the Services that it is possible under the Law to confer on a trustee and as though the Operator were an individual who is the absolute owner of the Assets acting in its personal capacity.
- (b) Without limiting clause 9.1, the Operator may:
 - (i) determine from time to time what is a Permitted Asset;
 - (ii) act on Instructions and acquire, dispose of, value and otherwise deal with, the Assets;

- (iii) act as this deed or a Contract contemplates and do all things necessary or desirable for that purpose;
 - (iv) receive and hold Assets, and procure the registration, in the name of the Operator or a Custodian, of Assets in registrable form;
 - (v) sign, execute and deliver documents;
 - (vi) maintain records relating to each Client and the Assets; and
 - (vii) do all things necessary or desirable for any of those purposes.
- (c) Subject to clause 8.2(a) and clause 9.5, the Operator may in its absolute discretion (having regard to its obligations under Law) decide how, when and how often to exercise its powers.
- (d) In exercising any power or discretion and subject to the Law, the Operator may discriminate between Clients, Portfolios, Assets and Services.

9.2 Delegation

- (a) The Operator may authorise any person to act as its agent or delegate (in the case of a joint appointment, jointly and severally) to hold title to any asset, perform any act or exercise any discretion within the Operator's power, including the power to appoint in turn its own agent or delegate.
- (b) The Operator may include provisions in the authorisation to protect and assist those dealing with the agent or delegate and to limit the Operator's liability, as the Operator thinks fit.
- (c) The agent or delegate may be an associate of the Operator.

9.3 Corporate actions and information

Subject to the Law, the Operator is not obliged to disclose to a Client, consider or act in relation to:

- (a) a report, form of proxy, notice of meeting, or other material, letter, notice, announcement, or other corporate action, relating to an Asset; or
- (b) any other information that comes to the notice of the Operator or any Related Body Corporate of the Operator, relating to an Asset or any other matter in connection with the Services, even if it receives an Instruction to do so.

9.4 Other interests

Subject to the Law, the Operator or any officer, employee, associate, agent or related party of the Operator, may:

- (a) be a Client;
- (b) deal with itself, an associate, a Client or any other person;
- (c) have an interest in any dealing, Transaction or Asset, including an interest which conflicts with the interest of a Client; and

- (d) act in the same or a similar capacity in relation to any other service or for any other person,

and may retain, and is not liable to account to a Client for, any profit, commission, remuneration or other benefit received in connection with any such matter.

9.5 Operator's discretion

- (a) Subject to the Law, the Operator is entitled to have regard to its own legitimate business interests in exercising any right, power or discretion. However, where the Operator has regard to its own legitimate business interests, when exercising a right or discretion under this deed, the Operator will only take into account those interests which are fair and reasonable.
- (b) The Operator can take a range of things into account when considering its own legitimate business interests. These can include:
 - (i) its obligations, the Law, industry codes, payment scheme rules and regulator expectations;
 - (ii) protecting its customers, staff and systems and the personal information it holds;
 - (iii) what a Client has told the Operator about themselves and how they will use the Services (including if it is misleading, incorrect or a Client has not provided the Operator with all of the information it reasonably needs when asked);
 - (iv) how the Operator's products and services are intended to be used (and how the Client has used them);
 - (v) the Operator's public statements, including those relating to protecting vulnerable persons, the environment or sustainability;
 - (vi) community expectations and any impact on the Operator's reputation;
 - (vii) whether the Operator needs to take any action to protect a Client or another person from a potential fraud or scam; and
 - (viii) risk management, including sanctions risk management.
- (c) If the Operator imposes any conditions or requirements to any consent the Operator gives, or agrees to any request that a Client makes subject to conditions, then the Client needs to comply with those conditions or requirements.
- (d) If the Operator does not make a decision or do something straightaway, it may still do so later on. This includes where it delays or defers doing so, or temporarily waives a requirement.
- (e) The Operator's rights and remedies under this deed are in addition to other rights and remedies given by Law independently of this deed.
- (f) The Operator's rights and remedies may be carried out by any officer or employee of the Operator, or any person the Operator has authorised.

9.6 Unacceptable Service conduct

- (a) We seek to protect Clients from harm arising from unlawful use of, or financial abuse conducted through, our Services. We recognise financial abuse may happen to anyone and can include forms of family and domestic violence or elder abuse.
- (b) We will investigate instances where we identify or are made aware that a Service is being used in a financially abusive manner, including:
 - (i) coercive or controlling behaviour to limit a person's access to or use of funds;
 - (ii) making profane, derogatory, discriminatory or harassing comments to any person;
 - (iii) making or promoting threatening or abusive language to any person;
 - (iv) making or threatening physical or psychological harm to any person.
- (c) We may reasonably exercise one or more of our rights in this deed to suspend, cancel or deny a Client's access to the Service, if we reasonably consider it appropriate to protect a customer or another person from financial abuse.
- (d) If you are concerned about your financial safety call us on 1800 81 22 67 or +61 3 9906 5075.

10 Liability of the Operator

10.1 Limitation on Operator's liability

- (a) The Operator is not liable in contract, tort or otherwise to a Client for any loss suffered in any way relating to a Service except to the extent that the Corporations Act, a Contract, or any ASIC Relief on which the Operator relies, imposes such liability.
- (b) Subject to the Corporations Act and any applicable ASIC Relief on which the Operator relies, the liability of the Operator to a Client is limited to the value of the Client's Portfolio.

10.2 Operator may rely

The Operator may take and may act on:

- (a) the opinion or advice of counsel or solicitors, whether or not instructed by the Operator, in relation to the interpretation of this deed, a Contract or any other document or generally in connection with a Client or the Assets;
- (b) advice, opinions, statements or information from any bankers, accountants, auditors, valuers and other persons consulted by the Operator who are believed by the Operator in good faith to be expert in relation to the matters on which they are consulted;

- (c) a signature, or electronic signature, purporting to be the signature of a Client or Client Representative, if the Operator has no reason to believe that the signature is not genuine;
- (d) a document which the Operator believes in good faith to be the original or a copy of an appointment by a Client of a person to act as their agent for any purpose connected with their Portfolio; and
- (e) any other document or information provided to the Operator by any person in connection with a Client or the Assets on which it is reasonable for the Operator to rely,

and the Operator will not be liable for anything done or omitted by it in good faith in reliance on any opinion, advice, statement, information, signature or document.

10.3 No responsibility when acting on Instructions

Without limiting clause 10.1, the Operator is not responsible for:

- (a) acting in accordance with an Instruction and is not required to undertake any further enquiries in respect of the relevant Instruction, or transactions contemplated by the Instruction;
- (b) not acting in accordance with an Instruction in the circumstances specified under clause 8.3; and
- (c) acting without an Instruction in the circumstances specified in clause 8.4.

To avoid doubt, where the Operator acts in accordance with an Instruction, or does not act in accordance with an Instruction in the circumstances specified under clause 8.3, or acts without an Instruction in the circumstances specified in clause 8.4, this will not of itself affect the Operator's right to be indemnified from the Assets, whether under this deed or otherwise.

10.4 Liability limited to Assets

The liability of the Operator to any person other than a Client in respect of a Service (including any contracts entered into as Operator of the Service or in relation to any Assets) is limited to the Operator's ability to be indemnified from the Assets.

10.5 Indemnity from Client

Each Client indemnifies the Operator and its agents and delegates from and against:

- (a) all actions, suits, claims, proceedings, judgments and demands arising from the performance of obligations for that Client under or as contemplated by this deed;
- (b) all claims, liabilities, costs and expenses arising from a breach of this deed or a Contract by the Client, its employees, servants or agents;
- (c) any fees and expenses incurred by the Operator on the Client's behalf in connection with or as contemplated by this deed or a Contract or on their termination; and
- (d) any other Taxes, duties, costs, charges and expenses properly incurred on the Client's behalf arising out of the performance or non-performance of functions under or as contemplated by this deed,

except to the extent of the Operator's, its agent's or delegate's, fraud, negligence or misconduct.

10.6 Indemnity

- (a) The Operator is entitled to be indemnified out of the Assets for any liability incurred by it in properly performing or exercising any of its powers or duties under this deed or in relation to a Service.
- (b) Without limitation, the indemnity under clause 10.6(a) includes any liability incurred as a result of any act or omission of a Custodian, delegate or agent appointed by the Operator or any Custodian, agent or delegate of such a person.
- (c) The indemnity in clause 10.6(a) is in addition to any indemnity allowed by Law. It continues to apply after termination of a Service and after the Operator retires or is removed as operator of the Services.
- (d) Where a liability is incurred pursuant to a proper exercise of the Operator's powers under this deed or at Law, the Operator may exercise any of its rights of indemnification or reimbursement out of the Assets to satisfy that Liability to any creditor or the Operator (in its capacity as Operator of the Services), despite any loss a Client may have suffered or any diminution in the value of the Assets as a consequence of any unrelated act or omission by the Operator or by any person or entity acting on behalf of the Operator.
- (e) It is not necessary for the Operator to incur an expense or make a payment before enforcing an indemnity.

10.7 No duty to review, advise or rebalance

Unless expressly agreed otherwise under a Contract, the Operator is not, in its capacity as operator of the IDPS or the Services, responsible for:

- (a) advising a Client, or monitoring or reviewing a Client's Portfolio, in relation to volatility, performance, risk or any other matters;
- (b) rebalancing a Client's Portfolio to any particular asset allocation, composition or weighting; or
- (c) providing investment advice to a Client.

10.8 Legal proceedings

The Operator is not obliged to institute, defend, or otherwise participate in, legal proceedings on a Client's behalf, and is under no obligation to obtain Instructions in relation to any such proceedings.

11 Remuneration and expenses of the Operator

11.1 Fees

A Client must pay any fees specified in a Contract or as otherwise properly incurred and notified by the Operator to the Client from time to time. The fees payable by Clients may differ and the Operator may vary the fees payable by any Client. The Operator will provide at least 30 days' notice of any

increase in fees, or it may provide less or no notice if any of the factors set out in clause 14(b) apply.

11.2 Deferral and waiver of fees

The Operator may accept lower fees than it is entitled to receive under this deed or a Contract, or may defer payment for any period and may do so differentially as between Clients.

11.3 Expenses

All expenses properly incurred by the Operator in connection with a Service are payable or reimbursable out of the Assets of all Clients. This includes the expenses connected with the following:

- (a) this deed and the establishment of a Service;
- (b) the preparation, review, distribution and promotion of a Contract or any other promotion of a Service;
- (c) the acquisition, disposal, insurance, custody (including custodian fees) and any other dealing with Assets;
- (d) any proposed acquisition, disposal or other dealing with any investment;
- (e) the administration or management of a Service, the Assets or a Portfolio, including expenses in connection with maintaining the Register and dealings with Clients;
- (f) Tax (including any amount charged by a person making a supply to the Operator by way of or as a reimbursement for GST) and financial institution fees;
- (g) the engagement of agents, valuers, contractors and advisers (including legal advisers) whether or not the agents, valuers, contractors or advisers are associates of the Operator;
- (h) accounting and compliance with taxation Laws and procedures (whether internal expenses of the Operator or paid to third parties) and the preparation and audit of the taxation returns and accounts in connection with a Service;
- (i) termination of a Service and the retirement or removal of the Operator and the appointment of a replacement;
- (j) any court proceedings, arbitration or other dispute concerning a Service including proceedings against the Operator, except to the extent that the Operator is found by a court to be in breach of trust or to have been grossly negligent, in which case any expenses paid or reimbursed under this paragraph must be repaid;
- (k) all damages, expenses, payments, legal and other costs and disbursements incurred by the Operator in relation to or in connection with any claim, dispute or litigation (“**Claim**”) arising as a result of or in connection with any untrue representation or warranty contained in any document relating to any investment through a Service including any product document in connection with the investment and any offering document or borrowing document in connection with a Service except

where the Claim arises out of the fraud, negligence or misconduct default of the Operator;

- (l) fees payable to any auditor for a Service;
- (m) the cost of handling complaints from Clients and resolving disputes with them, including the cost of membership of an external dispute resolution scheme;
- (n) complying with any Law, and any request or requirement of ASIC.

In this clause 11.3 and in clause 11.4, "Expenses" includes:

- (i) internal expenses of the Operator incurred in connection with these matters (including appointing and maintaining staff); and
- (ii) amounts paid by the Operator to related bodies corporate for services where the expenses would have been reimbursable had they been incurred by the Operator.

11.4 Allocation of expenses

The Operator may reasonably determine that an expense, or a portion of an expense, relates to a particular Portfolio, in which case the Operator may pay or reimburse the expense, or that portion of the expense, from that Portfolio.

11.5 User Pays Fees

Without limiting clause 10.5, the Operator is entitled to be indemnified by a Client or former Client to the extent that the Operator incurs any liability for Tax or User Pays Fees as a result of:

- (a) that person's action or inaction; or
- (b) an act or omission requested or Instructed by that person; or
- (c) any other matter arising in connection with Assets held for that person,

but, in the absence of any separate agreement with the Client, is not otherwise entitled to be indemnified by them.

11.6 Payment

Without limiting any other provision of this deed or a Contract, the Operator may subject to the Law:

- (a) pay fees and expenses from the Assets or from the proceeds of realisation of the Assets, and the Operator may transfer, realise or otherwise deal with Assets without an Instruction for this purpose; or
- (b) set-off fees and expenses against any amount payable by the Operator to the relevant Client.

11.7 GST

Except where stated otherwise, all amounts in this deed do not include any amount payable on account of GST. If the Operator is or becomes liable to pay GST in respect of any supply under or in connection with this deed then, in

addition to any fee or other amount or consideration payable to the Operator in respect of the supply, the Operator is entitled to be paid out of the Assets an additional amount on account of GST. This amount is to be calculated by multiplying the fee, amount or consideration for the part of the supply which is a taxable supply for GST purposes by the prevailing rate of GST.

In relation to fees that are expressed as GST inclusive in this deed, this clause applies only to the extent to which there has been an increase in the rate of GST so that the new GST inclusive fee is determined by converting the existing GST inclusive fee to a GST exclusive figure and multiplying it by the prevailing rate of GST.

11.8 Input tax credits

If the Operator is not entitled to an input tax credit in respect of the amount of any GST charged or recovered from the Operator by any person, or payable by the Operator by way of reimbursement of GST referable directly or indirectly to any supply made under or in connection with this deed, the Operator is entitled to recover from the Assets by way of reimbursement an additional amount equivalent to the amount of the input tax.

12 Notices to Clients

12.1 Notice

Subject to the Law, a notice or other communication required to be given to a Client in connection with a Service must be given in writing (including by fax, email or other electronic means) or in any other manner as the Operator reasonably determines, including a notification that it is available by electronic means. Subject to the Law, it must be delivered or sent:

- (a) to the Client; or
- (b) to their Client Representative,

at the physical or electronic address last advised to the Operator for delivery of notices.

12.2 Cheques

A cheque payable to a Client may be posted to their physical address or handed to them or a person authorised in writing by them.

12.3 Joint Clients

In the case of joint Clients, their physical or electronic address means the physical or electronic address notified by the Clients, or, failing such notification, the physical or electronic address of the Client first named in the Register.

12.4 When notice received

A notice or other communication sent to a Client:

- (a) by post is taken to be received three Business Days after it is posted;
- (b) by fax is taken to be received one hour after receipt by the transmitter of confirmation of transmission from the receiving fax machine; and

- (c) by email or other electronic means is taken to be received one hour after it is sent if the sender has not received a notice of non-delivery.

A cheque is taken to be received three Business Days after it is posted.

Proof of actual receipt is not required. The Operator may, acting reasonably, determine the time at which other forms of communication will be taken to be received unless the Client is able to reasonably demonstrate otherwise.

13 Notices to the Operator

13.1 Form of notice

A notice required under this deed to be given to the Operator must be given in writing (including by facsimile, email or other electronic means permitted by the Operator), or in such other manner as the Operator reasonably determines.

13.2 When notice received

A notice to the Operator is effective only at the time of receipt in legible form.

13.3 Signature

The notice must bear the actual, facsimile or electronic signature of the Client or their duly authorised officer or representative, unless the Operator dispenses with this requirement.

14 Amendment and assignment

- (a) Subject to clause 9.5, this deed may be amended by deed executed by the Operator. The Operator must give at least 30 days' notice to Clients of any amendment to this deed that it reasonably believes is unfavourable to the interests of Clients.
- (b) This variation may not be notified to Clients in advance (or less notice may be provided) where a variation is:
- (i) required to comply with any Law;
 - (ii) to manage a material and immediate risk (for example, to restore or maintain the security of the Service) and it is reasonable for us to give less notice;
 - (iii) a new or varied government charge, which we will tell you about reasonably promptly after the government notifies us (unless the government publicises it); or
 - (iv) a minor change, which we reasonably believe is not unfavourable to you.
- (c) A Client cannot assign its rights under this deed or any Contract without the written consent of the Operator.

15 Regulatory provisions and paramountcy

15.1 ASIC Relief

If:

- (a) any ASIC Relief on which the Operator has determined it wishes to rely or which is expressly applicable to a Service and the Operator requires provisions to a certain effect to be contained in this deed in order for the ASIC Relief to apply ("**Required Provisions**"); or
- (b) any part of this deed (a "**Required Part**") is included to comply with the requirements of ASIC ("**Regulatory Requirement**") and that Regulatory Requirement ceases or changes,

then, to the extent the Law allows, this deed is taken to be amended so that the Required Provisions are included as separate provisions, or the Required Part is deleted or amended to reflect the amended Regulatory Requirement. The Required Provisions prevail over any other provisions of this deed to the extent of any inconsistency.

15.2 Paramountcy of provisions

Subject to the Law, clause 15.1 and provisions taken to be included or amended under it prevail over other provisions of this deed to the extent of any inconsistency.

EXECUTED as a deed

JBWere Multi-Asset Platform IDPS - Custody Service Deed

Signing page

DATED: _____

EXECUTED by JBWERE LIMITED in)
accordance with section 127(1) of the)
Corporations Act 2001 (Cwth) by authority)
of its directors:)

.....)
Signature of director)

.....)
Name of director (block letters))

.....)
Signature of director/company secretary*)
*delete whichever is not applicable

.....)
Name of director/company secretary*)
(block letters))
*delete whichever is not applicable