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**DEED AMENDING THE TRUST DEED FOR THE FIRST
MORTGAGE PIE TRUST**

**FIRST MORTGAGE MANAGERS LIMITED
PUBLIC TRUST**

ADM / 1028974

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PARTIES

First Mortgage Managers Limited (Manager)

Public Trust (Supervisor)

BACKGROUND

- A By Trust Deed dated 28 November 2007 and an establishment deed dated 28 November 2007 there was established a trust fund known as the First Mortgage PIE Trust (**PIE Trust**). The PIE Trust is currently governed by a Trust Deed dated 14 September 2015 (**Trust Deed**) and Establishment Deed dated 14 September 2015 (**Establishment Deed**).
- B The Manager is the present Licensed Manager of the PIE Trust. The Supervisor is the present Licensed Supervisor of the PIE Trust.
- C Under clause 33 of the Trust Deed, the Supervisor and the Manager may, in situations specified under the Trust Deed, alter the provisions of the Trust Deed.
- D The Manager and the Supervisor wish to amend the Trust Deed in order to address the repeal of the Trustee Act 1956 and changes brought about under the Trusts Act 2019.
- E The Supervisor has obtained a solicitor's certificate that the Trust Deed as amended by this Deed will comply with sections 135 to 137 of the Financial Markets Conduct Act 2013 (**Act**).

OPERATIVE PROVISIONS

Pursuant to the power contained in clause 33 of the Trust Deed, the terms of the Trust Deed shall be amended with effect on and from 30 January 2021 as follows:

1 AMENDMENTS

1.1 A new clause 1.4 is included under the heading Trust Act as follows:

1.4 Trusts Act

The provisions of the Trusts Act 2019 are modified or excluded as follows:

- (a) Section 31 (duty not to exercise power for own benefit) is excluded from the provisions of this Deed and the provisions of this Deed are modified accordingly.
- (b) Section 34 (duty to avoid conflict of interest) is excluded from the provisions of this Deed and the provisions of this Deed are modified accordingly.

- (c) Section 36 (duty not to profit) is excluded from the provisions of this Deed and the provisions of this Deed are modified accordingly.
- (d) Any provision of the Trusts Act 2019 or rule of law restricting the remuneration of the Manager or Supervisor including but not limited to section 37 (duty to act for no reward) of the Trusts Act 2019 is excluded and this Deed should be modified accordingly.

1.2 Clause 3.1 is deleted and replaced as follows:

3.1 Authorised Investments

The investments of each Fund must at all times be Authorised Investments for such Fund. This requirement shall modify a trustee's general power to invest under section 58 of the Trusts Act 2019.

1.3 Clause 13.2(a) is deleted and replaced as follows:

- (a) act honestly and in good faith in acting as manager;

1.4 Clause 15.2 is deleted and replaced as follows:

15.2 Investment Purpose

Each Fund shall be invested only in the Authorised Investments for that Fund and in accordance with the SIPO for that Fund and the investment obligations of the Supervisor and Manager respectively under this Deed. This requirement shall modify a trustee's general power to invest under section 58 of the Trusts Act 2019.

1.5 Clause 15.4 of the Trust Deed is amended by deleting the words 'Trustee Act 1956' and replacing them with 'Trusts Act 2019'.

1.6 Clause 18.6(a) is deleted and replaced as follows:

- (a) act honestly and in good faith when acting as the Supervisor of each Fund.

1.7 Clause 25.6 of the Trust Deed is deleted and replaced as follows:

25.6 Reliance on Manager by Supervisor

Subject to the provisions of this Deed, the Trusts Act 2019 and the FMC Act, the Supervisor is not and will not be responsible for any loss incurred as a result of any act, omission, deceit, neglect, mistake or default of the Manager (including, for the avoidance of doubt and not by way of limitation, any decision of the Manager to invest any Fund or any part thereof in any futures contracts, foreign exchange contracts and options, interest rate and currency swap contracts or options entered into for the purpose of hedging) or any agent of the Manager or for checking any information, document, form or list supplied to it by the Manager or by any agent of the Manager that is reasonably believed by the Supervisor to be genuine (notwithstanding that an error in the information, document, form or list is reproduced by the Supervisor in any step taken by it) except to the extent that the loss is attributable to the Supervisor's own negligent or wilful act or default.



1.8 Clauses 25.12 and 25.13 of the Trust Deed are amended by deleting the words 'Trustee Act 1956' in each of those clauses and replacing them with 'Trusts Act 2019'.

1.9 Clause 25.14 of the Trust Deed is deleted and replaced as follows:

25.14 No Respective Liabilities of Supervisor and Manager

Subject to the provisions of this Deed, the Trusts Act 2019 and the FMC Act, the Manager is not liable for any act or omission of the Supervisor and the Supervisor is not liable for any act or omission of the Manager.

2 CONFIRMATION OF THE TRUST DEED

2.1 In all other respects the provisions of the Trust Deed are confirmed except to the extent that they contradict or conflict with the terms of this Deed.

3 INTERPRETATION

3.1 Except where specifically provided otherwise, the definitions used in this Deed shall have the same meaning as in the Trust Deed.



DEED AMENDING THE TRUST DEED FOR
THE FIRST MORTGAGE PIE TRUST

EXECUTION AND DATE

Executed as a deed.

Date: *2nd February* 2021

First Mortgage Managers Limited by:

[Signature]
.....
Signature of director

PHILLIP BELL
.....
Name of director (print)

[Signature]
.....
Signature of director

Jonathan Shane Marshall
.....
Name of director (print)

Signed on behalf of **Public Trust** by its Attorney,
and in the presence of:

[Signature]
.....
Signature of witness

.....
Name of witness (print) **Tania Terei Akavi
Legal Executive
Public Trust
Wellington**

.....
Occupation of witness

.....
Address of witness

[Signature]
.....
Signature of attorney

.....
Name of attorney (print) **Ireen Muir
Head of Client Services
Corporate Trustee Services
Public Trust
Wellington**

**CERTIFICATE OF NON-REVOCATION
OF POWER OF ATTORNEY**

I, Ireen Muir, of Wellington, hold the office of Head of Client Services at Public Trust, an entity established under the Public Trust Act 2001, and certify that:

- 1 by deed dated 6 October 2020, Public Trust appointed me its attorney on the terms and conditions set out in the deed of appointment of attorneys which is deposited at Land Information New Zealand under number 11885045.1; and
- 2 at the date hereof I hold the position of Head of Client Services with Public Trust; and
- 3 at the date of this certificate I have not received any notice of the revocation of that appointment.

Date:

 02/02/2021

Signature of attorney