

First Mortgage Managers Limited

And

New Zealand Permanent Trustees Limited

Establishment Deed

First Mortgage PIE Trust

AMENDED AND RESTATED

This **Deed** is made on 14 September 2015

between (1) First Mortgage Managers Limited (Manager)

and (2) New Zealand Permanent Trustees Limited (Supervisor)

Introduction

- A. The Manager and the Supervisor are parties to an Amended and Re-Stated Master Trust Deed dated on or about the date of this Deed (the **Trust Deed**) which sets out the terms and conditions on which funds (being managed investment schemes) managed by the Manager may be offered for subscription to the public.
- B. The Trust Deed provides that each fund referred to in Introductory paragraph A above shall be established by the Manager and the Supervisor entering into an Establishment Deed setting out the specific terms and conditions relating to that fund.
- C. The Manager and the Supervisor entered into a deed dated 28 November 2007 ("Original Deed") pursuant to which the First Mortgage PIE Trust ("Fund") was established.
- D. The parties now wish to vary the Original Deed to incorporate such provisions as may be required pursuant to the Financial Markets Conduct Act 2013 and the Financial Markets Conduct Regulations 2014.
- E. Clause 33.1 of the Master Deed provides that the Establishment Deed may be varied if, in the opinion of the Supervisor, the change is of a formal or technical nature.
- F. The Manager and the Supervisor are of the view that the changes to the Establishment Deed in this Deed are permitted pursuant to clause 33.1 of the Master Deed.

Covenant

The parties agree that the Original Deed is amended and restated by rescinding each of the existing clauses of the Original Deed and by substituting the clauses of this Deed, so that the Original Deed is replaced by the clauses of this Deed.

It is agreed

1. Interpretation

1.1 Trust Deed Definitions

In this Deed all terms defined in the Trust Deed which are not separately defined in this Deed have the same meanings where used in this Deed.

1.2 Additional Definitions

In this Deed, unless the context otherwise requires:

Distribution Period means a period commencing on the day following a Distribution Date or, in the case of the first Distribution Period, on the date of this Deed and ending on the next Distribution Date;

Distribution Date means the last day of March, June, September and December or such other dates which the Manager with the agreement of the Supervisor may fix from time to time;

Early Withdrawal Fee means the fee of a percentage of the Unitholder's aggregate Redemption Price payable by a Unitholder on the early redemption of Units in accordance with clause 10.3.

Fund means the fund, being a managed investment scheme, established by this Deed.

Income of the Fund means the income of the Fund determined in accordance with clause 7.2;

Net Asset Value means, on any Valuation Day, the Gross Asset Value of the Fund on that Valuation Day less the aggregate of:

- (a) all Liabilities of the Fund determined on an accruals basis on that Valuation Day;
- (b) Income of the Fund which has not been distributed to Unit Holders (including income allocated, but not distributed to Unit holders);
- (c) any amounts held in the reserve fund; and
- (d) such other provisions as the Manager or the Supervisor thinks necessary or desirable for accrued or contingent liabilities or losses including a provision for the costs of realisation of any Investments and redemption of Units.

1.3 Original Deed means the deed establishing the Fund, as more particularly described in Introductory paragraph C above.

1.4 References to the Trust Deed means the Trust Deed as from time to time amended or supplemented.

2. Creation of Fund

2.1 Establishment of Fund

The execution of this Deed confirms:

- (a) the establishment of the trusts created by the Original Deed and the Trust Deed in respect of the Fund; and
- (b) the particular terms and conditions of the Fund .

2.2 Name of the Fund

The name of the Fund is the First Mortgage PIE Trust.

3. Authorised Investments

3.1 For the purposes of the Fund, **Authorised Investments** means:

- (a) cash and deposits with a registered bank (as defined in the Reserve Bank of New Zealand Act 1989);
- (b) debt securities (as defined in the Financial Markets Conduct Act 2013) issued or guaranteed by any of the following:
 - (i) a registered bank;
 - (ii) the New Zealand government, or any political subdivision or agency of that government; or
 - (iii) a local authority within the meaning of the Local Authorities Act 1956;
- (c) mortgages over land registered under the Land Transfer Act 1952 where the aggregate principal amount secured by the mortgage and any prior ranking mortgages on the land does not exceed 85% of the value of the land (including all fixtures on the land) as assessed by a registered valuer; and

- (d) units in the group investment fund established by Trustees Executors Limited and managed by the Manager known as the First Mortgage Trust Group Investment Fund or any other group investment fund or managed investment scheme (under the Financial Markets Conduct Act 2013) which invests in assets described in (a), (b) and (c) above.

4. Issue and Valuation Dates and Issue Price

4.1 Issue dates

Units may only be issued on, or with effect from, a Valuation Day. Units will be issued on the Valuation Day following receipt of application moneys or, if application money are received by noon (or such other time as may be prescribed by the Manager from time to time by notice in writing to the Supervisor) (the **Prescribed Time**) on a Valuation Day, Units will be issued on that Valuation Day. If an application is received after the Prescribed Time on a Valuation Day, or if an application is received by the Manager at a time when the applicant is not already a Unitholder, the application will be processed on the next Valuation Day.

4.2 Valuation Days

The Valuation Day for the Fund is each Business Day of each month.

4.3 Alternative Valuation Days

The Manager may value the Fund less frequently if, for reasons beyond the Manager's control, valuation is impossible on the day in question.

4.4 Issue Price

The Issue Price of Units calculated on each Valuation Day shall equal the Net Asset Value per Unit on the immediately preceding Valuation Day.

4.5 Number of Units Issued

The number of Units that a Unitholder will receive will be determined by dividing the Unitholder's application moneys by the Unit Price on the Valuation Day on which the Units are issued. Fractions of Units will be rounded down to the nearest whole number of Units.

5. Minimum investment

The minimum initial amount that can be invested in the Fund (if any) will be determined by the Manager and disclosed in the Offer Documents. The Manager, may accept applications for amounts less than the minimum initial amount so disclosed.

6. Transfer

Except as provided in clauses 7.9 and 7.10 of the Trust Deed, Units are not transferable, without the written consent of the Manager and then subject to such terms and conditions as the Manager may in its discretion impose.

7. Distributions

7.1 Distributable Income

The Manager shall determine the Income of the Fund for each Distribution Period.

7.2 Determination of Income

In determining Income of the Fund, there shall be taken into account all interest and other income received or receivable determined on an accruals basis, and all costs, charges and expenses due or accrued and charged, or intended to be charged, to the Fund including, without limiting the generality of the foregoing:

- (a) all costs and expenses incurred in respect of Investments;
- (b) all costs and disbursements incurred in connection with the Fund or the administration thereof and chargeable against income;
- (c) any taxes or duties paid or payable by or in respect of the Fund other than PIE Tax;
- (d) such other provisions as the Supervisor deems necessary to bring to account in order that the net income for the particular period may fairly represent the results of the Fund for that period; and
- (e) the fees and expenses of the Auditor in connection with the audit of the Fund.

If any question shall arise as to whether any money or property constitutes Income or not or whether any expense is chargeable against Income or not, such question shall be determined by agreement between the Manager and the Auditor.

7.3 Quarterly distributions

The Manager shall distribute the Income of the Fund for each Distribution Period.

7.4 Calculation of each Unitholder's distribution

Subject to clause 17.2(e) of the Trust Deed, distributions shall be made to each Unitholder who held Units during the relevant Distribution Period in proportion to the number of Units held and the number of days during such Distribution Period on which each such Unit was on issue, provided that if the Manager has allocated Unitholder income entitlements during the Distribution Period in accordance with clause 7.5, distributions to Unitholders on each Distribution Date shall be determined in accordance with such allocations.

7.5 Daily determination of Income

Notwithstanding and without prejudice to clause 7.4, the Manager, on behalf of and with the approval of the Supervisor, may on a periodic basis (which may be daily) agree with the Supervisor to determine the Income of the Fund and, in respect of each Unitholder, the number of days during that period on which a Unitholder holds Units in order to:

- (a) determine the income entitlement of each Unitholder; and
- (b) allocate that income entitlement to each Unitholder.

However the Manager has no obligation to distribute that income entitlement except if the allocation date is a Distribution Date, in which case the provisions of clause 7.4 shall apply. For the sake of clarity, the income entitlements of a Unitholder for such allocations may be rounded down but any balance of the allocation amount for that income allocation period arising as a consequence of any calculation of the income entitlement attributable to a Unit or the rounding down of the income entitlements of a Unitholder shall be retained and carried forward to the next periodic allocation day (which for clarity, may be the next day).

7.6 Period for distribution

Following calculation of the distribution per Unit pursuant to clause 7.4, the distributions shall be distributed by the Manager as soon as practicable (but no later than 30 Business Days) after the Distribution Date.

8. Borrowing

The Supervisor may not borrow on behalf of the Fund.

9. Financial Year

The financial year for the Fund will end on the last day of March.

10. Redemption of Units

10.1 Redemption dates

Subject to clauses 10.3, 10.4 and 10.5 of this Deed, Units will be redeemed within 90 business days after the date on which the relevant Redemption Request is received by the Manager. The Manager may in its sole discretion redeem Units with effect from an earlier Valuation Day. If a Redemption Request:

- (a) is received by noon (or such other time as may be prescribed by the Manager from time to time by notice in writing to the Supervisor) (the **Prescribed Time**) on a Valuation Day, it will be effective on that Valuation Day;
- (b) is received after the Prescribed Time on a Valuation Day, it will be effective on the next Valuation Day; or
- (c) is a Redemption Request which directs a regular redemption amount per month to be redeemed by the Unitholder, it will be effective on each Valuation Day, on which it is directed to take effect, as if received by the Manager in respect of each redemption of Units to which it relates prior to the Prescribed Time on the Valuation Day in which that Redemption Request was directed to take effect. If any day specified pursuant to a Redemption Request is not a Valuation Day, the Redemption Request shall be deemed to have directed the next occurring Valuation Day as the day on which the redemption in question is to take effect.

10.2 Payment of Redemption Price

Subject to clauses 8.7(d) and 8.7(e) of the Trust Deed, the Redemption Price shall be paid within 7 Business Days of the relevant Valuation Day.

10.3 Deferral of Redemption

If by reason of:

- (a) the suspension of trading on any Exchange (whether generally or in respect of any specific Investment); or
- (b) financial, political or economic conditions applying in respect of any financial market; or
- (c) the nature of any Investment; or
- (d) the occurrence or existence of any other circumstance or event relating to the relevant Fund or generally;

the Units specified in a Redemption Request cannot be redeemed or, in the Manager's opinion, it is not desirable to redeem those Units, then the Manager may give notice (**Withdrawal Suspension Notice**) to that effect to the Supervisor and all Unitholders. A Withdrawal Suspension Notice in respect of any Fund shall have the effect of suspending the operation of all Redemption Requests given in respect of that Fund until such time as the Manager gives to all Unitholders notice to the effect that the Withdrawal Suspension Notice is cancelled.

10.4 Cancellation of Withdrawal Suspension Notice

The Manager shall give notice of cancellation of a Withdrawal Suspension Notice not later than 90 days after the date upon which that Withdrawal Suspension Notice is given, or may by further notice to the Unitholders extend the operation of a Withdrawal Suspension Notice beyond that period of 90 days. Unless extended in accordance with the provisions hereof, a Withdrawal Suspension Notice shall be deemed to be automatically cancelled upon the expiration of that initial 90 day period. All Redemption Requests suspended under a Withdrawal Suspension Notice shall be deemed to have been received on the next Business Day following cancellation of the Withdrawal Suspension Notice.

10.5 Redemption by instalments

Notwithstanding anything contained in this Deed, if:

- (a) a Redemption Request shall be received or a series of Redemption Requests received in respect of the same holding of Units within a period of 3 months that relate to more in total than 5% of the Number of Units on Issue in the relevant Fund at the time of the Redemption Request or last Redemption Request, and
- (b) the Supervisor and the Manager shall both agree it is in the general interest of all Unitholders to defer immediately redemption of the total units requested,

then such Units may be redeemed by instalments over a period approved by the Supervisor or in total at the expiration of a period approved by the Supervisor and in any such case the Redemption Price shall be calculated at the Valuation Day or Days on which such Units are redeemed.

10.6 Clauses of Trust Deed not applicable

Clauses 8.12 and 8.13 of the Trust Deed do not apply to the Fund.

11. Fees

11.1 Management Fee

The Manager shall be entitled to charge the Fund and retain for its own use a quarterly management fee not exceeding 1.5% per annum of the Net Asset Value of the Fund. The management fee is payable by the Supervisor out of the Fund within 14 days of the end of each financial quarter.

11.2 Early Withdrawal Fee

On redemption of a Unit, depending on the period from the Issue Date to the date of redemption of the Unit, a Unitholder will pay an Early Withdrawal Fee of the percentage set out in the table below of the Redemption Price of that Unit. This fee will be deducted from the Unitholder's aggregate Redemption Price and paid to the Manager.

Period from Issue Date to date of redemption	Percentage Early Withdrawal Fee
Up to and including 1 year	2%
In excess of 1 year and up to 2 years	1%
2 years or more	nil

11.3 Supervisor's Fee

- (a) The Supervisor shall be paid a fee at the times and in the amounts agreed in writing by the Manager and the Supervisor but not exceeding 0.1% per annum of the Net Asset Value of the Fund. This fee may be paid by the Manager out of its own money in which case it will not be charged to the Fund.

- (b) The Supervisor may also charge special fees in accordance with clause 22.3 of the Trust Deed for the services and in the amounts agreed in writing by the Manager and the Supervisor.

12. Further Powers to Change the Trust Deed

In addition to the provisions of clause 33.1 of the Trust Deed, the Supervisor and the Manager may at any time make any alteration, modification, variation or addition to the provisions of the Trust Deed or this Deed (by means of a deed executed by the Supervisor and the Manager) if the Manager has given all Unitholders and the Supervisor 3 months' written notice of its intention to amend the Trust Deed.

13. Trust Deed

Except as modified by the terms of this Deed, all the terms and conditions set out in the Trust Deed shall apply to the Fund.

Execution

Executed as a Deed

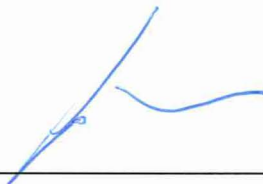
First Mortgage Managers Limited by



Director

Peter Edmond Washer

Print Name

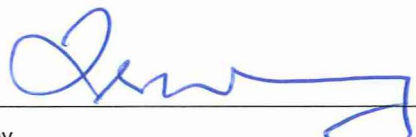


Director

Jonathan Shunne Marshall

Print Name

Signed for and on behalf of
**New Zealand Permanent Trustees
Limited** by its Attorney



Attorney

Lloyd Bernard Wong

Print Name

Witness to Attorney's' signature:

Signature:



Occupation:

Manager Client Services

Address:

Auckland

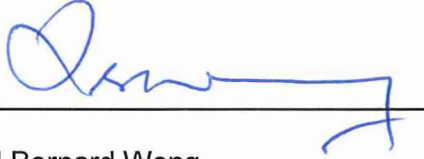
**New Zealand Permanent Trustees Limited
Certificate of Non-Revocation
of Power of Attorney**

I, Lloyd Bernard Wong of Auckland, New Zealand, holding the office of Senior Manager Client Services with Public Trust:

HEREBY CERTIFY:

1. THAT by Deed dated 31 October 2011, New Zealand Permanent Trustees Limited appointed me as its attorney on the terms and subject to the conditions set out in the said Deed and the attached document is executed by me under the powers thereby conferred.
2. THAT at the date hereof I hold the office of Senior Manager Client Services with Public Trust.
3. THAT at the date hereof the transaction or obligation evidenced by the attached document is of a kind I am authorised to enter into by virtue of a delegation from the Board.
4. THAT at the date hereof I have not received notice of any event revoking the power of attorney.

SIGNED at Auckland this 25th day of August 2015

By: 
Lloyd Bernard Wong