



Deed of Amendment of Governing Document

in relation to the Pie Funds Management Scheme

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Pie Funds Management Limited (**Manager**)

Trustees Executors Limited (**Supervisor**)

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Details

Date 3 June 2022

Parties

Name **Pie Funds Management Limited**
 Company no. 1964756
 Short form name **Manager**
 Notice details Level One, 1 Byron Avenue, Takapuna, Auckland 0622

Name **Trustees Executors Limited**
 Company no. 142877
 Short form name **Supervisor**
 Notice details Suite 3, Spark Central, Boulcott Tower, 70 Boulcott Street, Wellington 6011

Background

- A The Pie Funds Management Scheme (**Scheme**) is governed by the Governing Document dated 20 July 2016 (**Governing Document**).
- B The Manager is the present Licensed Manager of the Scheme. The Supervisor is the present Licensed Supervisor of the Scheme.
- C Under clause 19 of the Governing Document, the Supervisor and the Manager may, subject to the provisions of the Financial Markets Conduct Act 2013 and in situations specified under clause 19 of the Governing Document, alter the provisions of the Governing Document by means of a deed executed by the Supervisor and the Manager.
- D The Manager wishes to amend the Governing Document to allow for revocation of Repurchase Requests, to clarify the rules in the Governing Document about the times at which the amounts payable by the Manager on the repurchase or redemption of Units in a Fund will be determined, and to permit side-pocketing of the assets and liabilities of a Fund in certain circumstances, in the manner set out in this Deed.
- E In the Supervisor's opinion the amendments to be made by this Deed are desirable for the more convenient, economical or advantageous working, management, or administration of the Fund and are not likely to become materially prejudicial to the interests of the Investors generally.

Agreed terms

1. Interpretation

1.1 In this deed:

- (a) **Effective Date** means the date on which the Manager notifies the Supervisor in writing that the amendments under clause 3.2 of this deed will enter into force; and
- (b) Words defined in the Governing Document have the same meanings where used in this deed.

1.2 Clause headings are included as a matter of convenience and shall not affect the construction of this deed.

2. Operative date

2.1 This deed shall have effect as from the date set out above.

3. Amendments

3.1 With effect from the date of this deed, the Governing Document is amended as follows:

- (a) clause 3.5 of the Governing Document is deleted and replaced with the following:

“3.5

- (a) *The amount payable on repurchase or redemption by the Manager in respect of each Unit shall be calculated as follows:*

- (i) *if the Conditions of Establishment for a Fund specify a minimum number of Business Days’ notice which must be given of a Repurchase Request or a Redemption Request (Notice Period), the amount payable on repurchase by the Manager or on redemption in respect of each Unit in that Fund shall be calculated as at a Net Asset Determination Time chosen by the Manager falling within the Notice Period; and*

- (ii) *in any other case the amount payable on repurchase by the Manager or on redemption in respect of each Unit shall be calculated as at the Relevant Time.*

- (b) *The amount payable under clause 3.5(a) shall be paid to the Investor in accordance with the provisions of this Governing Document. Where Units have been paid for by cheque the Manager shall be under no obligation to repurchase or redeem those Units until the proceeds of that cheque have been cleared.”*

- (b) clause 3.6 of the Governing Document is deleted and replaced with the following:

“3.6 *A Repurchase Request shall be effective only on a Business Day and may be revoked by the Investor at any time up to 3 Business Days before the Repurchase Price in respect of the relevant Units is paid under clause 3.7.”*

- (c) clause 3.7 of the Governing Document is deleted and replaced with the following:

- “3.7 Subject to clauses 3.16 and 3.17, the repurchase or redemption of Units shall take effect and the Manager shall repurchase or redeem the Units as follows:
- (a) if the Conditions of Establishment for a Fund specify a Notice Period, the Manager shall repurchase or redeem Units in that Fund on a date that is on or after the Net Asset Determination Time chosen by the Manager pursuant to clause 3.5(a) but within the Notice Period, and the Repurchase Price shall be paid on a date that is advised by the Manager to the relevant Investor, which date must be within the Notice Period.
 - (b) in any other case the Manager shall repurchase or redeem the Unit at the Relevant Time and the Repurchase Price shall be paid on a date advised by the Manager to the relevant Investor, which date must not be more than five Business Days after the Relevant Time.”

3.2 With effect from the Effective Date, the Governing Document is amended as follows:

- (a) by adding the following as new clause 3.18 of the Governing Document:

“Side-pocketing

- 3.18 Notwithstanding anything contained elsewhere in this Governing Document, where the Manager in good faith determines that it is in the general interests of the Investors in a Fund to do so (for example, but without limitation, where an investment becomes illiquid, to address liquidity or pricing issues or asset or underlying asset impairment), the Manager may, with the agreement of the Supervisor, and with effect from a particular date (a Record Date), and without the agreement of, or consultation with, those Investors:
- (a) determine that particular assets and liabilities of a Fund (the **Side-Pocketed Assets and Liabilities**) be quarantined in accordance with this clause 3.18; and
 - (b) reclassify, divide or otherwise reconstruct the Units of Investors as at the Record Date so that those holdings consist of:
 - (i) Units that relate to the Assets and Liabilities of the Fund that have not been side-pocketed (the **Non-Side-Pocketed Assets and Liabilities**); and
 - (ii) Units that relate to the Side-Pocketed Assets and Liabilities, all on a pro rata basis.
 - (c) The Manager shall notify the Supervisor of its intention to make a determination under clause 3.18(a) and obtain the Supervisor’s agreement before giving effect to any reclassification, division or reconstructions of relevant Units under clause 3.18(b).
 - (d) The provisions of this Governing Document will apply, with such modifications as are necessary, to the Side-Pocketed Assets and Liabilities and the Units relating to the Side-Pocketed Assets and Liabilities as if the relevant Fund consisted solely of the Side-Pocketed Assets and Liabilities and the related Units, provided that the Manager may (after consulting with the Supervisor) determine special arrangements relating to the Side-Pocketed Assets and

Liabilities and the related Units. Without limiting the generality of the proviso to the previous sentence, those special arrangements may include arrangements:

- (i) *preventing Investors in the relevant Fund from giving Repurchase Requests or Requests to Switch in relation to the Side-Pocketed Assets and Liabilities and the related Units;*
 - (ii) *preventing the issue of any further Units relating to the Side-Pocketed Assets and Liabilities;*
 - (iii) *for the realisation/discharge of the Side-Pocketed Assets and Liabilities;*
 - (iv) *relating to the distribution or application of the net proceeds of realisation of the Side-Pocketed Assets to or for the benefit of Unitholders holding Units relating to the Side-Pocketed Assets and Liabilities;*
 - (v) *relating to the termination of the side-pocketing arrangement (including the cancellation of Units relating to the Side-Pocketed Assets and Liabilities);*
 - (vi) *relating to the fees and expenses associated with the Side-Pocketed Assets and Liabilities and the related Units;*
 - (vii) *relating to the recovery of Tax attributed to those Investors holding Units relating to the Side-Pocketed Assets and Liabilities (including, where applicable, the recovery of such Tax liabilities from such Investors by way of arrangements relating to Units (if any) held by those Investors that relate to the Non-Side-Pocketed Assets and Liabilities), and the payment of the Tax liabilities of the relevant Fund;*
 - (viii) *that the Manager considers appropriate in relation to the Scheme's or Fund's status as a PIE;*
 - (ix) *for the treatment of Repurchase Requests or Requests to Switch that remain outstanding as at a Record Date (including, without limitation, the cancellation of any such requests);*
 - (x) *for treating Units (if any) held by Investors that relate to Side Pocketed Assets and Liabilities as a different class of Unit; and*
 - (xi) *which the Manager otherwise considers to be appropriate and in the interests of Unitholders generally in relation to the side-pocketing arrangements contemplated by this clause 3.18.*
- (e) *Where any conflict arises between the special arrangements agreed between the Manager and the Supervisor under this clause 3.18 and any other provision of this Governing Document or any Conditions of Establishment, the special arrangements will prevail, except to the extent any Relevant Law requires that the other provision prevails.*
- (f) *For the avoidance of doubt, the side-pocketing arrangements contemplated by this clause, although they may involve a different*

class of Unit, operate within the relevant Fund and do not create a new and separate Fund. Unless required by Relevant Law, the Manager need not prepare separate financial statements relating to the Non-Side-Pocketed Assets and Liabilities and the Side-Pocketed Assets and Liabilities.

(g) *Notwithstanding clause 3.18(f) the Manager and the Supervisor may, at any time, decide that the Side-Pocketed Assets and Liabilities shall constitute a separate Fund and may accordingly segregate such Assets and Liabilities into that separate Fund. In such case, the Units that relate to the Side-Pocketed Assets and Liabilities will become Units in that new Fund.”*

(b) by renumbering the subsequent clauses of the Governing Document accordingly.

4. Counterparts

This deed may be executed in any number of counterparts (including scanned email copies). All executed counterparts, taken together, constitute one document.

5. Governing law

This deed shall be governed by, and construed in accordance with the provisions of, the laws of New Zealand. The parties submit to the non-exclusive jurisdiction of New Zealand's courts.

6. Delivery

For the purposes of section 9 of the Property Law Act 2007, and without limiting any other mode of delivery, this document will be delivered by each party (each a **Delivering Party**) immediately on the earlier of:

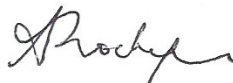
- (a) physical delivery of an original of this deed (or a counterpart of it), executed by the relevant Delivering Party, into the custody of the other party or the solicitors of the other party; and
- (b) transmission by the relevant Delivering Party or its solicitors (or any other person authorised in writing by the relevant Delivering Party) of a facsimile or scanned email copy of an original of this deed (or a counterpart of it), executed by the relevant Delivering Party, to the other party or the solicitors of the other party.

Signing page

EXECUTED as a deed

Manager

PIE FUNDS MANAGEMENT LIMITED by:



Signature of director

Ana-Marie Lockyer

Name of director



Signature of director

Roger Kerr

Name of director

Supervisor

TRUSTEES EXECUTORS LIMITED by:



Authorised Signatory

Justine Wealleans

Print Name



Authorised Signatory

Susan Bingham

Print Name

In the presence of:



Signature of witness

Aditya Bhatli

Name of witness (print)

Operations Manager

Occupation of witness

Auckland

City/town of residence