

This is a working, consolidated copy of Trust Deed of the Mine Superannuation Fund and sets out for convenience all of the provisions as in force at the date of preparation shown below.

Mine Superannuation Fund

Consolidated Trust Deed

This is a consolidated copy of the Mine Superannuation Fund Trust Deed dated 31 January 1995 as amended by deeds dated:

• 28 June 2011	• 9 August 2018
• 11 December 2012	• 11 December 2019
• 24 June 2014	• 22 April 2020
• 24 June 2015	• 10 June 2021
• 16 July 2015	• 18 August 2022
• 29 January 2016	• 1 December 2023
• 1 July 2016	• 25 January 2024
• 16 June 2017	• 21 May 2024
• 20 September 2017	

Date of Consolidation: 21 May 2024

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1 DEFINITIONS AND INTERPRETATION

1.1 Definitions

In this Trust Deed unless the context otherwise requires, the words and expressions set out below have the following meanings.

“Account” means an account established and maintained for the purposes of the Fund under clause 9.11 or otherwise under the Trust Deed including the Rules.

“Account Balance” in relation to a Beneficiary means the aggregate amount standing to the credit of all of the Beneficiary’s Accounts,

“Account-Based Pension” means a pension payable under rule D3.

“Actuary” means the actuary appointed by the Trustee for any particular purpose under the Trust Deed.

“Accumulation Category” means the Accumulation Category (Employer) or the Accumulation Category (Personal) described in clause 2.3.1 or any other Category established under clause 2.3.3 that the Trustee decides to treat as an Accumulation Category.

“Accumulation Category (Employer)” means the category described in clause 2.3.1(a) and to which the Rules in Schedule A apply.

“Accumulation Category (Personal)” means the category described in clause 2.3.1(b) to which the Rules in Schedule B apply.

“Accumulation Member” means a Member with benefits referable to an Accumulation Category.

“Approved Benefit Arrangement” means a fund or benefit arrangement other than the Fund, including another superannuation fund, an approved deposit fund, an eligible rollover fund or an annuity arrangement, to or from which benefits may be transferred in compliance with Relevant Law.

“Asset” means any asset that the Trustee holds for the purposes of the Fund.

“Associate” has the meaning given by the SIS Act.

“Associated Employer” means a Participating Employer associated with a Principal Employer, as provided for in clause 10.1.3.

“Beneficiary” means a person (including as the context may require any Member, Spouse Member or Non-Member Spouse) who has a beneficial interest in the Fund in accordance with the Trust Deed.

“Beneficiary’s Account” means an Account established and maintained in respect of a particular Beneficiary (as distinct from an Account relating to interests of a class or group of Members or an aspect of the Fund’s general operations). To avoid doubt it includes a Pension Account.

“Binding Death Benefit Nomination” means a Death Benefit Nomination which takes effect as a binding direction to the Trustee with respect to payment of the Member’s Death Benefit and complies with requirements under Relevant Law.

“Category” means a category established under clause 2.3.1.

“Child” has the meaning given by the SIS Act.

“Constitutional Corporation” has the meaning given by the SIS Act.

“Contingent Liability Reserve Account” means the account established and maintained under rule A5.5.

“Contributions-Splitting Superannuation Benefit” has the meaning given by the SIS Regulations.

“COSAF Superannuation Fund” means the superannuation fund of that name established by a trust deed dated 6 October 1988 (as subsequently amended), being Part 2 of the Previous Trust Deed.

“Death and Disablement Levy” means, with respect to each New South Wales Member, such amount as may be determined by the Trustee from time to time with the advice of the Actuary for the purposes of funding death and Total and Permanent Disablement benefits from the Self Insurance Reserve Account.

“Death Benefit” means a benefit payable on a Member’s death. It includes a benefit that became payable before, but was not actually paid until after, the Member’s death.

“Death Benefit Nomination” means a written notice given by a Member to the Trustee, notifying the Trustee to pay a Death Benefit in respect of the Member to any one or more of named Dependants and/or Legal Personal Representatives in the proportions specified.

“Defined Benefit Category” means the category described in clause 2.3.1(c) and to which the Rules in Schedule C apply.

“Defined Benefit Member” is a Member with benefits referable to the Defined Benefit Category.

“Dependant” has the meaning given by the SIS Act.

“Direct Share Facility” means a facility offered by the Trustee to members as an Investment Option in accordance with clause 14.

“Effective Date” means 17 June 2011.

“Eligible Spouse Contribution” has the meaning given by the SIS Regulations.

“Employee” means an employee of an Employer.

“Employer” means any Participating Employer and, in respect of a Member means the Participating Employer by which the Member is for the time being, or was at the relevant time employed.

Amended by
clause 4.1 of
Amending
Deed 11
December
2019

Inserted by clause 2.1 of
Amending Deed 11 Dec
2012

“Employer Director” means a person appointed as an Employer Director in accordance with clause 3.1.4.

“Employer Registration Deed” means a deed entered into by a Participating Employer with the Trustee, setting out the terms and conditions under which an Employer agrees to participate in the Fund, in accordance with clause 10.

“Employer Statutory Contribution Account” means the account (if any) established and maintained for a Member under rule A5.1.1(b).

“Existing Pensioner” means a person who is receiving a Statutory Pension under the Trust Deed because as at the date of commencement of the Queensland Act that person was receiving or was entitled to receive a pension under the Pensions Act.

“Family Law Requirements” means any requirements imposed on the Trustee under the Family Law Act 1975 (Cth), the SIS Act, the Income Tax Assessment Act 1997 (Cth), and regulations made under those Acts, relating to the splitting of superannuation interests with a Beneficiary’s legal or de facto Spouse and related matters.

“Financial Instrument” includes a futures contract, forward contract, interest rates swap contract, currency swap contract, forward exchange rate contract, forward interest rate contract, option, a right or option in respect of any such contract or any similar financial instrument.

“Fund” means the Mine Superannuation Fund ABN 16 457 520 308 PROVIDED THAT the fund may continue to be referred to as the AUSCOAL Superannuation Fund for the purpose of any express reference to AUSCOAL Superannuation Fund in a statutory provision.

“Fund Expenses” means, without limitation, all the costs and expenses of and incidental to the establishment, operation, management, administration, investment, restructure or termination of the Fund and the discharge of all obligations by or on behalf of the Trustee.

“Government Co-contributions” has the same meaning as in the Government Co-contributions Act.

“Government Co-contributions Act” means the Superannuation (Government Co-contributions for Low Income Earners) Act 2003.

“Housekeeper” means in relation to an Existing Pensioner, the person in the Existing Pensioner’s family being totally or mainly maintained by the Existing Pensioner and who is recognised by the Trustee as the Housekeeper of the Existing Pensioner because the Existing Pensioner either:

- (a) does not have a husband or wife; or
- (b) has a husband or wife who in the opinion of the Trustee is or was at the relevant date wholly or partially dependent upon the Member for maintenance and support.

“Independent Director” means a person who is not:

- (a) a Member;

Amended by clause 2.1 of
Amending Deed 24 June
2015

Amended by clause 2.1 of
Amending Deed dated 16
June 2017

- (b) a Participating Employer;
- (c) an official of a Participating Union; or
- (d) an official of the Minerals Council – Coal Committee or the QRC,

and is appointed by the Trustee in accordance with clause 3.1.5 to hold office as a director in accordance with Relevant Law.

“Industry” means the industry in which, in the opinion of the Trustee, Mine Workers are employed or engaged.

“Insurance Account” means the account (if any) established and maintained for a Member under A5.1.1(g).

“Insurance Policy” means an insurance policy arranged by the Trustee to provide benefits in respect of a Member.

“Interdependency Relationship” has the meaning given by the SIS Act.

“Investment Option” means an investment strategy established in respect of investments of the Fund in accordance with this Trust Deed, for the purpose of, among other things, enabling Beneficiaries to exercise investment choice in accordance with clause 14. Where relevant, it includes the portfolio of Assets, any investment facility, term deposits or other financial products provided by the Trustee or by another financial service provider, as referable to such a strategy.

“Legal Personal Representative” has the meaning given by the SIS Act.

“Liabilities” means all liabilities whatsoever of the Fund, including but not limited to Fund Expenses, and includes any provisions the Trustee makes in connection with such liabilities.

“Member” means a person who has been admitted as a member of the Fund in accordance with clause 9 or a provision of the Previous Trust Deed, and who has not ceased to be a Member.

“Member Director” means a person appointed as a Member Director in accordance with clause 3.1.4.

“Member Statutory Contribution Account” means the account (if any) established and maintained for a Member under rule A5.1.1(d).

“MEU” means the Mining and Energy Union, or all or part of any organisation of employees which is a successor to or formed as a result of amalgamation or reconstruction of it.”;

“Mine Worker” means a Mine Worker (NSW) or a Mine Worker (Qld), as the context requires.

“Mine Worker (NSW)” has the meaning given to the term “mine worker” by section 2 of the New South Wales Act, but for benefit entitlement purposes does not include a Transferee Member.

“Mine Worker (Qld)” has the meaning given to the term “mine worker” by section 3 of the Queensland Act.

“Mines Rescue Stations Staff Category” described in clause 2.3.1(f) to which the Rules in Schedule G apply.

Amended by clause 2.2 of Amending Deed 11 Dec 2012

Amended by clause 2(a)(i) of Amending Deed of 1 December 2023 which is effective from 1 December 2023

Inserted by clause 2.1 of Amending Deed 29 January 2016 and further evidenced by clause 2.1 of Amending Deed 11 December 2019, and effective from 31 January 2016.

Inserted by clause 2.1 of Amending Deed 29 January 2016 and further evidenced by clause 2.1 of Amending Deed 11 December 2019 and effective from 31 January 2016

“Mines Rescue Stations Member” has the same meaning as in Schedule G of this Deed.

Inserted by clause 2.1 of Amending Deed 11 Dec 2012

“Minerals Council – Coal Committee” means the New South Wales Minerals Council-Coal Committee, its successors or assigns.

“MySuper Conditions” means the requirements under SIS, if any, with which the Trustee must comply in order that the Trustee may offer or provide a MySuper Product in the Fund.

Inserted by clause 2.1 of Amending Deed 11 Dec 2012

“MySuper Product” means a MySuper product as defined in the Superannuation Industry (Supervision) Act 1993 (Cth).

“New South Wales Act” means the Coal and Oil Shale Mine Workers (Superannuation) Act 1941 (NSW).

Inserted by clause 2 of Amending Deed 18 August 2022

“New South Wales Amendment Act” means the Coal and Oil Shale Mine Workers (Superannuation) Further Amendment Act 1994.

“New South Wales Member” means a Member classified as such by the Trustee and who is entitled to receive a benefit under the Accumulation Category (Employer), the Defined Benefit Category and/or the Pension Category.

“Non-Member Spouse” has the meaning given by the Family Law Act 1975 (Cth).

“Participating Employer” means any employer that has been admitted to participation of the Fund in accordance with clause 10 or a provision of the Trust Deed that was previously in force and who has not ceased to participate.

“Participating Union” means the:

- (a) Australian Manufacturing Workers Union (AMWU); or
- (b) Communications Electrical Plumbing Union (CEPU), Electrical Trades division (ETU); or
- (c) Association of Professional Engineers, Scientists and Managers, Australia (APESMA); or
- (d) Mining and Energy Union (MEU);

Amended by clauses 2(a)(ii) of Amending Deed of 1 December 2023 which is effective from 1 December 2023

or all or part of any organisation or registered union which is a successor to or formed as a result of any amalgamation or reconstruction of the above entities.

“Pending Member” means a person who is classified as a “dormant member” within the meaning of the New South Wales Act.

“Pension Account” means the account (if any) established and maintained for a Member under rule D3.

“Pension Category” means the category described in clause 2.3.1(d) and to which the Rules in Schedule D apply or any other category established under clause 2.3.3 that the Trustee decides to treat as a Pension Category.

“Pensions Act” means the former Coal and Oil Shale Mine Workers (Pensions) Act (Qld) 1941.

“Pensions Fund” means The Coal Mine Workers’ Pensions Fund which was established pursuant to section 17 of the Pensions Act.

“Pre-retirement Income Stream” means a pension payable under rule D3.6 or another provision designated by the Trustee for this purpose.

“Prescribed Amount” means an amount which the Trustee will from time to time determine taking into consideration such factors it may consider necessary, including but not limited to:

- (a) the advice of the Actuary;
- (b) the balance of any Accounts; and
- (c) whether a person is married or single and the married rate or single rate of the aged pension payable by the Commonwealth of Australia.

“Previous Trust Deed” means the trust deed of the Fund dated 31 January 1995 as amended and in force immediately prior to the Effective Date.

“Principal Employer” has the meaning given by clause 10.1.3.

“QCOS” means the Queensland Coal and Oil Shale Mining Industry Superannuation Fund established by the QCOS Deed.

“QCOS Deed” means the trust deed dated 18 May 1988, as amended, which governed QCOS from time to time up to the QCOS Transfer Date.

“QCOS Transfer Date” means the date the benefits of members of QCOS were transferred to the Fund by way of successor fund transfer, being 1 April 2005.

“QRC” means the Queensland Resources Council, its assigns or successors.

“Queensland Act” means the former Coal and Oil Shale Mine Workers’ Superannuation Act 1989 (Qld).

“Queensland Member” means a Member classified as such by the Trustee and who is entitled to receive a benefit under the Accumulation Category (Employer) and/or the Pension Category.

“Regulator” means the Australian Prudential Regulation Authority, the Australian Securities and Investments Commission, the Australian Taxation Office or any other government authority responsible for administering the laws governing superannuation funds or their ability to obtain income tax concessions.

“Relevant Law” means any MySuper Conditions and the requirements set out in:

- (a) SIS;
- (b) the Income Tax Assessment Act 1936 (Cth);
- (c) the Income Tax Assessment Act 1997 (Cth);
- (d) the Superannuation (Resolution of Complaints) Act 1993 (Cth);
- (e) the Family Law Requirements;

Amended by clause
2.5 of Amending Deed
24 June 2015

Amended by clause
2.3 of Amending
Deed 11 Dec 2012

Amended by clause 2.5
of Amending Deed 24
June 2015

- (f) the Privacy Act Requirements;
- (g) any regulations made under any of those Acts;
- (h) any prudential standards made by a Regulator under SIS;
- (i) the Coal and Oil Shale Miners (Superannuation) Act 1941 (NSW); and
- (j) any other present or future law, regulation or enforceable requirement of the Commonwealth of Australia or any State or Territory of Australia which the Trustee may determine to be a Relevant Law for the purposes of the Deed

with which the Trustee or a Participating Employer is required to comply in respect of the Deed or the Fund in order to avoid a penalty or other disadvantage.

“Restructuring Agreement” has the same meaning as in the New South Wales Act.

“Rules” means the provisions appearing in the Schedules (apart from Schedule E).

“Schedule” means a schedule to this Trust Deed. The Schedules form part of this Trust Deed.

Inserted by clause 2.1
of Amending Deed 24
June 2014

“Scheme” means the superannuation scheme for mine workers constituted by the WA Act.

“Self Insurance Reserve Account” means the account (if any) established and maintained for New South Wales Members under rule A5.2.

Inserted by clause 2.1
of Amending Deed
11 Dec 2012

“SIS” means the Superannuation Industry (Supervision) Act 1993 (Cth).

“SIS Act” means the Superannuation Industry (Supervision) Act 1993 (Cth).

“SIS Regulations” means the Superannuation Industry (Supervision) Regulations 1994 (Cth).

“Special Account” means the account (if any) established and maintained for a Member under rule A5.1.1(h).

“Special Purpose Reserve Account” means the account (if any) established and maintained in accordance with clause 16.

“Spouse” has the meaning given by the SIS Act.

“Spouse Contributions” means contributions made for a Member by the Member’s Spouse, including Eligible Spouse Contributions.

“Spouse Member” means a Member classified by the Trustee as such in respect of whom Spouse Contributions have been paid to the Fund.

“Spouse Benefits Account” means the account (if any) established under rule A5.1.1(m) in the Accumulation Category (Employer) or the Account (if any) established under rule B5.2 in the Accumulation Category (Personal) or another provision designated by the Trustee for this purpose.

“Statutory Pension” means a pension payable under rule D2 in connection with the Queensland Act and/or the Pensions Act and includes any amount payable as an addition to the Statutory Pension.

“1999 Superannuation Agreement” has the same meaning as in the New South Wales Act.

“Tax” includes:

- (a) all actual or anticipated stamp, financial institutions, registration and any other duties, bank accounts debits tax and other taxes, levies, imposts, deductions, surcharges and charges whatsoever;
- (b) any goods and services tax, value added tax or similar tax imposition or charge; and
- (c) any interest, fines, penalties, charges, fees or other amounts payable in respect of the items mentioned in paragraphs (a) or (b).

“Temporary Disablement” has the meaning given to that term, or any equivalent term (for example total disablement or total but temporary disablement), in an Insurance Policy under which the Trustee has arranged for income benefits to be paid to a Member covered by that Insurance Policy, in circumstances permitted by Relevant Law.

“Total and Permanent Disablement” means in relation to a Member other than a Queensland Member:

- (a) where the incapacity occurred on or before 30 June 2006, that the person, in the opinion of the Trustee, having regard to such medical evidence as the Trustee considers appropriate, has ceased employment because of incapacity and as a result of the incapacity they are permanently unable to continue his or her engagement in any kind of remunerative occupation in which they would otherwise reasonably be expected to be capable of engaging; or
- (b) where the incapacity occurs after 30 June 2006, the meaning given to that term in the Insurance Policy effected by the Trustee to provide a benefit to members absent from work due to total and permanent disablement.

“Total and Permanent Disablement” in relation to a Queensland Member means:

- (a) where all or part of the benefit payable on total and permanent disablement is insured, the meaning given to that term or a corresponding term in the policy of insurance effected by the Trustee to provide a benefit for that Member on his or her termination of employment due to permanent incapacity or invalidity; or
- (b) where the Member is not covered by any policy of insurance arranged by the Trustee as provided in paragraph (a) and the Member was a Member on 30th June 1998, and continued to be a Member up to the date of injury or illness causing the incapacity, that the Member proves to the satisfaction of the Trustee that they are permanently incapacitated for work in the coal mining industry PROVIDED THAT the Trustee is reasonably satisfied that such loss, injury or illness causing the incapacity was not incurred or inflicted for the purposes of obtaining a benefit from the Fund and PROVIDED FURTHER THAT the Trustee is satisfied the disablement has occurred as a

result of an accident or illness which would be regarded as compensatable under the Workers' Compensation and Rehabilitation Act 2003 (Qld); or

- (c) otherwise, in relation to a Member having been absent from employment for 6 consecutive months due to an illness or injury or such shorter periods as in the circumstances the Trustee considers appropriate, such illness or injury being, in the opinion of the Trustee, sufficiently serious so as to render the Member unlikely to ever engage in his or her own occupation or any occupation for which they are reasonably suited by education, training or experience.

"Totally and Permanently Disabled" has a corresponding meaning.

"Transferee Member" means a Member who has made an election to convert his or her defined benefit in the Defined Benefit Category to an accumulation benefit in an Accumulation Category.

"Transfer Value" means with respect to a Transferee Member the actuarial value of his or her accrued benefit in the Defined Benefit Category calculated by the Actuary as at 30 June 2000 using Professional Standard 402 of the Institute of Actuaries of Australia or such other formula recommended by the Actuary and agreed in writing by the parties to the 1999 Superannuation Agreement but subject to a minimum of the Member's vested benefit in the Defined Benefit Category at the date of transfer.

"Tribunal" means the former Pensions Tribunal which was constituted under the Pensions Act.

"Trust Deed" means this deed as amended from time to time and includes the Rules.

"Trustee" means AUSCOAL Superannuation Pty Ltd ABN 70 003 566 989 or any other trustee appointed under clause 3.1.

"Trustee Director" means an Employer Director, Member Director or Independent Director.

Inserted by clause 2.1
of Amending Deed 24
June 2014

"WA Act" means the Coal Industry Superannuation Act 1989 (WA).

Inserted by clause 2.1
of Amending Deed 24
June 2014

"WA Coal Industry Category" means the Category described in clause 2.3.1(e) to which the Rules in Schedule F apply.

Inserted by clause 2.1
of Amending Deed 24
June 2014

"WA Coal Industry Category (Category A) Members" means a WA Coal Industry Member who is a category A member of the Scheme.

Inserted by clause 2.1
of Amending Deed 24
June 2014

"WA Coal Industry Member" has the same meaning as in Schedule F of this Deed.

"Working Day" means a day other than Saturday, Sunday or a public holiday in Sydney, New South Wales.

1.2 Interpretation

In this Trust Deed unless the contrary intention appears:

- (a) except where a Schedule expressly provides otherwise, if there is a conflict between a provision of the Trust Deed and a Schedule, the relevant provision of the Trust Deed will prevail;
- (b) a reference to this Trust Deed or any other instrument includes any variation or replacement of them;
- (c) a reference to a statute or other law includes regulations and any other instrument ("subordinate instrument") made under such a statute or law and any consolidation, amendment, re-enactment or replacement of such a statute, law or subordinate instrument;
- (d) the singular includes the plural and vice versa;
- (e) terms such as "including", "for example" and similar expressions or words do not imply any limitation;
- (f) a reference to a person:
 - (i) includes a body corporate, any other entity recognised at law, a partnership, joint venture, unincorporated body or association, trust, government or semi governmental agency or body and any other group or organisation of persons; and
 - (ii) includes a person's Legal Personal Representatives, successors and assigns;
- (g) where a word or phrase is given a particular meaning, other parts of speech and grammatical forms of that word or phrase have corresponding meanings;
- (h) headings are inserted for convenience of reference and are not to be taken into account in interpreting this Trust Deed;
- (i) if an event must occur on a stipulated day which is not a Working Day, then the stipulated day will be taken to be the next Working Day;
- (j) a reference to any thing (including any amount) is a reference to the whole or any part of it. A reference to a group of persons is a reference to any one or more of them;
- (k) the fact that words or expressions defined in clause 1.1 commence with capital letters does not of itself imply that a different meaning is intended if those words or expressions are used elsewhere in the Trust Deed and do not commence with capital letters;
- (l) a reference to conduct includes omissions; and
- (m) provisions referring to the rights or obligations of a Beneficiary belonging to a particular Category are intended to apply only in connection with that Category. So, if for example, a person is both an Accumulation Member and a Defined Benefit Member, a provision relating to rights and obligations of Accumulation Members only applies to that Member in relation to his or her membership as an Accumulation Member.

1.3 Paramount Provision

If the Relevant Law prescribes provisions that must be included in the governing rules of a regulated superannuation fund, those provisions are (to the extent they are relevant to the Fund) deemed to appear in this Trust Deed and to override any inconsistent provisions. Any such provisions will no longer be deemed to appear in this Trust Deed if the Relevant Law no longer requires them to be included, or if a Regulator does not require them to be complied with.

1.4 Previous Rights Protected

1.4.1 Notwithstanding any other provision of the Trust Deed, the Trustee must ensure that any right which a:

- (a) Defined Benefit Member who is a Mine Worker or a Pending Member; or
- (b) Dependant of a Defined Benefit Member who is a Mine Worker or Pending Member; or
- (c) person receiving or entitled to a Statutory Pension,

had immediately before the date of effect of this Trust Deed is not removed or restricted by the operation of this Trust Deed. However, nothing in this clause prevents the Trustee from conferring additional rights on a Defined Benefit Member who is a Mine Worker, Pending Member or any such Dependant or person.

1.4.2 To avoid doubt, if the removal of any provision in the Defined Benefit Category of the Trust Deed has the effect of disentitling a Member of a benefit that they would otherwise have been entitled to, the Trustee may, in its absolute discretion, grant that benefit.

2 THE FUND

2.1 Assets

The Fund comprises all Assets held by the Trustee at any time in accordance with this Trust Deed.

2.2 Name

2.2.1 The Trustee may change the name of the Fund or promote the Fund under a different name.

2.2.2 The Trustee may change the name of any Category, or a division within a Category of the type referred to in Clause 2.3.5 or promote any Category or division within a Category under a different name from that otherwise provided for.

2.3 Categories

2.3.1 The Trustee may provide membership in the following Categories:

- (a) Accumulation Category (Employer);
- (b) Accumulation Category (Personal);
- (c) Defined Benefit Category;
- (d) Pension Category;
- (e) WA Coal Industry Category;
- (f) Mines Rescue Stations Staff Category; and
- (g) any other Category the Trustee decides to establish in accordance with clause 2.3.3.

2.3.2 The particular Rules relating to the Categories referred to in clauses 2.3.1(a), (b), (c), (d), (e) and (f) respectively, appear in Schedules A, B, C, D, F and G respectively. Those Rules only apply to the Category to which the Schedule relates.

2.3.3 The Trustee may establish a new Category at any time. If it does so, the Trustee will establish rules relating to that Category by amending this Trust Deed under clause 22 to include a new Schedule.

2.3.4 The Trustee may close a Category at any time subject to the Relevant Law.

2.3.5 The Trustee may establish divisions within any Category and set specifications that apply to any such divisions. Any such specifications must be consistent with this Trust Deed. A division within a Category may, for example, relate to a particular membership class.

2.4 Investment Options

The Trustee may establish Investment Options in the Fund for the purpose of accommodating different investment strategies within the Fund, among other things to enable Beneficiaries to exercise investment choice in accordance with clause 14.

2.5 Single Trust

Nothing in this Trust Deed is to be taken as establishing a separate trust in respect of any of the Categories or any Investment Option or any part of the Fund. Where the Trustee is liable to pay amounts in respect of Beneficiaries or Employers, that liability relates to all Assets of the Fund and is not limited to the Assets attributable to any particular Category or Investment Option.

Amended by clause 2.2 of Amending Deed 24 June 2014 and clause 2.2 of Amending Deed 29 January 2016 and further evidenced by clause 2.2 of Amending Deed 11 December 2019 which is effective from 31 January 2016

Amended by clause 2.3 of Amending Deed 29 January 2016 and further evidenced by clause 2.3 of Amending Deed 11 December 2019 which is effective from 31 January 2016

3 TRUSTEE

3.1 Constitution and Appointment

3.1.1 The Trustee must be a Constitutional Corporation.

3.1.2 The Trustee must be constituted in accordance with the Relevant Law.

3.1.3 If permitted by Relevant Law, the Trustee may appoint a replacement Trustee in its place which will also be a Constitutional Corporation and constituted in accordance with Relevant Law.

3.1.4 The Trustee Directors must consist of at least eight (8) directors of whom:

- (a) two (2) must be appointed as Employer Directors by the Minerals Council – Coal Committee;
- (b) two (2) must be appointed as Employer Directors by the QRC;
- (c) three (3) must be appointed as Member Directors by the MEU;
- (d) one (1) must be appointed as a Member Director by the MEU after nomination by the Participating Unions.

3.1.5 The Trustee may:

- (a) appoint an additional Independent Director if permitted or required by Relevant Law; and
- (b) specify rules relating to the appointment, term of office and removal of an Independent Director and vary them from time to time

3.1.6 The rules regarding nomination, removal and the term of office of Trustee Directors will be as provided for by the Trustee's constitution.

3.2 Term of Office

The Trustee will hold office until the earliest of:

- (a) subject to Relevant Law, its removal from that office by both a majority vote of the Members and a majority vote of the Employers;
- (b) the date on which the Trustee's term of office expires or the Trustee's appointment to such office ceases;
- (c) its retirement from that office by written notice given to each of the Employers and each of the Participating Unions;
- (d) the appointment of a receiver, receiver and manager, administrator or liquidator ("**Controller**") in respect of it or the whole or any part of its property, where the appointment of the Controller is not terminated within 14 days, or the approval by a court of a scheme of arrangement providing for its dissolution other than for the purpose of reconstruction;
- (e) its disqualification from that office by operation of law; and

Amended by clauses 2.(b) and (c) of Amending Deed of 1 December 2023 which is effective from 1 December 2023

(f) it becoming a disqualified person as that term is defined in Relevant Law;

and, upon the Trustee ceasing to hold office, the outgoing Trustee will appoint another Trustee in its place pursuant to clause 3.1.

If the office of Trustee becomes vacant and no new Trustee has been appointed by the outgoing Trustee or a Regulator, then an Employer or a Member may apply to the Supreme Court of New South Wales for it to appoint a corporation to replace the Trustee.

3.3 Validity of Acts

The acts of the Trustee are valid notwithstanding any defect that may be discovered in its appointment.

3.4 Transfer of Assets

If a Trustee's office terminates, it must:

- (a) provide to the new Trustee all records, information and other property relating to the Fund in its control; and
- (b) otherwise do everything reasonably necessary to complete the appointment of the new Trustee.

4 TRUSTEE POWERS, DISCRETIONS AND DUTIES

4.1 Powers

Subject to the Relevant Law the Trustee is empowered to do anything whatsoever necessary or desirable for the purpose of the maintenance, operation, management, development or promotion of the Fund and all associated and incidental activities.

4.2 Examples of Powers

Without limiting clause 4.1 and in addition to any powers described elsewhere in this Trust Deed, the Trustee has the power to:

- (a) appoint agents and delegates on terms it thinks appropriate;
- (b) attribute Assets and Fund Expenses to relevant Investment Options, Beneficiaries' Accounts and Categories and change the attribution as it considers appropriate;
- (c) make any arrangements it considers appropriate in respect of Tax, including:
 - (i) allocation of actual or expected Tax benefits or liabilities to or between Beneficiaries on any basis that it considers appropriate;
 - (ii) deduction of amounts in respect of Tax or expected Tax that it considers appropriate and retention of such amounts in the Fund pending payment to the relevant authority;
 - (iii) recalculation of Tax in respect of a Beneficiary or former Beneficiary and making any arrangements that it considers appropriate in connection with any such recalculation;

- (iv) transfer of Tax liabilities; and
- (v) adjustment of the amounts payable into or out of the Fund;
- (d) attribute Fund Expenses between Beneficiaries on such basis as it considers appropriate;
- (e) pay any commission, brokerage or other fees to a person who contributes or transfers Assets to the Fund or arranges for such transactions;
- (f) enter or acquire one or more Insurance Policies in connection with benefits to be paid from the Fund;
- (g) require Beneficiaries or Employers to provide any information that the Trustee reasonably requires to carry out its powers or duties;
- (h) meet and pay all Liabilities out of the Fund;
- (i) the extent permitted by the Relevant Law, to obtain indemnity insurance in respect of liabilities incurred by the Trustee, its directors, officers or associates arising out of, or in connection with, performance of duties and exercise of powers relating to the Fund;
- (j) make business rules relating to:
 - (i) minimum amounts for contributions, transfers of amounts into the Fund, switches between Investment Options, Account Balances, withdrawals and any other matters;
 - (ii) rounding off of contributions, transfers and benefit payments;
 - (iii) default arrangements (for example, where a Member does not specify an Investment Option as mentioned in clause 14.2.3);
 - (iv) the calling of any Beneficiary meetings and procedures for those meetings;
 - (v) any other matters whatsoever relating to the maintenance, management or operation of the Fund.

Different business rules may be applied to different Beneficiaries, Employers, Investment Options and Categories;

Amended by clause 2 of
Amending Deed dated
21 May 2024

- (k) act on any evidence or presumptions that it considers appropriate, including relying on any documents that it considers valid; and

Inserted by clause 2 of
Amending Deed dated
21 May 2024

- (l) retain the services of and to appoint professional or other advisers in relation to the management, investment, administration or conduct of the Fund, to act on the advice of any person so retained and to pay the fee or remuneration for any professional or other advisers so appointed.

4.3 Compliance

Without limiting anything in clause 4.1 the Trustee may:

- (a) do anything that the Trustee considers necessary or desirable in order to comply with the Relevant Law or that the Relevant Law permits it to do; and

- (b) refrain from actions that it might otherwise be empowered or obliged to do if the Trustee considers that this is necessary or desirable in order to comply with the Relevant Law.

4.4 Discretions

The Trustee:

- (a) has an absolute and uncontrolled discretion in exercising its powers under this Trust Deed;
- (b) may exercise any of its powers at any time;
- (c) may refrain from exercising any of its powers from time to time or at all;
- (d) may exercise a power even if it or its Associates have an interest that may be affected by the exercise of that power;
- (e) may enter into arrangements with Associates, Beneficiaries, Employers or other persons in connection with the Fund and retain for its own benefit, any commission, profit or other gain received in connection with such arrangements;
- (f) may, where it has power to do or decide something under this Trust Deed, do so, and vary any such act or decision, at any time; and
- (g) is not obliged, where it exercises a discretion under this Trust Deed, to provide reasons for the way in which it has exercised the discretion unless the law requires otherwise.

4.5 Fees

The Trustee may charge fees in accordance with Schedule E.

4.6 Remuneration of Trustee and Directors

- 4.6.1 The Trustee may deduct from the assets of the Fund an amount sufficient to remunerate itself in respect of work done or services provided in the performance of its obligations as Trustee of the Fund.
- 4.6.2 The Trustee may apply some or all of the amount referred to in clause 4.6.1 to provide remuneration to its directors in respect of performance of their obligations as directors, including as members of Trustee board committees.
- 4.6.3 The amount of remuneration referred to in clause 4.6.1 and the aggregate amounts applied in accordance with clause 4.6.2 must be:
 - (a) decided by a majority decision of the Trustee directors after having received and given due consideration to independent expert remuneration advice; and
 - (b) approved by the Trustee's shareholders.
- 4.6.4 Subject to clauses 4.6.2 and 4.6.3 the allocation of remuneration between the directors in respect of performance of their obligations as Trustee directors or as Trustee board committee members must be determined by a majority decision of the Trustee directors.

- 4.6.5 The fee payable to the Trustee and the amount and allocation of the remuneration payable to the Trustee directors must be reviewed in accordance with any policy approved by the Trustee's shareholders or, in the absence of any such policy at reasonable intervals determined by the Trustee directors (being no less than twelve months). Any increase in the quantum, other than in accordance with the policy previously approved by the shareholders, may only be made after the Trustee directors have complied with the requirements of clause 4.6.3.

5 LIMITATION OF LIABILITY

5.1 Limitation

Subject to clause 5.2, neither the Trustee nor any of its directors or officers will be personally liable for any loss or detriment whatsoever incurred by any person in connection with the Fund for whatever reason and whether such loss or detriment arises from an act or omission on the part of the Trustee or any of its directors or officers.

5.2 Exceptions

Clause 5.1 does not apply:

- (a) to the extent that the loss or detriment is due to the Trustee's, or its director's or officer's dishonesty or wilful or reckless failure to exercise the degree of care and diligence that the Trustee, its director or officer was required to exercise; or
- (b) in any other circumstance specified by the Relevant Law in which the liability of a trustee, or a director or officer of a trustee of a regulated superannuation fund, may not be excluded or limited.

6 INDEMNITY

6.1 Indemnity

Amended by clause 2 of
Amending Deed dated
21 May 2024

- (a) The Trustee and its directors and officers are entitled, to the maximum extent permitted by the Relevant Law, to be indemnified from the Fund against all liabilities incurred by each of them in connection with execution, attempted execution, or in respect of non-execution of the Trustee's powers and discretions under this Trust Deed.

Inserted by clause 2 of
Amending Deed dated
21 May 2024

- (b) For the avoidance of doubt, the indemnity in clause 6.1(a) shall extend to circumstances where the Trustee acts upon the opinion or advice of or statement of barristers or solicitors who are instructed by the Trustee or any bankers, accountants, brokers, investment advisers or other persons believed by the Trustee in good faith and upon reasonable grounds to be expert in relation to the matters upon which they are consulted.

6.2 Payment and Reimbursement

Subject to the Relevant Law, the Trustee may recover from the Fund amounts necessary:

- (a) to meet the indemnities referred to in clause 6.1; and

- (b) to meet all Liabilities whatsoever in connection with the Fund and/or its role as Trustee under this Trust Deed.

7 INVESTMENT

7.1 General

7.1.1 Subject to the Relevant Law, the Trustee may invest the Assets of the Fund in any manner or form in which it could invest if it were acting personally and as the sole and absolute legal and beneficial owner of the Assets.

7.1.2 Without limiting clause 7.1.1, the Trustee has power:

- (a) to vary, substitute, charge or otherwise deal with Assets in any manner;
- (b) to acquire an interest in an Asset jointly with any other person and mix Assets of the Fund with other property (as long as separate records are maintained that enable Assets attributable to the Fund or any Investment Option to be identified);
- (c) to allow any Asset to be held in the Trustee's name or that of any other person acceptable to the Trustee;
- (d) to exercise any power whatsoever in connection with any Asset;
- (e) to make a loan or give financial assistance to any person;
- (f) to borrow or raise money and secure the repayment of that money in any manner it considers appropriate;
- (g) to:
 - (i) acquire and use Financial Instruments in any manner whatsoever consistent with the Trustee's investment strategy for the Fund, or for any Investment Option, including for the purposes of risk management and enhancing investment returns or in substitution for physical holdings; and
 - (ii) apply Assets of the Fund to meet expenses associated with any such acquisition or use of Financial Instruments and
- (h) to create and manage reserves within the Fund and to discontinue any such reserves.

7.1.3 To the maximum extent permitted by law:

- (a) the only obligations of the Trustee with regard to the making and monitoring of investments for the Fund ("**Investment Obligations**") are those imposed by the Trust Deed and the SIS Act; and
- (b) all Investment Obligations imposed or implied by law, equity or statute other than those referred to in paragraph (a) are expressly excluded from direct or indirect application to the Fund.

7.2 Investment Strategy

Investments of the Fund must be made in accordance with one or more investment strategies formulated by the Trustee that comply with the Relevant Law.

7.3 Reserves Management

The Trustee must formulate and give effect to a strategy for prudential management of any reserves maintained in the Fund consistent with the Relevant Law.

7.4 Valuation

The Trustee will arrange for valuations of Assets at such times and on such basis as it considers appropriate, subject to the Relevant Law.

7.5 No Loans to Members

No amount forming part of the assets of the Fund may be advanced to or lent by the Trustee to any Member.

8 RECORDS, AUDIT AND INFORMATION

8.1 General

The Trustee must, in accordance with the Relevant Law:

- (a) keep records and accounts for the Fund;
- (b) prepare financial and other statements and/or returns in respect of the Fund;
- (c) arrange for audit of records, financial statements and other information in respect of the Fund;
- (d) arrange for the retention of records and other information in respect of the Fund; and
- (e) provide information to Beneficiaries, prospective Beneficiaries, Employers, prospective Employers, Regulators, auditors and any other person in connection with the Fund.

9 MEMBERSHIP

9.1 Eligibility

9.1.1 The eligibility conditions for membership of each Category are described in the Schedule applicable to that Category.

9.1.2 The Trustee may in its absolute discretion but subject to Relevant Law, admit any person to be a Member of the Fund, subject to any terms and conditions determined by the Trustee.

9.2 Acceptance

9.2.1 Membership applications must be made in a form acceptable to the Trustee. The Trustee may accept or reject any application.

- 9.2.2 A person may be accepted for membership without application where the Trustee agrees and the Relevant Law permits. This may be the case, for example:
- (a) where an Employer or other person arranges membership on behalf of the person and informs the Trustee in the form (if any) provided by the Trustee from time to time; or
 - (b) where the person becomes a Member because of a transfer to the Fund under clause 13 without the person's consent.

9.3 Information

Without limiting clause 9.2, the Trustee may require a person applying for membership to undergo a medical examination, sign documents, provide information and evidence, and generally satisfy any other requirements of the Trustee.

9.4 Timing

- 9.4.1 If a membership application is accepted, the person's membership will commence from:
- (a) the date on which the Trustee accepts the application; or
 - (b) in the case of an Accumulation Member, another date agreed by the Trustee and, if relevant, the Member's Employer, or a date provided for in an Employer Registration Deed.
- 9.4.2 If a person becomes a Member without application, the person's membership will commence from a date specified by the Trustee.
- 9.4.3 If any doubt or dispute arises as to:
- (a) the date on which an Employee commenced or ceased employment;
 - (b) whether or not an Employee is actively employed;
 - (c) an Employee's remuneration; or
 - (d) the terms and conditions of an Employee's employment contract;
- the Trustee will be entitled to rely on the decision of the Employer on the matter.

9.5 Recommencing with or Transferring Employers

- 9.5.1 If an Accumulation Member transfers employment from one Employer to another Employer, the transfer will not constitute a cessation of employment for the purpose of an entitlement to a benefit, unless the Employer and the Trustee agree otherwise.
- 9.5.2 If a person who is already a Member begins employment with an Employer who contributes to the Fund for the Member, the Member's existing entitlements in the Fund will not be affected unless clause 9.5.3 applies.
- 9.5.3 For the purposes of clause 9.5.2, this clause applies where the Member and Employer agree otherwise and the Trustee consents.

9.6 Trust Deed

Each person admitted as a Member and each Beneficiary is deemed to have approved of, and becomes bound by, the Trust Deed.

9.7 Categories

9.7.1 With the Trustee's approval, a Beneficiary may:

- (a) belong to more than one Category;
- (b) change membership from one Category to another; or
- (c) transfer entitlements from one Category and consolidate them with entitlements held for the Beneficiary in another Category.

9.7.2 Subject to the Relevant Law, the Trustee may change a Beneficiary's Category without the Beneficiary's consent where it considers appropriate.

9.7.3 A Member of the Defined Benefit Category may apply to the Trustee to become a Member of an Accumulation Category if the Member completes an application acceptable to the Trustee and they are employed by an Employer.

9.7.4 If clause 9.7.3 cannot be satisfied, a Member of the Defined Benefit Category may apply to the Trustee for the amount of his or her benefit calculated under the Trust Deed to be transferred to an Approved Benefit Arrangement.

9.7.5 If a change of the type described in clause 9.7.1(b) is to be made relating to an Accumulation Category or the Defined Benefit Category and the change will or may increase any liability of an Employer to contribute to the Fund, the change may not be made unless the Employer consents.

9.7.6 Where a change of Category occurs, the Trustee will adjust the notional attribution of Assets between Categories and/or Investment Options as it considers appropriate.

9.7.7 Any special form of application required in relation to membership of a Category must be in a form acceptable to the Trustee. The Trustee may accept or reject any application.

9.8 Termination of Beneficiary's Interest

A person ceases to be a Beneficiary when:

- (a) all benefits to which the Beneficiary has become entitled under this Trust Deed have been paid; or
- (b) the whole of the Account Balance relating to that Beneficiary has been transferred out of the Fund in accordance with clause 13.2; or
- (c) the Beneficiary's entitlement to benefits is otherwise terminated.

9.9 Termination of Category Membership

A person ceases to belong to a Category when:

- (a) all benefits to which the Beneficiary has become entitled in relation to that Category under this Trust Deed have been paid; or
- (b) the whole of the value of those benefits or prospective benefits has been reattributed to another Category.

9.10 Beneficiaries' Interests and Liabilities

9.10.1 No Beneficiary has any interest in any particular Asset of the Fund. Beneficiaries must not:

- (a) interfere with the exercise of powers by the Trustee; or
- (b) assert any right or claim in respect of any Asset or part of an Asset.

9.10.2 The liability of Beneficiaries in connection with the Fund is limited as described below.

- (a) Such liability is limited to the amount the Beneficiary contributes to the Fund.
- (b) The Trustee's right of indemnity and the right of recourse of any creditor is limited to the Fund's Assets.
- (c) Beneficiaries are not liable:
 - (i) to indemnify the Trustee in respect of any deficiency in the Fund; or
 - (ii) in connection with claims by any of the Trustee's creditors relating to the Fund.

This clause is not intended to limit clause 12.9.

9.11 Accounts

9.11.1 The Trustee will establish and maintain for each Beneficiary each Account that is required to be kept in relation to a Beneficiary (that is, a Beneficiary's Account) in accordance with the Rules.

9.11.2 The Trustee may establish and maintain any other Beneficiary's Accounts that it considers appropriate.

9.11.3 A Beneficiary's Account Balance is found by aggregating the amounts standing to the credit to all of that Beneficiary's Accounts at any given time.

9.11.4 The amount standing to the credit of any Beneficiary's Account will be the amount determined based on:

- (a) crediting any amounts that the Trustee considers should be credited to that Account in respect of the Beneficiary. These may include amounts relating to contributions, Government Co-contributions, Contributions-Splitting Superannuation Benefits, transfers of amounts into the Fund in accordance with clause 13.1, positive investment returns and any other amounts that the Trustee considers appropriate;
- (b) debiting any amounts that the Trustee considers should be debited to that Account in respect of the Beneficiary. These may include amounts relating to any benefit payments, amounts transferred out of the Fund, negative

investment returns, fees, amounts on account of actual or anticipated Liabilities (including Taxes and amounts payable in respect of any Insurance Policy), amounts payable in accordance with a split of a Member's interest in the Fund in accordance with the Family Law Requirements, Contributions-Splitting Superannuation Benefit payments and other amounts that the Trustee considers appropriate. They may also include, in relation to Queensland Members, amounts relating to any additional amounts that may be payable to Members under rule A6.2.3 in order to ensure that Members receive their Minimum Benefit Amount.

- 9.11.5 For the purposes of determining investment returns to be attributed to a Beneficiary's Account, the Trustee will have regard to the investment earnings (positive or negative) that are associated with the Investment Option or Investment Options to which the balance in the relevant Account is attributed during the period in question in accordance with clause 15. The Trustee will otherwise determine investment returns to be credited or debited to a Beneficiary's Account at such times and in any manner that it considers appropriate.

10 ADMISSION OF EMPLOYERS

10.1 Acceptance

- 10.1.1 Employer participation applications must be made in a form acceptable to the Trustee. The Trustee may accept or reject any application.
- 10.1.2 The Trustee may permit an Employer to participate in the Fund even though an Employer participation application has not been completed.
- 10.1.3 An Employer (**Principal Employer**) may apply on behalf one or more organisations to become a Participating Employer in the Fund in association with the Principal Employer, as an Associated Employer.

Such an application may be made either:

- (a) as part of the Principal Employer's Employer participation application; or
- (b) at any time after the Principal Employer has been admitted as a Participating Employer.

The Trustee may accept or reject such an application.

- 10.1.4 The Trustee:
- (a) is not bound to inquire as to the nature of any association between a Principal Employer and an Associated Employer nominated by that Principal Employer;
 - (b) is entitled to assume that an Employer participation application by a Principal Employer on behalf of an Associated Employer has been properly authorised by the Associated Employer;
 - (c) may treat an Employer participation application by a Principal Employer on behalf of an Associated Employer as being accompanied by a warranty by the Principal Employer that it has authority to make that application on the Associated Employer's behalf.

10.2 Timing

10.2.1 Subject to clause 10.2.2 if an Employer participation application is accepted, the Employer's participation will commence from:

- (a) the date on which the Trustee accepts the application; or
- (b) another date agreed between the Trustee and the Employer.

10.2.2 In the case of an Associated Employer, the Associated Employer's participation will commence from:

- (a) the date on which the Trustee accepts the Principal Employer's application;
or
- (b) another date agreed between the Trustee and the Principal Employer.

10.3 Trust Deed

Each person admitted as an Employer is deemed to have approved of, and becomes bound by, the Trust Deed.

10.4 Employer Registration Deed

10.4.1 The Trustee may require the Employer to sign an Employer Registration Deed, in a form determined by the Trustee. An Employer Registration Deed may specify particular conditions regarding Beneficiaries or classes of Beneficiaries or any other matter.

10.4.2 Subject to the Relevant Law, the Employer Registration Deed may include terms relating to special arrangements that may qualify provisions of this Trust Deed that would otherwise apply to the Members concerned.

10.5 Variations

The Employer may vary an Employer Registration Deed by agreement with the Trustee. Variations must be recorded in writing and must be consistent with this Trust Deed.

10.6 Conflict

10.6.1 If there is a conflict between a provision of the Trust Deed and a provision in an Employer Registration Deed, the Trust Deed will prevail.

10.6.2 To avoid doubt, a special arrangement of the type described in clause 10.4.2 will not be taken to conflict with the Trust Deed.

10.7 Termination: Circumstances

10.7.1 An Employer's participation in the Fund terminates if:

- (a) the Employer gives at least 30 days' written notice to the Trustee that the Employer wishes to terminate its participation; or
- (b) the Trustee gives at least 30 days' written notice to the Employer of the termination of the Employer's participation; or

- (c) an order or resolution is made for the winding up of the Employer or the Employer ceases to carry on business for any reason; or
- (d) the Employer is a natural person and is declared bankrupt; or
- (e) the Employer is dissolved as a legal entity (or the Trustee becomes aware that it is about to be dissolved); or
- (f) an Employer ceases to employ any Employees; or
- (g) there are no Members relating to the Employer (or an Associate of that Employer that also participates in the Fund); or
- (h) the Trustee considers that participation should be terminated.

In this event the Trustee will decide the date on which the termination will take effect ("**Termination Date**").

- 10.7.2 If an Employer is affected by clauses 10.7.1(c), (d) or (e) ("**Former Employer**") the Trustee may enter into an agreement with a new Employer which the Trustee considers succeeds the Former Employer.

10.8 Termination: Effects

- 10.8.1 This clause 10.8 applies if an Employer's participation terminates.
- 10.8.2 Where this clause 10.8 applies, in the case of Members of the Accumulation Category (Employer) who are employees of that Employer, their Beneficiary's Account Balance may remain in the Fund.
- 10.8.3 Where this clause 10.8 applies, in the case of Defined Benefit Members unless the Trustee is satisfied that another Employer will take on the same or substantially similar obligations as the terminating Employer in relation to the Member's entitlements as a Defined Benefit Member, the terminating Employer will be taken to have given notice of termination of its contributions and rights, obligations and entitlements will be determined in accordance with the applicable provisions of the Previous Trust Deed, as provided under Schedule C.
- 10.8.4 Where this Clause 10.8 applies (and without limiting anything in its preceding provisions), the Trustee may adjust any benefits which is or may become payable in respect of any Member whom the Trustee considers is affected by the termination. However, the adjustment may not increase the amount of the Member's benefits accrued immediately prior to the termination.
- 10.8.5 With the Trustee's approval an Employer may vary or revoke a notice given under Clause 10.7.1. In such a case the Trustee may propose any conditions and determine any adjusted rights or benefits and obligations that may apply.

10.9 Rights not Affected

Nothing in this Trust Deed limits an Employer's rights to dismiss, remunerate or otherwise deal with an Employee or may be used to increase liability for damages or compensation in any proceedings relating to an Employee.

10.10 Payments to an Employer

The Trustee may pay money from the Fund to an Employer subject to the Relevant Law.

10.11 Employer Obligations

Nothing in this Trust Deed is to be taken as imposing any fiduciary obligations on an Employer in connection with the exercise of any powers relating to the Fund. Subject to the Relevant Law and this Trust Deed, the Employer may in its absolute discretion exercise any powers relating to the Fund and is not required to give reasons.

11 CONTRIBUTIONS

11.1 General

11.1.1 Contributions may be made in accordance with arrangements specified in, or made in accordance with, the Schedules.

11.1.2 However, notwithstanding anything in the Schedules, the Trustee may also accept contributions in relation to a Category in circumstances other than those set out in the relevant Schedule, in accordance with clause 11.3.

11.2 Acceptance

The Trustee may choose whether or not to accept all or part of a contribution.

11.3 Powers

The Trustee may accept contributions from any person or in any circumstance permitted by the Relevant Law. Without limiting this clause 11, the Trustee may accept:

- (a) a shortfall component, as defined in the Superannuation Guarantee (Administration) Act 1992 (Cth), in respect of a Member;
- (b) a Contributions-Splitting Superannuation Benefit or Spouse Contributions;
- (c) Government Co-contributions; and
- (d) contributions other than in cash.

11.4 Defective Contributions

11.4.1 If the Trustee finds after accepting contributions that it should not have done so, it may take any action that it considers necessary, or that is permitted by Relevant Law. For example, it may repay an appropriate amount to the person or entity who made the contributions. That amount must be calculated on a fair and reasonable basis and may be adjusted to take into account Fund Expenses to the extent permitted by Relevant Law.

11.4.2 If an amount is initially recorded as having been contributed or transferred to the Fund but that amount is not actually received (for example where a cheque is dishonoured), the contribution or transfer will be deemed to have never been made.

11.5 Late Contributions

Without limiting the powers of the Trustee under clause 11.3, if an Employer fails to pay contributions within the time required under a Schedule, the Employer must, if required by the Trustee, pay the outstanding contributions plus:

- (a) interest on the outstanding contributions from the date payment was due to the date on which the payment was made, at a rate determined by the Trustee based on the actual or estimated rate of investment return on the Fund's assets or those of a relevant Investment Option during the period; and
- (b) reasonable costs incurred by the Trustee in obtaining the outstanding contributions from the Employer.

12 BENEFITS

12.1 Schedules

Particulars regarding the calculation of benefits and the circumstances in which they are payable are stated in the Schedules relevant to each Category.

12.2 Information and Conditions

12.2.1 In relation to the payment of a benefit, the Trustee may:

- (a) require a Beneficiary to provide any information or do any act; and
- (b) impose any conditions;

permitted under the Relevant Law.

12.2.2 If a Beneficiary does not comply with the Trustee's requirements under clause 12.2.1, the Trustee may refuse to consider his or her claim for a benefit or suspend or terminate his or her benefit, if permitted under Relevant Law.

12.2.3 No benefit will be payable unless the Trustee is satisfied that the benefit is properly payable in accordance with the Trust Deed and the Relevant Law.

12.2.4 No Beneficiary or other person claiming on behalf of a Beneficiary or claiming as a Dependant or Legal Personal Representative of a Beneficiary will be entitled to require any payment from the Fund except to the extent that the Deed expressly provides.

12.3 Insurance Arrangements

12.3.1 The Trustee may make arrangements under which insurance cover is made available to Members, or certain Categories or groups of Members, in order to provide for, or supplement, benefits payable from the Fund and enter one or more Insurance Policies for this purpose.

12.3.2 Insurance cover to which this clause applies may relate to death, Total and Permanent Disablement, Temporary Disablement or any other contingency permitted under Relevant Law.

12.3.3 The Trustee may determine any special terms, conditions or restrictions that apply to such insurance cover, or the terms on which it is made available, and may enter any arrangements that it considers appropriate with an insurer for this purpose.

12.4 Insurance Limitations

12.4.1 If arrangements have been made in accordance with clause 12.3.1 under which benefits payable from the Fund may include an insured component under an Insurance Policy (for example a benefit payable on the Member's death or Total and Permanent Disablement or Temporary Disablement):

- (a) the benefit will be such amount or amounts as the Trustee considers appropriate having regard to:
 - (i) the amount or amounts payable under the Insurance Policy;
 - (ii) the timing of those payments;
 - (iii) the liabilities incurred by the Trustee in connection with the Insurance Policy (including the receipt and payment of proceeds); and
 - (iv) any relevant Insurance Policy terms and conditions.
- (b) and no amount is paid or payable under that Insurance Policy in respect of a Member or the amount paid under the Insurance Policy is less than the amount that would ordinarily be payable, the amount payable to the Member will be adjusted accordingly.

12.4.2 If a benefit includes a self-insured component and circumstances exist such that, if that component of the benefit had been insured, in the Trustee's reasonable opinion it is likely that an external insurer:

- (a) would not have provided or increased insurance cover on standard terms;
- (b) would otherwise have refused to provide, maintain or increase cover, or would have terminated or restricted it, or
- (c) would have not admitted or would refused to consider or defer a claim in whole or in part, or pay a benefit in whole or in part,

the Trustee may adjust that component of the benefit in accordance with clause 12.4.1 as if the component had been the subject of insurance provided under an Insurance Policy.

12.4.3 Clauses 12.4.2 and 12.4.3 are:

- (a) for the protection of the Trustee and the Fund; and
- (b) not to be taken as conferring any rights on Beneficiaries in respect of benefits additional to those provided under other provisions of this Trust Deed.

12.5 Method

Benefits may be paid by any method that the Trustee considers appropriate.

12.6 Circumstances and Amounts: General

12.6.1 Benefits:

- (a) may, in addition to any specific circumstance described in the Schedules, be paid in any other circumstance permitted by the Relevant Law. (However, the Trustee is not obliged to pay benefits in those other circumstances unless it agrees to do so or the Relevant Law compels it to do so);
- (b) must be paid in the form and in the circumstances in which the Relevant Law compels benefits to be paid;
- (c) may only be paid in the form and in the circumstances in which the Relevant Law permit benefits to be paid;
- (d) will (except where a Member otherwise elects) be paid in lump sum form. A Member may elect for his or her benefit to be paid in pension form or partly as a pension and partly as a lump sum, or in any other manner agreed to by the Trustee. The Trustee may determine the manner and form in which an election must be made and any timing requirements. The Trustee is not obliged to accept an election;
- (e) may, where payable in lump sum form, be paid in more than one instalment;
- (f) may be retained wholly or partly in the Fund with the Trustee's agreement, and if the Relevant Law permits at a Member's request, until paid in accordance with this Trust Deed;
- (g) will generally be paid as soon as practicable. However, subject to the Relevant Law the Trustee may, where it considers appropriate, arrange for payments to be delayed for a reasonable period selected by the Trustee. The Trustee may, in its absolute discretion, adjust a benefit payable by an amount determined by it in respect of the period between the date the benefit first became payable and the actual date of payment of the benefit; and
- (h) will be paid subject to any obligation that the Trustee has to make a payment to a Non-Member Spouse in accordance with the Relevant Law.

12.6.2 Except where this Trust Deed provides otherwise or the Trustee otherwise determines, the amount of a lump sum benefit will be an amount agreed between the Trustee and Beneficiary, but not:

- (a) exceeding the Beneficiary's Account Balance; or
- (b) less than any amount required under the Relevant Law.

12.6.3 Subject to Relevant Law:

- (a) the Trustee may in its absolute discretion pay a benefit or amount greater than would otherwise be provided under this Deed;
- (b) an Employer may request the Trustee to pay a benefit or amount greater than would otherwise be provided under this Deed. In that case the Trustee may require the Employer to contribute additional amounts to the Fund or impose other conditions.

12.7 Death Benefits

This clause applies to Death Benefits for Accumulation Members, Defined Benefit Members, WA Coal Industry Members and Mines Rescue Stations Members and such other membership categories as the Trustee may determine from time to time.

12.7.1 Subject to Relevant Law and the remaining provisions of this Clause 12.7, a Death Benefit must be paid by the Trustee in proportions decided by the Trustee to one or more of:

- (a) the Member's Dependants; and
- (b) the Member's Legal Personal Representatives;

in such form, manner and proportions and subject to such conditions as the Trustee in its absolute discretion may determine.

12.7.2 Subject to Relevant Law and clause 12.7.4, if the Trustee, after reasonable inquiry, has not found any Dependant or Legal Personal Representative of the deceased Member, the benefit may be paid to any other person that the Trustee chooses.

12.7.3 For the purposes of this clause 12.7:

- (a) Members may give the Trustee a Death Benefit Nomination;
- (b) except in the case of a Binding Death Nomination, made in accordance with clause 12.7.4, a Death Benefit Nomination is not binding on the Trustee, however the Trustee may consider it when exercising its discretion in payment of a Death Benefit;
- (c) Members may vary Death Benefit Nominations; and
- (d) the Trustee may stipulate a form in which a Death Benefit Nomination is to be made.

12.7.4 Subject to Relevant Law, the Trustee may permit Members to give a Binding Death Benefit Nomination. The Trustee will pay a death benefit in accordance with a Binding Death Benefit Nomination provided that the nomination is valid and in effect, and meets the requirements of the Relevant Law.

12.7.5 The Trustee may establish membership classes and set conditions for each of those classes relating to the manner in which Death Benefits will be payable.

12.7.6 The Trustee may pay part or all of a Death Benefit to be held on trust (contingent or otherwise) for any one or more of the Member's Dependants.

12.7.7 Subject to the Relevant Law, if a Beneficiary, other than a Member dies any amount payable from the Fund in respect of that Beneficiary must be administered and paid as if the Beneficiary was a Member at the time of the Beneficiary's death.

12.8 Transfer of Assets

Where the Trustee is obliged to pay or transfer a benefit, it may meet that obligation wholly or partly by transferring one or more Assets of equivalent value to the Beneficiary.

12.9 Misconduct

Subject to the Relevant Law, if a Beneficiary engages in wrongful conduct as a result of which the Trustee, or the Fund, suffers any loss or damage, the Trustee may deduct any amount that it considers appropriate by way of reimbursement or compensation, from:

- (a) the Beneficiary's interest in the Fund; or
- (b) any benefit that would otherwise be payable in respect of that Beneficiary, under this Trust Deed.

The Trustee may deal with that amount in any manner it considers reasonable having regard to the Relevant Law.

12.10 Bankruptcy and Assignments

12.10.1 If:

- (a) a Beneficiary attempts to assign, alienate or charge all or part of his or her interest under this Trust Deed; or
- (b) any other event occurs, including bankruptcy, that results in a person other than the Beneficiary becoming entitled to that interest (other than an event that produces that result because of a provision of this Trust Deed);

then, subject to the Relevant Law, the interest will be forfeited. This clause 12.10 is to be read down to the extent that it would be inconsistent with the Bankruptcy Act 1966 (Cth).

12.10.2 Subject to the Relevant Law, the amount representing any interest that is forfeited in accordance with this clause 12.10 may be paid in proportions decided by the Trustee for the benefit of one or more of the Beneficiary, or the Beneficiary's (or former Beneficiary's) Dependants as the Trustee considers appropriate.

12.10.3 If a Beneficiary's interest is forfeited under this clause 12.10 and the event or circumstance that gave rise to the forfeiture has ceased to affect the Beneficiary or his or her property, then the Trustee and taking account of any benefit provided under clause 12.10.2 may readjust the interests of the Beneficiary (and of any other person entitled to any claim on those interests) as the Trustee considers appropriate, not exceeding the benefit that would otherwise have applied if the forfeiture had not occurred.

12.10.4 If the Trustee receives an order or notice in respect of a Member under the Bankruptcy Act 1966 (Cth), the Trustee may:

- (a) before complying with that order or notice; and
- (b) after complying with that order or notice;

adjust the Member's benefit as the Trustee considers appropriate, including by deducting fees and amounts in respect of Liabilities and Tax. (This is not intended to restrict the Trustee from deducting fees or recovering amounts in any other way.)

12.11 Incapacity

If the Trustee believes that a Beneficiary is unable to manage his or her financial affairs because of legal incapacity, the Trustee may, subject to the Relevant Law, pay some or all of the amount payable in respect of the Beneficiary to another person to be used for the benefit of the Beneficiary.

12.12 Discharge

Once a Beneficiary to whom a payment has been made or an Approved Benefit Arrangement to which a transfer has been made has received the benefit or transfer in full:

- (a) the Trustee is fully discharged from all obligations in connection with that benefit payment or transfer and has no obligation to see how it is applied; and
- (b) the rights and interests of that Beneficiary under the Trust Deed are entirely extinguished.

12.13 Unclaimed Money

The Trustee will ensure that any benefit or money that is unclaimed is dealt with in accordance with the Relevant Law.

12.14 Deductions

The Trustee may deduct fees and amounts in respect of Liabilities and Tax from any benefit payment. (This is not intended to restrict the Trustee from deducting fees or recovering such amounts in any other way.)

13 TRANSFERS

13.1 Transfers in

Subject to the Relevant Law, the Trustee may accept into the Fund an amount in respect of a Member or prospective Member that is transferred from another Approved Benefit Arrangement.

13.2 Transfers out

13.2.1 The Trustee may transfer the whole or part of any amount held in the Fund in respect of a Beneficiary to an Approved Benefit Arrangement. The Trustee may make such a transfer:

- (a) without the Beneficiary's consent if the Relevant Law permits; or
- (b) at the Beneficiary's request. However, if the effect of such a transfer would be to increase an Employer's liability to contribute in respect of the Beneficiary, the transfer may only occur if the Employer consents.

13.2.2 The Trustee may transfer the balance of a Beneficiary's Pension Account to an Approved Benefit Arrangement,

13.2.3 Notwithstanding anything in this clause 13.2, the Trustee may not transfer any benefits without the Beneficiary's consent to the extent that those benefits are composed of:

- (a) money that was credited to the Coal and Oil Shale Mine Workers Superannuation Fund established under section 18 of the New South Wales Act (as in force before the commencement of Schedule 2 of the New South Wales Amendment Act) and the COSAF Superannuation Fund immediately before commencement of Schedule 2 of the New South Wales Amendment Act 1994;
or
- (b) money that was required or authorised to be paid to the Fund by legislation or by the Trust Deed.

13.3 Contributions-Splitting Superannuation Benefits

The Trustee may roll over, transfer or allot a Contributions-Splitting Superannuation Benefit to another Approved Benefit Arrangement or to a Spouse Member Account, in accordance with the Relevant Law.

14 INVESTMENT OPTIONS

14.1 Establishment and Maintenance of Investment Options

- 14.1.1 The Trustee may offer any number of Investment Options at any time.
- 14.1.2 On establishing an Investment Option, the Trustee will decide its name and other specifications relating to it (including the kinds of Asset or Assets to be held, the associated investment strategy and other relevant matters). The Trustee may change the name or other specifications at any time.
- 14.1.3 Subject to the Relevant Law, the Trustee may merge, divide or discontinue Investment Options at any time. In this event the Trustee will:
- (a) notify affected Beneficiaries where necessary under the Relevant Law; and
 - (b) determine how the interests of Beneficiaries will be attributed between the Investment Options to reflect those changes.
- 14.1.4 The Trustee will ensure that the Assets and Liabilities associated with each Investment Option can be identified separately.

14.2 Selection of Investment Options

- 14.2.1 The value of interests in each Beneficiary's Account will be attributed to:
- (a) one or more Investment Options as requested or directed by the Beneficiary and accepted by the Trustee; or
 - (b) one or more Investment Options specified by the Trustee.
- 14.2.2 Any amount in a reserve account in which, in the Trustee's opinion, the Employer has an interest, may be invested in one or more Investment Options:
- (a) requested by the Employer and accepted by the Trustee; or
 - (b) selected by the Trustee.
- 14.2.3 The Trustee may establish one or more default arrangements providing for attribution of the value of interests within each Beneficiary's Account to one or more Investment Options:
- (a) if a Beneficiary does not make a request in accordance with clause 14.2.1(a); or
 - (b) if the Trustee does not accept such a request; or
 - (c) in any other circumstances determined by the Trustee.
- 14.2.4 If an Investment Option is merged, divided or discontinued, amounts will be attributed in respect of each Beneficiary to one or more Investment Options in accordance with arrangements made by the Trustee, which may (but need not necessarily) be made after seeking a request from the Beneficiary or Employer, as the case may be.

14.3 Switches

- 14.3.1 A Beneficiary may apply to switch amounts between Investment Options.
- 14.3.2 The Trustee may accept or reject a switch application and, if it accepts an application, determine the date on which it takes effect.
- 14.3.3 The Trustee may switch amounts between Investment Options in the absence of an application by a Beneficiary under clause 14.3.1 in the circumstances provided by clause 14.1.3, or otherwise.
- 14.3.4 Amounts will be attributed between Investment Options to reflect the effect of a switch.

14.4 Order of debiting

- 14.4.1 Where there are two or more Investment Options attributable to a Beneficiary the order in which debits relating to a Beneficiary's Account (including those relating to benefit payments) are applied to each Investment Option is in accordance with arrangements selected by the Beneficiary and accepted by the Trustee, or if no selection is made or the Trustee does not accept a selection, in accordance with default arrangements made by the Trustee.
- 14.4.2 The Trustee:
 - (a) may determine the form in which a selection referred to in clause 14.4.1 is to be made; and
 - (b) may suspend a selection made in accordance with clause 14.4.1.

14.5 Direct Share Facility

- 14.5.1 The Trustee may establish and maintain a listed security investment facility called a 'Direct Share Facility' or such other name as the Trustee may decide.
- 14.5.2 A Member may elect to invest through a Direct Share Facility, in accordance with any terms and conditions which the Trustee may decide from time to time, by requesting the Trustee to acquire and hold for the Member's benefit Assets made available by the Trustee for investment under the Direct Share Facility.
- 14.5.3 The Trustee may accept or reject the Member's request to invest under a Direct Share Facility. If the Trustee accepts the Member's request, it shall hold the Assets directed by the Member for acquisition under the Direct Share Facility for the benefit of the Member.
- 14.5.4 Without limiting any other provisions in this Deed, the Trustee is empowered to do anything whatsoever necessary or desirable for the maintenance, operation, management and administration of the Direct Share Facility and of the Assets acquired through this facility."

15 INVESTMENT RETURNS

- 15.1 Subject to Relevant Law, the Trustee will determine the investment returns associated with each Investment Option at such times in such manner as it considers appropriate. Investment returns may be either positive or negative.

- 15.2 If any part or parts of the Fund's Assets are not attributed to an Investment Option, the Trustee may apply clause 15.1, with any necessary modifications, to determine one or more investment returns in connection that part or those parts of the Fund's Assets. Investment returns may be either positive or negative.

16 SPECIAL PURPOSE RESERVE ACCOUNT

- 16.1 Subject to Relevant Law the Trustee may:
- (a) create a Special Purpose Reserve Account for the Fund as a whole or any Category of the Fund;
 - (b) credit to the Special Purpose Reserve Account, any amounts it thinks appropriate from investment earnings or other assets of the Fund;
 - (b) apply any amounts from the Special Purpose Reserve Account in any way that the Trustee considers appropriate including, without limitation by way of credit to one or more Beneficiary's Accounts;
 - (c) establish and maintain separate sub-accounts within the Special Purpose Reserve Account (for example in connection with different policies or purposes for which the Trustee may apply amounts in the Special Purpose Reserve Account); and
 - (d) invest assets in the Special Purpose Reserve Account in accordance with clause 7.1, including in one or more Investment Options determined by the Trustee.
- 16.2 Without limiting clause 16.1(c), the Trustee may apply amounts in the Special Purpose Reserve Account for the purpose of;
- (a) smoothing investment returns associated with one or more Investment Options or any part of the Fund; and
 - (b) establishing one or more capital, prudential or operational risk reserves.

17 FAMILY LAW

- 17.1 The Trustee may:
- (a) adjust any benefit payable; or
 - (b) provide information; or
 - (c) transfer any amount to an Approved Benefit Arrangement; or
 - (d) do any other thing it considers appropriate;
- if required or permitted to do so under the Family Law Requirements.
- 17.2 If a Non-Member Spouse becomes entitled to a splittable payment from a Member's interest in the Fund, the Non-Member Spouse may become a Member of the Fund.
- 17.3 Subject to Relevant Law, the Trustee may impose any fees or charges it considers appropriate in connection with anything it is required or permitted to do under with the Family Law Requirements.

18 CONFIDENTIALITY

- 18.1 The Trustee will not disclose any confidential information regarding Beneficiaries or Employers acquired in the course of acting as trustee, to other parties. It will only use such information for the purposes of the Fund or as otherwise permitted by law.
- 18.2 This clause 18 does not apply:
- (a) where the Trustee may be legally compelled to, or penalised for, failure to disclose such information; or
 - (b) to disclosures made to Employers or agents or delegates of the Trustee in connection with the operation of the Fund.

19 TERMINATION OF ACCUMULATION CATEGORY

- 19.1 The Trustee may resolve to terminate an Accumulation Category at any time.
- 19.2 If the Trustee resolves to terminate an Accumulation Category: it will make any arrangements it considers appropriate (for example relating to contributions, pending benefit payments, valuation of Assets attributable to the Category and provisioning for expenses, and any fair and equitable adjustments to Beneficiary's Account Balances).
- 19.3 Following termination of an Accumulation Category, the Trustee may transfer the relevant Beneficiaries' Account Balances referred to in clause 19.2 to one or more other Categories in accordance with clause 9.7.2 or deal with them in any other way permitted by Relevant Law.

20 TERMINATION OF DEFINED BENEFIT CATEGORY

- 20.1 Subject to the Relevant Law, the Defined Benefit Category will be terminated if:
- (a) legislation is enacted to discontinue or wind the Category up; or
 - (b) there are no Members or other Beneficiaries in the Category and in the opinion of the Trustee, all benefits which could become payable from the Category have been paid; or
 - (c) an event occurs which in the opinion of the Trustee makes the discontinuance of the Category necessary or appropriate.
- 20.2 If the Defined Benefit Category is terminated in accordance with clause 20.1 or the Trustee otherwise determines that it is appropriate to do so, the Trustee will determine the priority of claims for payment from the Category of pensions, lump sum benefits, refunds of contributions and any other benefits required or authorised to be paid under the New South Wales Act and the Trust Deed.
- 20.3 After determining the priority of claims for payment from the Defined Benefit Category in accordance with clause 20.2, the Trustee must:
- (a) if the Trustee decides that it is necessary or appropriate to do so, realise the assets of the Category;
 - (b) obtain advice from the Actuary as to the amount properly payable to each Member and other Beneficiary of the Category having regard to the amount

of assets in the Category; and

- (c) after payment of Fund Expenses properly payable from the Category, allocate the proceeds of the Category in accordance with the priority determined under clause 20.2 and the Actuary's advice obtained for that purpose.

20.4 If, when providing advice to the Trustee for the purposes of this clause 20 or for any other purpose, the Actuary determines that there is a surplus in the Defined Benefit Category, the Trustee must distribute that surplus, or such portion which the Trustee determines that it is prudent to do so if the Category is not to be discontinued, to those Employers and Mine Workers who were contributing to the Category at the time of the Actuary's determination, on an equitable basis in proportion to the contributions which they have made to the Category.

20.5 Subject to the Relevant Law, the Trustee may make such arrangements as it considers appropriate to provide for the benefit entitlements of Members and other Beneficiaries on the discontinuance of the Defined Benefit Category, including without limitation payment to the Member or Beneficiary, retention in the Fund until payment is permitted or required by the Relevant Law, payment to another superannuation arrangement for the benefit of the Member or other Beneficiary or the purchase of an annuity or similar product for the benefit of the Member or other Beneficiary.

21 TERMINATION OF THE FUND

21.1 General

The Fund will be terminated if:

- (a) the Trustee's office becomes vacant and no new Trustee is appointed within sixty (60) days; or
- (b) the Trustee resolves to terminate the Fund in accordance with clause 21.2.

Where paragraph (a) applies, references to "the Trustee" in clauses 21.3 and 21.4, refer to the entity appointed after the sixty (60) day period.

21.2 Termination by Trustee

The Trustee may resolve to terminate the Fund at any time. If it decides to do so the following provisions will apply:

- (a) the Members and Employers will be notified in accordance with the Relevant Law; and
- (b) the Trustee will determine a closure date ("**Closure Date**").

Where clause 21.1(a) applies, the Closure Date will be the date of expiry of the sixty (60) day period referred to in that clause.

21.3 No Further Receipts

From the Closure Date no further contributions or transfers of amounts into the Fund may be accepted unless the Trustee specifically agrees (except for payment of any contributions arrears due at that date).

21.4 Application of Assets

Assets of the Fund will be applied in the following order on termination:

- (a) to provide for all Liabilities relating to the Fund, except for those relating to benefit payments;
- (b) to provide for benefits that became payable on or before the Closure Date;
- (c) to provide for the following benefits:
 - (i) in the case of Accumulation Members and Members with an Account-Based Pension an amount equal to the Member's Account Balance; or
 - (ii) in the case of Defined Benefit Members and WA Coal Industry Category (Category A) Members, subject to the Relevant Law, an amount determined by the Trustee based on any priority as between different groups of Members that it determines equitable after considering any advice from the Actuary and having regard to the value of Assets and Liabilities attributable to the Defined Benefit Category and WA Coal Industry Category (Category A) Members respectively.
- (d) other than in the case of the WA Coal Industry Category, subject to the Relevant Law, to pay an Employer any amounts from the Reserve Account attributable to that Employer on a basis agreed between the Trustee and Employer; and
- (e) If, in the case of the Defined Benefit Category, the Actuary determines that there is a surplus attributable to that Category in accordance with clause 1.17.4 of the Previous Trust Deed (that provision applying to Defined Benefit Category Members by virtue of Schedule C), the surplus will be distributed to those Employers and Mine Workers who were contributing to the Defined Benefit Category at the time of the Actuary's determination, on an equitable basis in proportion to the contributions which they have made to entitlements under the Defined Benefit Category; and
- (f) if, in the case of the WA Coal Industry Category, the Actuary determines that there is a surplus attributable to that Category the Trustee is to apply that surplus in providing further benefits to or in respect of the WA Coal Industry Members in such manner as the Trustee, on the advice of the Actuary, considers equitable. Benefits payable under this paragraph are to be:
 - (i) in such form and provided or secured by such arrangements as are determined by the Trustee; and
 - (ii) provided to or secured for the WA Coal Industry Members concerned in full discharge of all claims by or in respect of them in relation to any

Amended by
clause 2.4 of
Amending Deed
24 June 2014

Amended by
clause 2.5 of
Amending Deed
24 June 2014

Amended by
clause 2.6 of
Amending Deed
24 June 2014

Inserted by
clause 2.7 of
Amending Deed
24 June 2014

rights or benefits under this Trust Deed or in connection with or arising out of the Fund or the Scheme.

22 AMENDMENTS

22.1 Power to Amend

The Trustee by deed or by oral or written resolution may amend, add to, delete or replace all or any of the provisions of the Deed, including this Clause, but excluding Rule A4.3.1, as the Trustee sees fit and any such amendment, addition, deletion or replacement (“amendment”) shall take effect on the date the deed or resolution is executed or made or such earlier or later date as may be specified therein for that purpose **PROVIDED THAT**:

- (a) no amendment shall be made other than in accordance with Relevant Law; and
- (b) following any amendment the Fund continues to comply with section 15C of the New South Wales Act and the Queensland Act; and
- (c) no amendment shall take effect in respect of a Member or Beneficiary in any way which restricts or removes a right that:
 - (i) a Defined Benefit Member or a Pending Member; or
 - (ii) a Dependant of a Defined Benefit Member or a Pending Member; or
 - (iii) a person entitled to a pension under Schedule C or D,had before the amendment **PROVIDED THAT** nothing shall prevent an amendment to confer additional rights on such a Defined Benefit Member, Pending Member, Dependant or person; and
- (d) no amendment shall take effect in respect of a Queensland Member or their Beneficiary unless:
 - (i) it is in the opinion of the Trustee necessary or expedient to comply with a requirement of any statute, ordinance, regulation or by-law or of any law made under the authority of any statute, ordinance, regulation or by-law or is the requirement of any competent statutory authority;
 - (ii) it is in the opinion of the Trustee made to correct a manifest error or is of a formal technical or administrative nature only;
 - (iii) in the opinion of the Trustee will enable the Fund to be more conveniently, advantageously, profitably or economically administered or managed; or
 - (iv) in the opinion of the Trustee will enable the Fund, Members or beneficiaries to either reduce or be exempted from liability to pay stamp duty, or probate, estate or other duties in consequence of the death of a Member or former Member or the Spouse of such Member or former Member;
- (e) no amendment shall take effect in respect of a Member or Beneficiary unless:
 - (i) the Actuary determines that such amendment will not reduce the amount of the benefits presently or prospectively payable in respect of the Member or Beneficiary to the extent that such benefits have accrued or have or shall become payable in respect of the period up to the date the deed is executed or the resolution is made; or
 - (ii) such amendment is approved by the Regulator in writing or is required by Relevant Law; or

- (iii) such amendment is approved by that Member or Beneficiary in writing.

22.2 Amendments to Rule A4.3.1 - Schedule A

Subject to any approval required by Relevant Law the Trustee shall be entitled from time to time by deed supplemental to this Deed to vary the provisions of Rule A4.3.1 to accord with any industrial award or industrial agreement entered into by or applying to or legislation binding upon the Participating Employers or Members.

23 SEVERANCE

If any provision of this Trust Deed is wholly or partly invalid that provision or the relevant part of the provision will be severed. The remainder of this Trust Deed will have full force and effect unless severing the provision would be contrary to public policy or the Relevant Law.

24 NOTICES

24.1 Form

Any notice given under this Trust Deed must be in writing.

24.2 Receipt

Notices will be deemed to have been given to the recipient if:

- (a) they are handed to them personally; or
- (b) they are sent by pre-paid post addressed to:
 - (i) in the case of Beneficiary, the person's last known address or place of employment; or
 - (ii) in the case of the Trustee, or an Employer which is a corporation, its registered office or place of business; or
 - (iii) in the case of an Employer which is not a corporation, its place of business; or
- (c) sent by facsimile to the Trustee's or an Employer's last known facsimile number or by email to the Trustee's or an Employer's last known email address, or by other electronic means permitted by Relevant Law.

24.3 Timing

Notice is deemed to have been given, where service occurs:

- (a) by post, on the second Working Day after the date of posting;
- (b) by facsimile, on production of a transmission report by the machine from which the facsimile was sent; and
- (c) by email, when it is delivered, or by other electronic means permitted by Relevant Law.

25 GOVERNING LAW

The law applicable to the Fund is the law of the State of New South Wales.

**SCHEDULE A
ACCUMULATION CATEGORY (EMPLOYER) RULES**

A1 Eligibility

- A1.1 An Employee is eligible to become a Member of the Accumulation Category (Employer):
- (a) if the relevant Participating Employer nominates them; and
 - (b) if the Trustee requires, the person completes an application form as provided by Clause 9.2 and satisfies any other Trustee requirements; or
 - (c) in accordance with the terms of an Employer Registration Deed; or
 - (d) in any other circumstance that the Trustee accepts and Relevant Law permits.
- A1.2 Where a Principal Employer participates in the Fund in association with one or more Associated Employers in accordance with clause 10.1.3, the Principal Employer may nominate an Employee in accordance with rule A1.1(a) on behalf of an Associated Employer either in particular cases or in accordance with standing arrangements.
- A1.3 A person who was a Member of the Fund immediately prior to the Effective Date may be designated as a Member of the Accumulation Category (Employer) from the Effective Date.

A2 Classes

The Trustee may make arrangements with an Employer (via an Employer Registration Deed or otherwise), providing for classes of membership in respect of that Employer's Employees (or, if relevant, in respect of Employees of an Associated Employer) and prescribe conditions relating to each of those classes and admission of Members to those classes.

A3 Special Membership Provisions

The Employer and Trustee may agree on:

- (a) special conditions to apply to particular Members that may modify any of the conditions that would otherwise apply under this Trust Deed; and
- (b) conditions to apply in certain circumstances - for example during a Member's temporary absence from employment with an Employer.

A4 Contributions

A4.1 Member Contributions

A4.1.1 A Member of the Accumulation Category (Employer) must make contributions to the Fund for crediting to this Category if required by the Relevant Law.

A4.1.2 A Member may make voluntary contributions to the Fund for crediting to this Category if the Trustee agrees and the Relevant Law permits.

A4.2 Deduction of Member Contributions

A4.2.1 Member contributions may be deducted by an Employer from the Member's remuneration and paid to the Trustee as agreed by the Trustee and the Employer.

A4.3 Required Employer Contributions

A4.3.1 An Employer must make any contributions in respect of each of its Employees who is a Member of this Category, of such amounts, at such times and in any manner required by Relevant Law or, if relevant, by an Employer Registration Deed.

A4.3.2 Where a Principal Employer participates in the Fund in association with one or more Associated Employers in accordance with clause 10.1.3, the Principal Employer may make contributions required under rule A4.3.1 on behalf of an Associated Employer.

A4.4 Additional Employer and Other Contributions

A4.4.1 An Employer may contribute additional amounts to those referred to in rule A4.3 in respect of particular Members or groups of Members, if the Trustee agrees.

A4.4.2 Any other person (including the Spouse of a Member) may contribute for a Member if the Relevant Law permits and the Trustee agrees.

A4.5 Changes to Employer Contributions

Subject to Relevant Law, an Employer may cease, suspend or reduce contributions in respect of any Member to the Accumulation Category (Employer) by giving written notice to the Trustee. In this event the Trustee must notify the Member and the Member may also cease any compulsory contributions to this Category. The Employer and Member must pay any arrears of compulsory contributions due up until the time that the notice takes effect.

A4.6 Required Contributions - Additional Matters

A4.6.1 The Employer's obligation to contribute under the Relevant Law or an Employer Registration Deed will be reduced if:

- (a) the Employer Registration Deed requires an Employer to make contributions for a Member; and
- (b) the Employer becomes obliged, for a relevant period to:
 - (i) pay contributions to another Approved Benefit Arrangement for the Member; or
 - (ii) pay the Superannuation Guarantee Charge in respect of the Member.

The amount of the reduction will be, as far as practical, equal to the amount payable under paragraphs (b)(i) and/or (ii).

A4.6.2 If the Actuary advises the Trustee that the actual and expected assets of the Accumulation Category (Employer) are inadequate to provide for the actual and expected liabilities of the Accumulation Category (Employer), then the Trustee, after obtaining the advice of the Actuary, may adjust any benefit payable to any Member as the Trustee considers appropriate and equitable, provided the adjustment does not result in an increase to the amount of the Member's benefit or to the rate at which it accrues.

A4.7 Manner and Timing of Employer Contributions

Employer contributions are due and payable in respect of each Member by the Employer of that Member no later than 21 days after the end of the month to which those contributions relate or another date agreed between the Trustee and that Employer.

A5 Accounts

A5.1 Establishment

A5.1.1 The Trustee must establish and maintain the Accounts listed below:

In each case, the main type of credit to that Account is described. Clause 9.11 applies to these Accounts,

- (a) Standard Account – Employer contributions made under rule A4.3.1;
- (b) Employer Statutory Contribution Account – amounts transferred from the Contingent Liability Reserve Account under rule A5.5 (relevant to Queensland Members);
- (c) Additional Employer Contribution Account – additional contributions made by an Employer under rule A4.4.1;
- (d) Member Statutory Contribution Account – Member contributions made under rule A4.1.1;
- (e) Voluntary Contribution Account – voluntary contributions made by a Member under rule A4.1.2;
- (f) Transfer Account – amounts transferred from other Approved Benefit Arrangements under clause 13.1;
- (g) Insurance Account – the proceeds of Insurance Policies and other amounts that the Trustee determines should be credited under rules A5.2 or A5.3 (in the case of New South Wales Members) or rule A5.4 (in the case of Queensland Members);
- (h) Special Account – contributions made by an Employer under the Restructuring Agreement or the 1999 Superannuation Agreement and any amounts transferred from the Self Insurance Reserve Account (relevant to New South Wales Members);
- (i) EHN Contribution Account – contributions in connection with an obligation under the Elcom Huntley Newcom Mineworkers Superannuation Fund trust deed (relevant to New South Wales Members);
- (j) EHN Company Contribution Account – contributions made by an Employer in connection with an obligation under the Elcom Huntley Newcom Mineworkers Superannuation Fund trust deed (relevant to New South Wales Members);
- (k) Special Salary Sacrifice Account – contributions made by an Employer under the 1999 Superannuation Agreement (relevant to New South Wales Members);

Amended by clause
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- (l) Transferred Benefits Account – the amount of a Transferee Member’s Transfer Value (relevant to New South Wales Members);
- (m) Spouse Benefits Account – Contributions-Splitting Superannuation Benefits and Spouse Contributions made in respect of the Member; and
- (n) Any other Account or Accounts that the Trustee considers appropriate.

A5.1.2 The Trustee will debit the Death and Disablement Levy from a New South Wales Member’s Special Account. If the Member does not have a Special Account or there are insufficient funds in the Special Account, the Trustee will debit the Death and Disablement Levy from such other of the Member’s Beneficiary’s Accounts as the Trustee determines.

A5.2 **Self Insurance Reserve Account (New South Wales Members)**

The Trustee may in its absolute discretion:

- (a) create a Self Insurance Reserve Account;
- (b) transfer to that Self Insurance Reserve Account with respect to each Member the Death and Disablement Levy from:
 - (i) the Member’s Special Account; and/or
 - (ii) any other Beneficiary’s Account of the Member; and
- (c) transfer from that Self Insurance Reserve Account such amount or amounts as the Trustee thinks appropriate, to any New South Wales Member’s Insurance Account the Trustee determines, to provide death or Total and Permanent Disablement benefits to any such Member.
- (d) The Assets standing to the credit of the Self Insurance Reserve Account may be attributed to one or more Investment Options selected by the Trustee.
- (e) pay from the Self Insurance Reserve Account premiums and expenses in respect of any Insurance Policies arranged by the Trustee in connection with benefits to be paid from the Fund in respect of New South Wales members.
- (f) credit to the Self Insurance Reserve Account the proceeds of Insurance Policies that the Trustee determines should be credited.

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A5.3 **Insurance Account – New South Wales**

A5.3.1 The Trustee will credit a New South Wales Member’s Insurance Account with:

- (a) where a Member dies:
 - (i) the proceeds of any Insurance Policy effected to provide benefits in respect of the Member to the extent that they are referable to premiums deducted from one of the Member’s Beneficiary’s Accounts and to the extent that the Trustee considers they should be credited to the Member’s Insurance Account; and
 - (ii) in relation to Members who were first Members of the Fund on or before 30 June 2006, any amount that the Trustee determines should

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be credited to the Member's Insurance Account arising out of his or her death;

- (b) where a Member is Totally and Permanently Disabled and has completed not less than 10 years service in the Industry:
 - (i) the proceeds of any Insurance Policy effected to provide benefits in respect of the Member to the extent that they are referable to premiums deducted from one of the Member's Beneficiary's Accounts and to the extent that the Trustee considers they should be credited to the Member's Insurance Account; and
 - (ii) in relation to Members who were first Members of the Fund on or before 30 June 2006, any amount that the Trustee determines should be credited to the Member's Insurance Account arising out of his or her Total and Permanent Disablement; and
- (c) where a Member is Totally and Permanently Disabled and has completed less than 10 years service in the Industry:
 - (i) the amount referred to in rule A5.3.1(b)(i); and
 - (ii) the "Specified Proportion" (as defined in rule A5.3.2) of the amount referred to in rule A5.3.1(b)(ii).

A5.3.2 The "Specified Proportion" is an amount equal to:

- (a) 10 per cent; plus
- (b) a further 10 per cent for each year of completed service in the Industry;

provided that the Specified Proportion will not exceed an amount equal to 100 per cent.

A5.4 Insurance Account – Queensland

The Trustee will credit a Queensland Member's Insurance Account with:

- (a) where a Member dies:
 - (i) the proceeds of an Insurance Policy arranged in respect of the Member; or
 - (iii) who is not covered by an Insurance Policy and who was a Member on 30 June 1998 and continued to be a Member up to the date of death, and where contributions have been received if required under rules A4.1.1 and A4.3.1 up to the time of death, an additional amount (which must be a positive number) being the difference produced by deducting the amount described in sub-paragraph B from the amount described in sub-paragraph A of this rule A5.4(a):
 - (A) an amount equal to eighty (80) times the weekly award rate for the coal cutting machineman (Southern Division) as set out in The Coal Mining Industry (Miners) Award 1982, Queensland or any award made in amendment of or in substitution therefore at the 1st July immediately prior to his date of death less any benefit previously paid from his Employer Statutory Contribution

Account and his Member Statutory Contribution Account and less any benefit previously paid to the Member under paragraph (b) of this rule A5.4 or under this paragraph (a) of rule A5.4; and

(B) the sum of the Member Statutory Contribution Account and the Employer Statutory Contribution Account; or

(b) where a Member is Totally and Permanently Disabled and:

(i) paragraph (a) of the definition of Total and Permanent Disablement applicable to Queensland Members applies any insurance proceeds of the Insurance Policy arranged in respect of the Member; or

(ii) paragraph (b) of the definition of Total and Permanent Disablement applicable to Queensland Members applies, and contributions have been received if required by rules A4.1.2 and A4.3.4 up to the time of an injury or illness forcing the Member to leave his or her position of employment, an additional amount (which must be a positive number) being the difference produced by deducting the amount described in sub-paragraph B from the amount described in sub-paragraph A of this rule A5.4(b):

(A) an amount equal to eighty (80) times the weekly award rate for the coal cutting machineman (Southern Division) as set out in The Coal Mining Industry (Miners) Award 1982, Queensland or any award made in amendment of or in substitution thereof at the 1st of July immediately prior to the date determined by the Trustee as the date of the Member's Total and Permanent Disablement, less any benefit previously paid from his Employer Statutory Contribution Account and his Member Statutory Contribution Account and less any benefit previously paid to the Member under this paragraph (b) of rule A5.4; and

(B) the sum of the Member Statutory Contribution Account and the Employer Statutory Contribution Account.

A5.5 Contingent Liability Reserve Account (Queensland Members)

A5.5.1 Establishment and Maintenance

The Trustee will establish a Contingent Liability Reserve Account and will credit to that account:

(a) the amount received from QCOS in respect of the balance in the "Contingent Liability Reserve Account" under the QCOS Deed immediately before the QCOS Transfer Date; and

(b) any investment earnings (positive or negative) and any other amount which the Trustee determines should be credited or debited to the account;

and shall debit to that account:

(c) any payments made to or in respect of Existing Pensioners and their Dependents pursuant to rule D2;

- (d) any amounts transferred from this account to the Employer Statutory Contribution Account in respect of any Queensland Member and to any Member Statutory Contribution Account in accordance with rule A5.5.3;
- (e) any payments by the Trustee arising from liabilities or claims on the Tribunal or the Pensions Fund to the exclusion of the Pensions Fund in accordance with the former section 7 of the Queensland Act for which payments are not available from any other Account of the Fund; and
- (f) any amount determined by the Trustee on the advice of the Actuary pursuant to rule A5.5.2.

A5.5.2 Actuarial Review

No later than 30 June 2007 and at least every three years afterwards, the Trustee shall cause the Actuary to review the Contingent Liability Reserve Account and to report to the Trustee on the adequacy of the provision made in that account to meet:

- (a) liabilities for future payments to Existing Pensioners;
- (b) possible contingent liabilities to Members in accordance with rule A5.5.1; and
- (c) any other liability or claim for which the Trustee or the Fund may become liable pursuant to the former section 7(b) of the Queensland Act and for which moneys are not held in another account prescribed by this Trust Deed.

If the Actuary reports that the balance of the Contingent Liability Reserve Account is more than adequate to meet the actual and contingent liabilities or claims covered by the Contingent Liability Reserve Account, the Trustee may in its absolute discretion determine that all or part of the balance shall be transferred from the Contingent Liability Reserve Account and distributed to the Members' Beneficiary's Accounts in respect of each Member.

A5.5.3 Additional Entitlements of Certain Queensland Members

If a Member:

- (a) who was not in the employment of a "Participating Employer" for the purposes of the QCOS Deed at the date of commencement of the Queensland Act (being 25 December 1989);
- (b) for whom an amount had been transferred from the Pensions Fund and credited to a Member Statutory Contribution Account in QCOS; and
- (c) for whom no amount had been transferred from the Pensions Fund and credited to an Employer Statutory Contribution Account in QCOS in respect of that Member;

resumes employment in the coal mining industry in Queensland or in any State with which a reciprocal agreement was in force on the day prior to the date of commencement of the Queensland Act in accordance with the provisions of the Pensions Act:

- (d) for a period of or periods aggregating twelve months; or
- (e) such lesser period as would have been necessary together with his or her previous periods of employment to meet the qualification requirements

for a lump sum benefit from the Pensions Fund; or

- (f) such lesser period as the Trustee in its absolute discretion determines if the Member's period of employment ceases as a result of a genuine reduction of hands;

the Trustee will transfer to the Employer Statutory Contribution Account in respect of that Member from the Contingent Liability Reserve Account and to the Member Statutory Contribution Account the amounts which were advised by the Tribunal or determined by the QCOS trustee on the commencement of the Queensland Act to be the additional amounts to which the Member would become entitled on fulfilling the conditions of this rule A5.5.3 (or a corresponding provision under the Previous Trust Deed), adjusted for investment earnings (positive or negative) and other amount which the Trustee considers should be credited or debited to the account, calculated on the same basis as the amounts credited by the Trustee to Members' Accounts from the date of commencement of the Queensland Act to the date on which the Member becomes entitled to the transfer of those amounts.

Amended by
clause 4.2 of
Amending Deed
11 December
2019

A6 Benefits

A6.1 General

A6.1.1 Benefits are payable in the following circumstances:

- (a) when the Member reaches 65 years of age;
- (b) if the Member retires after the age stipulated by Relevant Law;
- (c) if the Member dies;
- (d) if the Member suffers Total and Permanent Disablement;
- (e) if the Member suffers Temporary Disablement;
- (f) in any other circumstances permitted under the Relevant Law if the Trustee agrees.

A6.1.2 Where rule A.6.1.1 applies, the benefit payable will be the value of the Member's Account Balance. However, this rule A6.1.2 is qualified by rule A6.2 below.

A6.2 Other Matters

A6.2.1 In the case of a Member who suffers Temporary Disablement a benefit will be payable only if the Trustee has made arrangements under which insurance cover is provided in respect of the Member on the Member's Temporary Disablement. In that event the proceeds of the insurance cover will be paid as an income benefit to the Member.

A6.2.2 Despite rule A6.1.1, and subject to Relevant Law, the Trustee may make an arrangement with a Member or other Beneficiary entitled to receive a benefit payment whereby only part of the Member's Account Balance will be payable when an entitlement to a benefit occurs, with the remainder being payable at the Member's or other Beneficiary's request.

A6.2.3 If a Queensland Member:

- (a) satisfies paragraph (a) of the definition of Total and Permanent Disablement applicable to Queensland Members; or
- (b) has died and is covered by an Insurance Policy;

he or she will be entitled to a benefit equal to the greater of the Member's Account Balance and the Minimum Benefit Amount.

A6.2.4 Without limiting anything under this Trust Deed if a benefit is payable under rule A6.1.1, the Member or other Beneficiary entitled to receive the benefit may request that part or all of the Member's Account Balance is transferred to another Category, including to the Pension Category to provide for payment of an Account-Based Pension.

**SCHEDULE B
ACCUMULATION CATEGORY (PERSONAL) RULES**

B1 Eligibility

- B1.1 A person is eligible to join the Accumulation Category (Personal) if the Trustee agrees and Relevant Law permits.
- B1.2 Without limiting rule B1.1, where permitted by Relevant Law:
- (a) a person in respect of whom a Spouse Benefit Account has been or will be established, may be admitted as a Spouse Member to the Accumulation Category (Personal);
 - (b) a Non-Member Spouse may be admitted as a Member to the Accumulation Category (Personal).
- B1.3 A person who was a Member of the Fund immediately prior to the Effective Date may be designated as a Member of the Accumulation Category (Personal) from the Effective Date.

B2 Classes

The Trustee may provide for classes of membership in the Accumulation Category (Personal) and prescribe conditions relating to each of those classes and admission of Members to those classes.

B3 Conditions of Membership

The Trustee may impose special conditions applicable to particular Members of the Accumulation Category (Personal) that may modify any of the conditions that would otherwise apply under this Trust Deed.

B4 Contributions

- B4.1. A Member may make contributions to the Accumulation Category (Personal) if the Trustee agrees and if Relevant Law permits.
- B4.2 Any other person, including an employer of the Member or the Member's Spouse, may make contributions to the Accumulation Category (Personal) for the Member if the Trustee agrees and if Relevant Law permits.

B5 Accounts

- B5.1 The Trustee may establish and maintain such Accounts as it considers convenient and appropriate for Members of the Accumulation Category (Personal).
- B5.2 In the case of Spouse Members the Trustee will establish and maintain a Spouse Benefits Account relating to any Contributions-Splitting Superannuation Benefits and Spouse Contributions made in respect of the Member.

B6 Benefits

B6.1 General

B6.1.1 Benefits are payable in the following circumstances:

- (a) when the Member reaches 65 years of age;
- (b) if the Member retires after the age stipulated by Relevant Law;
- (c) if the Member dies;
- (d) if the Member suffers Total and Permanent Disablement;
- (e) if the Member suffers Temporary Disablement;
- (f) in any other circumstances permitted under the Relevant Law if the Trustee agrees.

B6.1.2 Where rule B.6.1.1 applies, the benefit payable will be the value of the Member's Account Balance. However, this rule B6.1.2 is qualified by rule B6.2 below.

B6.2 Other Matters

B6.2.1 in the case of a Member who suffers Temporary Disablement a benefit will be payable only if the Trustee has made arrangements under which insurance cover is provided in respect of the Member on the Member's Temporary Disablement. In that event the proceeds of the insurance cover will be paid as an income benefit to the Member.

B6.2.2 Despite rule B6.1.1, and subject to Relevant Law, the Trustee may make an arrangement with a Member or other Beneficiary entitled to receive a benefit payment whereby only part of the Member's Account Balance will be payable when an entitlement to a benefit occurs, with the remainder being payable at the Member's or other Beneficiary's request .

B6.2.3 Without limiting anything under this Trust Deed if a benefit is payable under rule B6.1.1, the Member or other Beneficiary entitled to receive the benefit may request that part or all of the Member's Account Balance is transferred to another Category, including to the Pension Category to provide for payment of an Account-Based Pension.

**SCHEDULE C
DEFINED BENEFIT CATEGORY RULES**

C1 Eligibility

- C1.1 A person is eligible to join the Defined Benefit Category if the Trustee agrees and Relevant Law permits.
- C1.2 A person who had entitlements under Part 3 of the Previous Trust Deed immediately prior to the Effective Date has corresponding entitlements under the Defined Benefit Category as at the Effective Date. To avoid doubt a reference to entitlements under Part 3 of the Previous Trust Deed is to be interpreted taking into account any provisions of the Previous Trust Deed that did not appear in Part 3 but which nonetheless affected the entitlements of persons with entitlements under that Part.

C2 Definitions and Interpretation

- C2.1 For the purposes of Schedule C:

"Amending Deed" means the deed amending the trust deed of the Fund with effect from the Effective Date.

"Owners" has the same meaning as that term is defined under Part 3 of the Previous Trust Deed.

- C2.2 Rules 3.1, 3.2 and 3.3 of Part 3 of the Previous Trust Deed shall apply to Schedule C as if they had not been replaced (along with other provisions) by the Amending Deed.

C3 Application of the Previous Trust Deed

- C3.1 The Trustee:

- (a) will establish and maintain Accounts;
- (b) will pay any pension or lump sum benefit to or in respect of a Member or former Member to whom Schedule C applies; and
- (c) will perform all duties and may otherwise exercise any power or discretion,

as provided under, or in accordance with, the provisions of Part 3 of the Previous Trust Deed as if those provisions (along with other provisions) had not been replaced by the Amending Deed.

- C3.2 The rights, obligations and entitlements of Members and Owners for the purposes of Schedule C shall be determined in accordance with Part 3 of the Previous Trust Deed as if that Part (along with other provisions) had not been replaced by the Amending Deed.
- C3.3 Without limiting the application of clauses 1.3 and 1.4 of the Trust Deed, any provision in Part 3 of the Previous Trust Deed which was deemed to apply to, or appear in, the trust deed of the Fund in order to comply with the NSW Act as at the Effective Date, shall be deemed to apply to, or appear in Schedule C, from the Effective Date, notwithstanding any changes made by the Amending Deed. (To avoid doubt any such provisions may be amended after the Effective Date in the same way that they were able to be amended under the terms of the Previous Trust Deed immediately prior to the Effective Date).

C3.4 To avoid doubt a reference in this Rule C3 to provisions in Part 3 of the Previous Trust Deed is to be taken as including provisions that appeared in other parts of the Previous Trust Deed but which nonetheless affected the entitlements of persons with entitlements under that Part.

Inserted by
clause 2.1 of
Amending
Deed 9
August 2018

C3.5 For the purposes of this Schedule C, rule 3.14.7(c) of the Previous Trust Deed is taken to have been amended by deleting the provision as it stood as at the Effective Date and replacing it with the following:

"(c) The spouse of any Mine Worker eligible for or in respect of a pension under this Part of the Fund who has been deserted by the Mine Worker or has been left by the Mine Worker without means of support and who satisfies the Trustee:

(i) that the spouse has taken proceedings against the Mine Worker for an order for the provision of maintenance under the Family Law Act 1975 of the Commonwealth and either that the spouse has failed to obtain an order or that the order, if made, has not been complied with; and

(ii) that the whereabouts of the Mine Worker are not known,

shall be eligible for a pension in accordance with Rule 3.9.10, as if the Mine Worker were dead, during the period for which the spouse is so deserted or left without means of support.

Where a pension is awarded to a deserted spouse pursuant to this subrule the Trustee may suspend the pension payable to the Mine Worker.

In this subrule 3.14.7(c), **spouse**, in relation to a Mine Worker, includes any person with whom the Mine Worker is living as the Mine Worker's spouse on a bona fide domestic basis."

C3.6 For the purpose of this Schedule C, Part 3 of the Previous Trust Deed is taken to have been amended by deleting the words "in the Gazette", wherever that phrase refers to publication of a Trustee determination, and replacing those words with the following:

"on the Fund's website (or such other reasonable means of publishing a determination under this Rule for the information of relevant beneficiaries)".

Inserted by
clause 2.1 of
Amending
Deed 10 June
2021

**SCHEDULE D
PENSION CATEGORY RULES**

D1 General

D1.1 Eligibility

A person is eligible to join the Pension Category if:

- (a) the person is a Member of another Category and under the Relevant Law a benefit may be paid for that person in accordance with this Schedule; or
- (b) the Relevant Law permits the person to transfer an amount to the Fund for the purpose of payment of a benefit in accordance with this Schedule.

A person who was a Member of the Fund immediately prior to the Effective Date may be designated as a Member of the Pension Category from the Effective Date.

D1.2 Pensions

The Trustee may provide the following pensions to Beneficiaries:

- (a) Statutory Pensions;
- (b) Account-Based Pensions; and
- (c) any other pension the Trustee decides to establish in accordance with the Relevant Law.

D1.3 Separate Pensions

If the Trustee and Member agree, more than one pension may be paid in respect of a Member in accordance with this Schedule.

D2 Statutory Pension

D2.1 Application

D2.1.1 When the Trustee allows an application for a Statutory Pension the Trustee will notify the applicant of the rate per fortnight of the Statutory Pension and the date from which payment of the Statutory Pension has been allowed.

D2.1.2 When the Trustee disallows an application for a Statutory Pension the Trustee shall notify the applicant setting out in writing the reason or reasons for the disallowance.

D2.2 Payment

D2.2.1 An Existing Pensioner or a person who satisfies the requirements in this Rule D2 for payment of a Statutory Pension will be paid a Statutory Pension of the Prescribed Amount or of such lesser amount as may be agreed between the Trustee and the Existing Pensioner.

D2.2.2 A Statutory Pension will be payable within fourteen days of the Statutory Pension being awarded or fortnightly on such day as the Trustee may determine, or such other period as may be agreed between the Trustee and the recipient of the Statutory Pension.

D2.3 **Increase for Existing Pensioners**

D2.3.1 Where an Existing Pensioner satisfies the Trustee that:

- (a) their husband or wife is an invalid and as a consequence the Existing Pensioner employs a person to care for their husband or wife or for any child: or
- (b) their husband or wife is confined to a convalescent home; or
- (c) the Existing Pensioner has no husband or wife or Housekeeper, is an invalid and consequently the Existing Pensioner employs a person to care for himself or herself; or
- (d) the Existing Pensioner is confined to a convalescent home;

and the Existing Pensioner's monetary circumstances warrant an addition to their Statutory Pension the Trustee may award to the Existing Pensioner in addition to their Statutory Pension an additional amount as the Trustee determines such additional amount not to exceed the Prescribed Amount.

D2.3.2 Where an Existing Pensioner satisfies the Trustee that:

- (a) they do not have a husband or wife; or
- (b) they do not have a Housekeeper;

and the Existing Pensioner employs a person to care for any child, adopted child or stepchild and the Existing Pensioner's monetary circumstances warrant an addition to the Existing Pensioner's Statutory Pension the Trustee may award to the Existing Pensioner in addition to their Statutory Pension an additional amount as the Trustee determines such additional amount not to exceed the Prescribed Amount.

D2.4 **Death of the Existing Pensioner**

D2.4.1 Upon the death of an Existing Pensioner ("**the Deceased**") the following persons are subject to approval by the Trustee entitled to a Statutory Pension:

- (a) the surviving husband or wife of the Deceased; or
- (b) the Housekeeper of the Deceased; or
- (c) any child, adopted child or stepchild of the Deceased.

D2.4.2 Upon the death of an Existing Pensioner, any surviving husband or wife, Housekeeper or child, adopted child or stepchild of the Existing Pensioner who wishes to obtain a Statutory Pension must complete an application form in the form approved by the Trustee and must attach to the application form a certified copy of entry of record of death of the Existing Pensioner.

D2.4.3 Where the Trustee allows the application for a Statutory Pension under rule D2.4.2 the person will be paid a Statutory Pension of the Prescribed Amount.

D2.5 Increase for Surviving Husband or Wife or Housekeeper

Where a surviving husband or wife or Housekeeper in receipt of a Statutory Pension under this rule D2 satisfies the Trustee that they are an invalid and their monetary circumstances warrant an addition to their Statutory Pension and either:

- (a) they are permanently incapable of performing their domestic duties and they employ someone to care for them; or
- (b) they are confined to a convalescent home;

the Trustee may award to them in addition to their Statutory Pension an additional amount as the Trustee determines such additional amount not to exceed the Prescribed Amount.

D2.6 Cessation of Statutory Pension

D2.6.1 An Existing Pensioner ceases to be entitled to a Statutory Pension upon their death.

D2.6.2 A surviving husband or wife or Housekeeper in receipt of a Statutory Pension under this rule D2 ceases to be entitled to a Statutory Pension upon the first of either of the following occurring:

- (a) the surviving Husband or wife or Housekeeper becoming the Dependant of another person; or
- (b) upon the death of the surviving husband or wife or Housekeeper.

D2.6.3 A child, adopted child or stepchild of a Member entitled to a Statutory Pension under this rule D2 ceases to be entitled to a Statutory Pension upon ceasing full time education or death, whichever occurs first.

D2.7 Recovery of Overpayments of Pensions

D2.7.1 Where it is found that any Statutory Pension or instalment of a Statutory Pension which is not payable has been paid, or that any sum paid by way of Statutory Pension or instalment of Statutory Pension is in excess of the amount so payable, the amount wrongly paid may:

- (a) be recovered as a debt due to the Trustee; or
- (b) where it is practicable to do so, the Trustee may make any necessary adjustments in any instalments of the same or any other pension thereafter becoming payable.

D2.7.2 Nothing in this rule D2.7 will relieve the person wrongly receiving any such payment from any other liability in respect of any fraud committed by him or her.

D2.8 Entitlement to only one Pension

A person will not be entitled to receive more than one pension under the provisions of rule D2.

D2.9 Cancellation of Statutory Pension

The Trustee may cancel any Statutory Pension awarded under rule D2 where the Trustee after reasonable enquiries is satisfied that the award of the Statutory Pension was improperly obtained or that the award was contrary to the provisions of the Trust Deed.

D2.10 Notice of Death or Cessation of Dependency

If a Dependant in respect of whom any amount is payable as an addition to a Statutory Pension, dies or ceases dependency, the Existing Pensioner or other person to whom the Statutory Pension has been awarded must provide a signed written statement to the Trustee stating the name of the Dependant and the date of death or cessation of dependency, within seven days after the death or cessation of dependency.

D2.11 Notice of Marriage

If a surviving husband or wife or other person to whom a Statutory Pension has been awarded pursuant to rule D2, marries or re-marries, they must provide a signed written statement to the Trustee stating the name in which the Statutory Pension was granted to them and the date of their marriage or re-marriage, within seven days after their marriage or re-marriage.

D3 Account-Based Pension

D3.1 Request

The Trustee may, on a Member's request, pay to the Member the amount from time to time standing to the credit of the Member's Pension Account as an Account-Based Pension of such periodic amounts, and in such instalments and on such dates as the Trustee may from time to time determine PROVIDED THAT:

- (a) the capital value of the Account-Based Pension, and the income from it cannot be used as security for a borrowing; and
- (b) the capital supporting the pension cannot be added to by way of contribution or rollover after the pension has commenced.

D3.2 Payment

D3.2.1 An Account-Based Pension:

- (a) may be of a fixed or variable amount; or
- (b) may be adjusted from time to time to provide for cost of living adjustments; or
- (c) will be paid on such other terms as the Trustee considers appropriate or
- (d) will be paid in any combination of paragraphs (a) to (c) above as the Trustee considers appropriate

PROVIDED THAT it satisfies the Relevant Law, and in respect of that pension:

- (e) the payments must be made on at least an annual basis to the Member; and
- (f) the total of the payments in any year (including under a payment split) must meet the minimum payment amounts calculated under clause 1 of Schedule 7 of the SIS Regulations.

D3.2.2 Each lump sum payment and Account-Based Pension paid pursuant to this rule D3 will be debited to the Member's Pension Account.

D3.2.3 Any Account-Based Pension will cease to be paid when the net credits in respect of that Member's Pension Account have been paid out in full.

D3.3 Pension Account

D3.3.1 Commencement and Termination

A benefit payable by reference to a Pension Account will:

- (a) commence on a date agreed between the Member and Trustee; and
- (b) terminate when the amount standing to credit of the Pension Account is nil.

D3.3.2 Establishment and Maintenance

The Trustee will establish and maintain a Pension Account in respect of each Member to whom an Account-Based Pension is payable. Without limiting clause 9.11, the Trustee will credit the account with:

- (a) the amount deducted from one or more of the Member's Accounts in an Accumulation Category under clause 12.6.1(f) and rule D1.1;
- (b) the proceeds of any Insurance Policy effected to provide benefits on the death or Total and Permanent Disablement of the Member for the purposes of the Pension Category; and
- (c) any other amounts which the Trustee reasonably determines should be credited to the Pension Account including any payments, rollovers or transfers which, subject to the Relevant Law, the Trustee permits the Member to pay, rollover or transfer to the Pension Category;

and will debit from the Pension Account:

- (d) any Account-Based Pension payment paid in respect of the Member;
- (e) any amount paid, transferred or rolled out from the Fund in relation to the Member pursuant to the Family Law Requirements which the Trustee determines should be deducted from the Pension Account and any relevant fees and charges, including those referred to in clause 17.3;
- (f) any amount to pay premiums on an Insurance Policy effected to provide benefits on the death or Total and Permanent Disablement of the Member under the Pension Category; and

- (g) any benefits paid under the Pension Category in a form other than a Pension, and any other amounts which the Trustee reasonably determines should be debited to the Pension Account.

D3.4 **Commutation**

- D3.4.1 A Member is entitled to commute the whole or part of the Account-Based Pension to a lump sum in any circumstances permitted by Relevant Law.
- D3.4.2 The quantum of any Account-Based Pension, the capital value of any Account-Based Pension and the extent of any right of commutation will be subject to calculation by the Trustee (or any Actuary retained by the Trustee for that purpose) PROVIDED THAT where the capital value of an Account-Based Pension exceeds the maximum permitted lump sum benefit for such Member as determined from time to time under the Relevant Law any right of commutation will be limited to the greater of:
 - (a) any amount permitted under the Relevant Law; and
 - (b) fifty per cent (50%) (or such higher percentage as may be approved by the Regulator) of the capital value of such Account-Based Pension.

D3.5 **Death Benefits**

- D3.5.1 Upon the death of a Member in receipt of an Account-Based Pension, subject to Relevant Law and the remaining provisions of this rule D3.5, a Death Benefit may be paid by the Trustee to one or more of:
 - (a) the Member's Dependants; and
 - (b) the Member's Legal Personal Representatives;

in such form, manner and proportions and subject to such conditions as the Trustee in its absolute discretion may determine.

However, where such Member is survived by a Spouse, unless rule D3.5.3 applies, the Death Benefit is payable to the Member's Spouse, as an Account-Based Pension. Upon the death of the Member's Spouse whilst in receipt of an Account-Based Pension payable in accordance with this rule D3.5.1, the Trustee shall pay any amount then standing to the credit of that Member's Pension Account as permitted by relevant law, at the Trustee's discretion, to one or more of the Member's Dependants or the Member's Legal Personal Representative.

If a Member has more than one person qualifying as a Spouse at the time of the Member's death, the Trustee may pay the Death Benefit to one or more of those persons in any manner and proportions and subject to any conditions that the Trustee determines in its absolute discretion.

- D3.5.2 Subject to the Relevant Law and rule D3.5.4, if the Trustee, after reasonable inquiry, has not found any Dependancy or Legal Personal Representative of the deceased Member, the benefit may be paid to any other individual that the Trustee chooses.
- D3.5.3 Subject to any limitations or conditions imposed by the Trustee, a Member who makes a Binding Death Benefit Nomination has the option of:

- (a) electing the Death Benefit to be paid as a lump sum to one or more of the Member's nominated Dependants and/or Legal Personal Representatives; or
- (b) electing the Death Benefit to be paid as an Account-Based Pension to one of the Member's Dependants.

However, following the death of the Member, the Trustee and the person entitled to receive a Death Benefit in accordance with the Member's Binding Death Benefit Nomination may agree, subject to any limitations or conditions imposed by the Trustee, that the Death Benefit will be paid in a form different to that elected by the Member in accordance with rule D3.5.3(a) or D3.5.3(b).

Amended by
clause 2.4 of
Amending
Deed 24 June
2015

D3.5.4 If a Member makes a Binding Death Benefit Nomination under rule D3.5.3(b), then in the event of the Member's death, rules D3.2 and D3.3 will apply equally to the Dependant as they previously applied to the Member.

D3.6 Pre-retirement Income Streams

The Trustee may, on the Member's request, pay to the Member the amount from time to time standing to the credit of a Member's Pension Account as a Pre-retirement Income Stream in accordance with the provisions of this rule D3 (with the exception of rule D3.4) provided that:

- (a) the total of the payments in any year (including under a payment split) is less than 10% of the account balance on 1 July of the financial year in which the payment is made (or, if the pension has commenced in that year, the commencement day); and
- (b) if the Pre-retirement Income Stream is commuted, the commuted amount can only be paid to the Member if Relevant Law permits.

Amended by
clause 2.3(b)
of Amending
Deed 16 June
2017

If the Member in receipt of a Pre-retirement Income Stream satisfies a Condition of Release with a "nil" cashing restriction, as defined under the SIS Regulations, subject to and to the extent permitted by Relevant Law, the above provisos in this Rule D3.6 shall cease to apply to the Member's Income Stream.

Inserted by
clause 2.3(a)
of Amending
Deed 16 June
2017

SCHEDULE E FEES

The following arrangements apply to fees and costs that may be imposed in relation to the Fund.

E1 Fees for the Accumulation Categories

E1.1 Administration Costs

A fee relating to the Fund's administration costs. This fee may be expressed as a dollar amount or a fee calculated by reference to the value of some or all of the Fund's Assets (**Asset Based Fee**), or as a combination of the two.

E1.2 Investment Management Fee

A fee relating to investment management (**Investment Management Fee**) may be imposed. The Investment Management Fee may vary depending on the Investment Options in which a Member's Beneficiary's Accounts are invested. The Investment Management Fee may be an Asset Based Fee or in any other form determined by the Trustee.

E1.3 Trustee Costs

A fee for Trustee costs may be imposed. This fee may be expressed as a dollar amount or as an Asset Based Fee or as a combination of the two.

E1.4 Transaction Fees

Transaction Fees may be imposed. Without limitation these may include the following types of fee:

- (a) Entry Fee;
- (b) Withdrawal Fee; and
- (c) Investment Switching Fee.
- (d) Fees relating to compliance with Family Law Requirements
- (e) Fees relating to any other transactions or matters affecting the Fund.

These fees may be expressed in dollar terms and/or as a percentage of the dollar amounts that are the subject of the transaction and/or as a combination of the two.

E2 Fees and costs for Account-Based Pensions

E2.1 Administration Costs

A fee relating to the Fund's administration costs. This fee may be expressed as a dollar amount or an **Asset Based Fee**, or as a combination of the two.

E2.2 Investment Management Fee

An Investment Management Fee may be imposed. The Investment Management Fee may vary depending on the Investment Options in which a Member's Beneficiary's Accounts are invested. The Investment Management Fee may be an Asset Based Fee or in any other form determined by the Trustee.

E2.3 Trustee Costs

A fee for Trustee costs may be imposed. This fee may be expressed as a dollar amount or as an Asset Based Fee or as a combination of the two.

E2.4 Transaction Fees

Transaction Fees may be imposed. Without limitation these may include the following types of fee:

- (a) Entry Fee;
- (b) Withdrawal Fee; and
- (c) Investment Switching Fee.
- (d) Fees relating to compliance with Family Law Requirements
- (e) Any other transactions or matters affecting the Fund.

These fees may be expressed in dollar terms and/or as a percentage of the dollar amounts that are the subject of the transaction and/or as a combination of the two.

E3 Additional fees and costs and increases

E3.1 Other fees and costs

The Trustee may decide to impose other fees and costs from time to time as it considers appropriate (subject to the Relevant Law, including any requirements relating to notification to Beneficiaries).

E3.2 Adjustments and variations in fees and costs

- (a) Fees and costs may be adjusted from time to time, including without limitation, where fees and costs are expressed in terms of a dollar value they may be varied by reference to changes in an index such as the Consumer Price Index or Average Weekly Ordinary Time Earnings selected by the Trustee, at any reasonable intervals the Trustee selects for this purpose.
- (b) The Trustee may otherwise vary the amount or rate of fees and costs from time to time (subject to the Relevant Law, including any requirements relating to notification to Beneficiaries).
- (c) Business rules may be made in accordance with clause 4.2(j) relating to fees and costs. For example switch fees may be waived if a switch is made at certain times or for a certain number of switches per Beneficiary per year.
- (d) To avoid doubt, different fee arrangements may apply to different Beneficiaries, Categories or classes or groups of Beneficiary within Categories.

E3.3 Method of imposition

The Trustee will determine the method of imposing fees and costs from time to time (for example, the time and means by which fees will be payable and/or deducted from Members' Beneficiary's Accounts).

SCHEDULE F
WA COAL INDUSTRY CATEGORY RULES

Schedule F
inserted by
clause 2.8 of
Amending Deed
24 June 2014

F1 Application

F1.1 This Schedule F applies if:

- (a) the Fund is designated by regulation made under section 7B of the WA Act as the fund to which contributions to the Scheme are to be paid and through which Scheme benefits are to be provided; and
- (b) that designation is not revoked.

F2 Eligibility

F2.1 Subject to Relevant Law, a person is eligible to join the WA Coal Industry Category if they are a member of the Scheme.

F3 Definitions and Interpretations

F3.1 For the purposes of Schedule F:

“**Effective Date**” means 30 June 2014.

“**Superannuation Rules**” means rules made by the Coal Industry Superannuation Regulations 2014 (WA).

“**WA Coal Industry Member**” means a Member who:

- (a) was a member or beneficiary of the Coal Industry Superannuation Fund immediately prior to the Effective Date; or
- (b) on or after the Effective Date, becomes a member of the Scheme.

“**WA Regulations**” means the regulations made pursuant to the WA Act.

F3.2 A word or phrase defined or used in the WA Act or Superannuation Rules has the same meaning when used in this Schedule F or when used in the Trust Deed in relation to the WA Coal Industry Category or a WA Coal Industry Member.

F3.3 If a provision in the Superannuation Rules is inconsistent with or in conflict with the Relevant Law or a provision in the Superannuation Rules is amended and the Trustee has not consented to the amendment, that provision will not apply to the extent the Trustee, in its absolute discretion, considers necessary or appropriate in order to comply with the Relevant Law.

F3.4 Subject to rule F3.3, if a provision in the Superannuation Rules is otherwise inconsistent with or in conflict with the Trust Deed, the provisions in the Superannuation Rules will apply to the extent of any inconsistency or conflict.

F4 Application of the Superannuation Rules

F4.1 The Superannuation Rules apply as if set out in this Schedule F.

F4.2 The Trustee will:

- (a) establish and maintain accounts;
- (b) accept contributions;

(c) provide and pay benefits to or in respect of a WA Coal Industry Member; and

(d) perform all duties and may otherwise exercise any power or discretion,

as provided under, or in accordance with, the Superannuation Rules and the Trust Deed.

F4.3 The rights and obligations of Employers in respect of WA Coal Industry Members shall be determined in accordance with the Superannuation Rules and the Trust Deed.

F4.4 The benefits, rights and obligations of a WA Coal Industry Member shall be determined in accordance with the Superannuation Rules and the Trust Deed.

F4.5 For avoidance of doubt:

(a) nothing in this Schedule F prevents the Trustee from conferring on a WA Coal Industry Member additional rights, entitlements and benefits, including, at the Trustee's discretion, designating a person to be a Member of any other Category in the Fund; and

(b) if any provision in this Schedule F has the effect of disentitling a WA Coal Industry Member from receiving a benefit they would otherwise have been entitled to under the provisions of the WA Regulations, the Trustee may, in its absolute discretion, grant that benefit.

SCHEDULE G

MINES RESCUE STATIONS STAFF CATEGORY RULES

G1 Eligibility

G1.1 The Mines Rescue Stations Staff Category is closed to new members.

G2 Definitions and Interpretations

G2.1 For the purposes of Schedule G:

“Effective Date” means 31 January 2016.

“Mines Rescue Stations Member” means a Member who was a member or beneficiary of the Mines Rescue Stations Staff Superannuation Plan (Plan) immediately prior to the Effective Date and has had their benefits in the Plan transferred to the Mine Superannuation Fund on or after the Effective Date.

“MRSSSP Plan Parts A and B” means the provisions of Parts A and B of the MRSSSP Trust Deed, with the following exceptions:

- (a) clauses 1 to 8 (inclusive) of Part A are excluded;
- (b) clause 14 of Part A is excluded;
- (c) clauses 16 to 36 (inclusive) of Part A are excluded.

“MRSSSP Trust Deed” means the trust deed of the Mines Rescue Stations Staff Superannuation Plan as at the Effective Date as constituted by trust deed dated 6 March 1978, as replaced in its entirety by Deed of Amendment dated 29 June 2006, and further amended by Deeds of Amendment dated 18 September 2007, 22 July 2008 and 2 July 2009.

G2.2 A word or phrase defined or used in MRSSSP Plan Parts A and B has the same meaning when used in this Schedule G or when used in the Trust Deed in relation to the Mines Rescue Stations Staff Category or a Mines Rescue Stations Member, with the following exception:

- (a) the definition of “Plan” in MRSSSP Plan Part A is amended to mean the Mines Rescue Stations Staff Category.

G3 Application of the MRSSSP Plan Parts A and B

G3.1 The MRSSSP Plan Parts A and B apply to this Schedule G.

G3.2 If a provision in MRSSSP Plan Parts A and B is inconsistent with or in conflict with the Trust Deed, the provisions in MRSSSP Plan Parts A and B will apply to the extent of any inconsistency or conflict.

G3.3 If a provision in MRSSSP Plan Parts A and B is inconsistent with or in conflict with the Act, that provision will not apply to the extent the Trustee, in its absolute discretion, considers necessary or appropriate to comply with the Relevant Law.

G3.4 The Trustee will:

- (a) establish and maintain accounts;
- (b) accept contributions;
- (c) provide and pay benefits to or in respect of a Mines Rescue Stations Member;
and
- (d) perform all duties and may otherwise exercise any power or discretion,

as provided under, or in accordance with, MRSSS Plan Parts A and B and the Trust Deed.

G3.5 The rights and obligations of Employers in respect of Mines Rescue Stations Members shall be determined in accordance with MRSSS Plan Parts A and B and the Trust Deed.

G3.6 The benefits, rights and obligations of a Mines Rescue Stations Member shall be determined in accordance with MRSSS Plan Parts A and B and the Trust Deed.

G3.7 For the avoidance of doubt:

- (a) nothing in this Schedule G prevents the Trustee from conferring on a Mines Rescue Stations Member additional rights, entitlements and benefits, including, at the Trustee's discretion, designating a person to be a Member of any other Category in the Fund; and
- (b) if any provision in this Schedule G has the effect of disentitling a Mines Rescue Stations Member from receiving a benefit they would otherwise have been entitled to under the provisions of MRSSS Plan Parts A and B, the Trustee may, in its absolute discretion, grant that benefit.