



ALUMINIUM STEWARDSHIP INITIATIVE LTD
ACN 606 661 125

CONSTITUTION

Incorporating all amendments made up to and including the postal ballot in November 2023.

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1. Preliminary

1.1 Definitions

In this Constitution:

ACNC Legislation means the *Australian Charities and Not-for-profits Commission Act 2012 (Cth)* and the *Australian Charities and Not-for-profits Commission Regulation 2013 (Cth)* to the extent they apply to ASI at the relevant time.

AGM means an annual general meeting of ASI.

ASI means Aluminium Stewardship Initiative Ltd ACN 606 661 125.

ASI Assurance Manual means a By-law developed by the ASI Standards Committee and made by the Directors, dealing with the matters envisaged to be regulated under rule 6.2.

ASI Certification means certification against applicable criteria in the relevant ASI Standard.

ASI Chain of Custody Standard means the ASI Standard that sets out systems for the sourcing, custody and/or supply of responsibly sourced aluminium.

ASI Chief Executive Officer means the person appointed under rule 11.1(a).

ASI Complaints Mechanism means the By-law named as such and dealing with the processes for handling certain complaints against ASI, Members, Directors, auditors, employees, contractors and certain others.

ASI Finance, Audit and Risk Committee means the committee established under rule 9.19(h)(1).

ASI Governance and People Committee means the committee established under rule 9.19(f).

ASI Governance Handbook means a By-law made by the Directors and dealing with matters related to the governance of ASI.

ASI Performance Standard means the ASI Standard that defines environmental, social and governance principles and criteria of relevance to the aluminium value chain.

ASI Secretariat means the body established under rule 10.2(a).

ASI Standard means a standard developed and approved by the ASI Standards Committee and made by the Directors as a By-law, to which participants in the Industry who are Members may be required, by virtue of being Members, to achieve certification against, and comply with to the extent set out in the standard.

ASI Standards Committee means the body constituted under rule 7.

ASI Standards Committee Member means a member of the ASI Standards Committee, and where relevant, includes an alternate member appointed under rule 7.8.

ASI Standards Committee Member Election Date means the date upon which the result of an election of ASI Standards Committee Members conducted under rule 7.6 (other than an election undertaken by virtue of rule 7.7(a)(1)) is declared.

ASI Theory of Change means the conceptual framework that defines intended long-term impacts, short and medium-term outcomes, and supporting strategies to achieve them, as determined by the Directors from time to time.

Associate Member means a Member who is either an Associations Member, a Downstream Supporters Member or a General Supporters Member.

Associations Member means a member of ASI in the Associations membership class under rule 5.6.

Book includes a register, any other record of information, financial report or record and a document, however compiled, recorded or stored, including electronically.

Business Day means a day which is not a Saturday, Sunday, bank holiday or public holiday:

- (1) for the purpose of sending or receiving a notice – in the city where the notice is intended to be received; and
- (2) for all other purposes – in Melbourne, Australia.

By-law means a by-law of ASI made under rule 19.1.

Chair means the chair of ASI elected under rule 9.15.

Civil Society Member means a member of ASI in the Civil Society membership class under rule 5.5.

Corporations Act means the *Corporations Act 2001* (Cth).

Director means a director of ASI.

Director Election Date means the date upon which the result of an election of Directors conducted under rule 9.5 (other than an election undertaken by virtue of rule 9.6(a)(1)) is declared.

Director Remuneration Band at a particular time means the range for director remuneration most recently provided to ASI under rule 9.8(b)(3).

Downstream Supporters Member means a member of ASI in the Downstream Supporters membership class under rule 5.4.

Financial Year means, unless the Directors determine a different period, a 12 month period from 1 January to 31 December.

Full Member means a Member who is either a Production and Transformation Member, a Industrial Users Member or a Civil Society Member.

General Supporters Member means a member of ASI in the General Supporters membership class under rule 5.7.

Independent in relation to a proposed expert to consider an appeal under rule 5.16 means that the person has no interest, position, association or relationship that is likely to materially interfere, or might reasonably be seen to be likely to materially interfere, with the person's capacity to bring an independent judgement to bear on that appeal.

Independent in relation to a proposed Independent Director means that the person has no interest, position, association or relationship that in the reasonable opinion of the Directors might interfere, or might reasonably be seen to interfere, with the person's capacity to bring an independent judgement to bear on issues before the Directors and to act in the best interests of ASI and the Members. Examples of interests, positions, associations and relationships that might cause doubts about the independence of a proposed Independent Director include if the person:

- (1) is, or has been, employed in an executive capacity by ASI or any of its subsidiaries and there has not been a period of at least 3 years between ceasing such employment and becoming a Director;
- (2) is, or has within the last 3 years been, a partner, director or senior employee of a provider of material professional services to ASI or any of its subsidiaries;
- (3) is, or has been within the last 3 years, in a material business relationship (including as a supplier or customer) with ASI or any of its subsidiaries, or an officer of, or otherwise associated with, someone with such a relationship;
- (4) has a material association with a Member;
- (5) has a material contractual relationship with ASI or any of its subsidiaries other than as a director;
- (6) has close family ties with any person who falls within any of the categories described above;
or
- (7) has been a Director of ASI for such a period that his or her independence may have been compromised.

Independent Director means a Director appointed under rule 9.2.

Indigenous Peoples Advisory Forum means the forum established under rule 12.

Industrial Users Member means a member of ASI in the Industrial Users membership class under rule 5.3.

Industry means the activities and operations of companies involved in whole or in part in the aluminium value chain.

Insolvency Event means being in liquidation or provisional liquidation or under administration, having a controller (as defined in the Corporations Act) or analogous person appointed to it or any of its property, being taken under section 459F(1) of the Corporations Act to have failed to comply with a statutory demand, being unable to pay its debts or otherwise insolvent, ceasing to be of full legal capacity or otherwise becoming incapable of managing its own affairs for any reason, the taking of any step that could result in the person becoming an insolvent under administration (as defined in section 9 of the Corporations Act), entering into a compromise or arrangement with, or assignment for the benefit of, any of its members or creditors, or any analogous event under the law of any applicable jurisdiction.

Joint Membership Holder means a body corporate which is registered as holding a membership in ASI jointly with 1 or more other bodies corporate.

Joint Membership Representative means the Joint Membership Holder which, at the relevant time, is authorised under rule 5.9(d)(2) or 5.9(f)(1) to represent all of the Joint Membership Holders in respect of that joint holding.

Liability means a loss, liability, cost, charge or expense.

Material Conversion is the further processing of semi-fabricated aluminium products into products or components that are sold to organisations who either:

- (1) manufactures consumer or commercial goods containing aluminium, in the aerospace, automotive, construction, consumer durables, engineering, IT or another similar sector; or
- (2) uses aluminium in packaging for its products in the beverage, food, pharmaceutical or another sector,

for final assembly or filling and sale to end customers.

Member means a member of ASI.

Official means:

- (1) each person who is or has been a Director; and
- (2) officers and former officers of ASI or of its related bodies corporate as determined by the Directors from time to time.

Production and Transformation Member means a member of ASI in the Production and Transformation membership class under rule 5.2.

Proposed Decision means, in the case of an appeal initiated under:

- (1) rule 5.13(b)(1) – the relevant cessation resolution; or
- (2) rule 5.14(d)(1) – the relevant expulsion resolution.

Proposed Decision Maker means, in the case of an appeal initiated under:

- (1) rule 5.13(b)(1) – the ASI Secretariat; or
- (2) rule 5.14(d)(1) – the Directors.

Representative in relation to:

- (1) a corporation means a representative of the corporation authorised under section 250D of the Corporations Act; or
- (2) a body corporate that is not a corporation means a representative of the entity authorised by the governing organ of the body corporate in terms equivalent to those under section 250D of the Corporations Act.

Secretary means the company secretary by virtue of rule 10.1(a).

Working Group means an ad hoc group convened under relevant provisions in the ASI Governance Handbook to work on standards-specific or other issues relevant to ASI.

1.2 Interpretation

- (a) In this Constitution a Member is to be taken to be present at a general meeting if the Member is present in person or by proxy or Representative.
- (b) In this Constitution a Director is to be taken to be:
 - (1) present at a meeting of the Directors if the Director is present in person or by proxy; and

- (2) present in person at a meeting of the Directors if the Director participates in the meeting by telephone or other electronic means.
- (c) In this Constitution an ASI Standards Committee Member is to be taken to be:
 - (1) present at a meeting of the ASI Standards Committee if the ASI Standards Committee Member is present in person or by proxy; and
 - (2) present in person at a meeting of the ASI Standards Committee if the ASI Standards Committee Member participates in the meeting by telephone or other electronic means.
- (d) In this Constitution a reference in a rule in general terms to a person holding or occupying a particular office or position includes a reference to any person who occupies or performs the duties of that office or position for the time being.
- (e) Unless the contrary intention appears, in this Constitution:
 - (1) words importing the singular include the plural and vice versa;
 - (2) words importing a gender include every other gender;
 - (3) words used to denote persons or organisations generally or importing a natural person include any company, corporation, body corporate, body politic, partnership, joint venture, association, board, group or other body (whether or not the body is incorporated);
 - (4) a reference to a person includes that person's successors and legal personal representatives;
 - (5) a reference to a statute, regulation, proclamation, ordinance or by-law includes all statutes, regulations, proclamations, ordinances or by-laws amending, consolidating or replacing it, whether passed by the same or another government agency with legal power to do so, and a reference to a statute includes all regulations, proclamations, ordinances and by-laws issued under that statute; and
 - (6) 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.
- (f) In this Constitution headings and bold type are for convenience only and do not affect its interpretation.
- (g) In this Constitution reference to aluminium includes a reference to bauxite ore, aluminium oxide (alumina), unwrought aluminium and all aluminium alloys.
- (h) Specifying anything in this Constitution after the words **including**, **includes** or **for example** or similar expressions does not limit what else is included unless there is express wording to the contrary.

1.3 Application of the Corporations Act and the ACNC Legislation

- (a) This Constitution is to be interpreted subject to the Corporations Act and the ACNC Legislation. However the rules that apply as replaceable rules to companies under the Corporations Act do not apply to ASI.
- (b) Unless the contrary intention appears, an expression in a rule that deals with a matter dealt with by a provision of the Corporations Act has the same meaning as in that provision of the Corporations Act.

- (c) Subject to rule 1.3(b), unless the contrary intention appears, an expression in a rule that is defined for the purposes of the Corporations Act has the same meaning as in the Corporations Act.

1.4 Exercise of powers

- (a) Where this Constitution provides that a person or body may do a particular act or thing and the word 'may' is used, the act or thing may be done at the discretion of the person or body.
- (b) Where this Constitution confers a power to do a particular act or thing, the power is, unless the contrary intention appears, to be taken as including a power:
 - (1) exercisable in the like manner and subject to the like conditions (if any) to repeal, rescind, revoke, amend or vary that act or thing; and
 - (2) to do the act or thing from time to time.
- (c) Where this Constitution confers a power to do a particular act or thing with respect to particular matters, the power is, unless the contrary intention appears, to be taken to include a power to do that act or thing with respect to some only of those matters or with respect to a particular class or particular classes of those matters and to make different provision with respect to different matters or different classes of matters.
- (d) Where this Constitution confers a power to make appointments to any office or position other than Director, the power is, unless the contrary intention appears, to be taken to include a power:
 - (1) to appoint a person to act in the office or position until a person is appointed to the office or position;
 - (2) subject to any contract between ASI and the relevant person and any applicable industrial law, to remove or suspend any person appointed, with or without cause; and
 - (3) to appoint another person temporarily in the place of any person so removed or suspended or in place of any sick or absent holder of such office or position.
- (e) Where this Constitution confers a power or imposes a duty then, unless the contrary intention appears, the power may be exercised and the duty must be performed from time to time as the occasion requires.
- (f) Where this Constitution confers a power or imposes a duty on the holder of an office as such then, unless the contrary intention appears, the power may be exercised and the duty must be performed by the holder for the time being of the office.
- (g) Where this Constitution confers power on a person or body to delegate a function or power:
 - (1) the delegation may be concurrent with, or to the exclusion of, the performance or exercise of that function or power by the person or body;
 - (2) the delegation may be either general or limited in any manner provided in the terms of delegation;
 - (3) the delegation need not be to a specified person but may be to any person from time to time holding, occupying or performing the duties of, a specified office or position;
 - (4) the delegation may include the power to delegate;
 - (5) where the performance or exercise of that function or power is dependent upon the opinion, belief or state of mind of that person or body in relation to a matter, that

function or power may be performed or exercised by the delegate upon the opinion, belief or state of mind of the delegate in relation to that matter; and

- (6) the function or power so delegated, when performed or exercised by the delegate, is to be taken to have been performed or exercised by the person or body.

2. Objects

ASI has the following objects:

- (a) to define globally applicable ASI Standards for sustainability performance and material chain-of-custody for the aluminium value chain;
- (b) to promote measurable and continual improvements in the key environmental, social and governance dimensions of aluminium production, use and recycling;
- (c) to develop a credible assurance and certification system that both mitigates the risks of non-conformity with ASI Standards and minimises barriers to broad scale implementation of ASI Standards; and
- (d) to become and remain a globally valued organisation advancing programs for sustainability in the aluminium value chain, which is financially self-sustaining and inclusive of stakeholder interests.

3. Powers

Solely for carrying out ASI's objects, ASI may, in any manner permitted by the Corporations Act or the ACNC Legislation:

- (a) exercise any power;
- (b) take any action; or
- (c) engage in any conduct or procedure,

which under the Corporations Act or the ACNC Legislation a company limited by guarantee may exercise, take or engage in if authorised by its constitution.

4. Income and property

- (a) ASI's income and property must be applied solely towards promoting ASI's objects.
- (b) Subject to rule 4(c), no part of the income or property of ASI may be paid, transferred or distributed, directly or indirectly, by way of dividend, bonus, or other profit distribution, to any Member, former Member, Director or former Director or to any person claiming through such a person.
- (c) Nothing in rule 4(b) prevents the payment in good faith of:
 - (1) reasonable and proper remuneration to any employee of ASI;
 - (2) subject to this Constitution, reasonable and proper amounts to any Member or Director in return for any services actually rendered to ASI;
 - (3) the payment of interest at a rate not exceeding interest at the rate for the time being charged by ASI's bankers for money lent to ASI;
 - (4) of reasonable and proper rent for premises let by any Member to ASI;

- (5) sums permitted to be paid under Chapter 2E (Related Party Transactions) of the Corporations Act;
- (6) sums permitted to be paid under rule 9.8; and
- (7) sums paid under rule 13.

5. Membership

5.1 Classes of membership

There are 6 classes of membership:

- (a) Production and Transformation membership;
- (b) Industrial Users membership;
- (c) Downstream Supporters membership;
- (d) Civil Society membership;
- (e) Associations membership; and
- (f) General Supporters membership.

5.2 Production and Transformation membership

- (a) The Members in the Production and Transformation membership class are those organisations who both:
 - (1) are eligible to be admitted to this class under rules 5.2(b) and 5.8; and
 - (2) are admitted to this class under rule 5.11,and who remain Members in this class.
- (b) An organisation is eligible to be admitted to the Production and Transformation membership class if the organisation:
 - (1) is a body corporate or, in the opinion of the Directors, is an organisation with separate legal personality;
 - (2) carries out any bauxite development, bauxite mining, high purity alumina production, alumina refining, aluminium smelting, aluminium re-melting, recycling or refining, semi-fabrication (including rolling, extrusion or casting) and/or Material Conversion;
 - (3) agrees to seek certification against the ASI Performance Standard as envisaged by rule 6.1(a); and
 - (4) has paid any fees that are payable under rule 5.18.

5.3 Industrial Users membership

- (a) The Members in the Industrial Users membership class are those organisations who both:
 - (1) are eligible to be admitted to this class under rules 5.3(b) and 5.8; and
 - (2) are admitted to this class under rule 5.11,

and who remain Members in this class.

- (b) An organisation is eligible to be admitted to the Industrial Users membership class if the organisation:
- (1) is a body corporate or, in the opinion of the Directors, is an organisation with separate legal personality;
 - (2) is an organisation that either:
 - (A) manufactures consumer or commercial goods containing aluminium, in the aerospace, automotive, construction, consumer durables, engineering, IT or another similar sector; or
 - (B) uses aluminium in packaging for its products in the beverage, food, pharmaceutical or another sector;whether or not it also carries out:
 - (C) aluminium re-melting, recycling or refining, semi-fabrication (including rolling, extrusion or casting); and/or
 - (D) Material Conversion;
 - (3) agrees to seek certification against the ASI Performance Standard as envisaged by rule 6.1(b); and
 - (4) has paid any fees that are payable under rule 5.18.

5.4 Downstream Supporters membership

- (a) The Members in the Downstream Supporters membership class are those organisations who both:
- (1) are eligible to be admitted to this class under rules 5.4(b) and 5.8; and
 - (2) are admitted to this class under rule 5.11,
- and who remain Members in this class.
- (b) An organisation is eligible to be admitted to the Downstream Supporters membership class if the organisation:
- (1) is a body corporate or, in the opinion of the Directors, is an organisation with separate legal personality;
 - (2) either:
 - (A) is an organisation that either:
 - (i) manufactures consumer or commercial goods containing aluminium, in the aerospace, automotive, construction, consumer durables, engineering, IT or another similar sector; or
 - (ii) uses aluminium in packaging for its products in the beverage, food, pharmaceutical, retail or another sector; or
 - (B) trades or collects aluminium for re-melting or recycling; and

- (3) has paid any fees that are payable under rule 5.18.

5.5 Civil Society membership

- (a) The Members in the Civil Society membership class are those organisations who both:
 - (1) are eligible to be admitted to this class under rule 5.5(b); and
 - (2) are admitted to this class under rule 5.11,and who remain Members in this class.
- (b) An organisation is eligible to be admitted to the Civil Society membership class if the organisation:
 - (1) is a body corporate or, in the opinion of the Directors, is an organisation with separate legal personality;
 - (2) is a not-for-profit organisation which, at the international, regional, national or local level, serves the interests of the public or a segment of the public, including environmental or human rights non-government organisations, indigenous peoples or community-based organisations, labour organisations and consumer associations; and
 - (3) has paid any fees that are payable under rule 5.18.

5.6 Associations membership

- (a) The Members in the Associations membership class are those organisations who both:
 - (1) are eligible to be admitted to this class under rule 5.6(b); and
 - (2) are admitted to this class under rule 5.11,and who remain Members in this class.
- (b) An organisation is eligible to be admitted to the Associations membership class if the organisation:
 - (1) is a body corporate or, in the opinion of the Directors, is an organisation with separate legal personality;
 - (2) is an industry or other trade association that represents commercial interests in any part of the aluminium value chain, including aluminium associations, green building councils, and downstream sector associations; and
 - (3) has paid any fees that are payable under rule 5.18.

5.7 General Supporters membership

- (a) The Members in the General Supporters membership class are those organisations who:
 - (1) are eligible to be admitted to this class under rules 5.7(b) and 5.8; and
 - (2) are admitted to this class under rule 5.11,and who remain Members in this class.

- (b) An organisation is eligible to be admitted to the General Supporters membership class if the organisation:
 - (1) is a body corporate or, in the opinion of the Directors, is an organisation with separate legal personality;
 - (2) supports ASI's mission and objects but is not eligible for membership under any of the other membership classes, including governments, regulators, international institutions, entities in the investment sector, parallel initiatives, academic and research institutions, specialist agencies, consultancies, media organisations, trading and shipping organisations, and related industries (for example, waste processing of bauxite residue, dross or spent pot-lining); and
 - (3) has paid any fees that are payable under rule 5.18.

5.8 Other membership class eligibility criteria

- (a) If an organisation carries out any bauxite development, bauxite mining, high purity alumina production, alumina refining, or aluminium smelting, that organisation is eligible only to be admitted to the Production and Transformation membership class.
- (b) Subject to rule 5.8(a), if an organisation is eligible for either the Production and Transformation membership class or the Industrial User membership class, that organisation must, at the time of its application for membership, nominate which of those 2 classes it believes most accurately reflects its predominant business activities.
- (c) If an organisation is eligible for either the Industrial User membership class or the Downstream Supporter membership class, that organisation can nominate either of those classes based on its desired status of ASI Certification.
- (d) An organisation who carries out or wishes to carry out independent third party-audits as part of or in relation to any ASI Certification or ASI Standard is not eligible for membership in any membership class.

5.9 Joint holding of a membership in ASI

- (a) 2 or more bodies corporate may jointly hold a membership in any class of membership in ASI.
- (b) A body corporate may be a Joint Membership Holder in respect of 1 membership in ASI only.
- (c) Joint Membership Holders hold the membership in ASI as joint tenants with rights of survivorship, on the terms of this rule 5.8 and also on the following conditions:
 - (1) they are liable individually as well as jointly for all payments in respect of the membership in ASI, including under rule 14(c);
 - (2) subject to rule 5.9(c)(1), on the winding-up, dissolution or resignation of any 1 of them, the survivor is the only organisation ASI will recognise as having any interest in the membership in ASI; and
 - (3) any 1 of the Joint Membership Holders may give effective receipts for any distribution or payment in respect of the membership in ASI.
- (d) In relation to an application by bodies corporate to hold a membership in ASI jointly:
 - (1) each proposed Joint Membership Holder must sign the application or otherwise indicate to ASI its consent to become a member and to be bound by this Constitution;

- (2) the application must nominate 1 of the Joint Membership Holders to be the Joint Membership Representative to represent all of the Joint Membership Holders in respect of that joint holding;
 - (3) proof, to the satisfaction of ASI, must be provided to substantiate the eligibility of each of the proposed Joint Membership Holders to be a member in the relevant class of membership in its own right; and
 - (4) the ASI Secretariat must assess the application and in doing so may consult with the Directors, and the ASI Secretariat will determine the eligibility of the application based on the information provided under rule 5.9(d)(3).
- (e) If an application by bodies corporate to hold a membership in ASI jointly is approved under rule 5.9(d)(4):
- (1) each proposed Joint Membership Holder will be registered as a joint holder of the relevant membership in ASI; and
 - (2) each Joint Membership Holder is only entitled to exercise or enjoy rights of membership, whether under this Constitution or otherwise, subject to this rule 5.8.
- (f) Joint Membership Holders may, at any time, by notice in writing to the ASI Secretariat signed by each of them:
- (1) nominate any of them to be their replacement Joint Membership Representative to represent all of the Joint Membership Holders in respect of that joint holding;
 - (2) request ASI's approval of any additional Joint Membership Holder in respect of that joint holding, in which case:
 - (A) the Joint Membership Holders must provide proof, to the satisfaction of ASI, to substantiate the eligibility of the proposed new Joint Membership Holder to be a member in the relevant class of membership in its own right; and
 - (B) the ASI Secretariat must assess the request and in doing so may consult with the Directors, and the ASI Secretariat will determine the request based on the information provided under rule 5.9(f)(2)(A); and
 - (3) advise ASI of the winding-up, dissolution or resignation of any Joint Membership Holder in respect of that joint holding,

and the register of members of ASI must then be amended accordingly.

- (g) Joint Membership Holders may, subject to this rule 5.9, put in place any arrangements or agreements as between themselves as they see fit in relation to their Joint Membership Representative representing them in respect of that joint holding.
- (h) ASI need never enquire into, nor is ASI ever responsible for non-compliance or conduct inconsistent with, arrangements or agreements as between Joint Membership Holders in relation to the relevant jointly held membership, including those referred to in rule 5.9(f).
- (i) A Joint Membership Representative:
 - (1) which receives any notice or communication from ASI, including a notice of general meeting, is deemed to receive that notice or communication on behalf of each Joint Membership Holder it represents;
 - (2) may give, in that capacity, any notice or communication to ASI, and any such notice or communication is deemed to be given on behalf of each Joint Membership Holder it represents;

- (3) is entitled to exercise any right, entitlement or discretion of any Joint Membership Holder it represents, and ASI may regard any such exercise as duly authorised by the relevant Joint Membership Holder and need make no enquiry into such exercise;
- (4) without limiting rule 5.9(i)(3), is entitled, to the exclusion of each other Joint Membership Holder, to exercise the power of the membership to:
 - (A) vote (whether at a general meeting or by signing a written resolution under any power to do so) or give consent or approval to any thing; and
 - (B) appoint a proxy in respect of the membership.
- (j) A certification requirement that applies to a membership which is held jointly, is satisfied if at least 1 of the Joint Membership Holders of that membership satisfies that requirement.
- (k) Any act or omission of a Joint Membership Holder in its capacity as a Member, including any breach of this Constitution, is deemed to be an act or omission of each other Joint Membership Holder of the relevant membership in ASI.
- (l) The ASI Secretariat may determine, in any manner it thinks fit, any difficulties, anomalies or disputes which may arise in relation to Joint Membership Holders or holding memberships in ASI jointly, whether generally or in relation to any jointly held membership or Joint Membership Holder, and in doing so may consult with the Directors. Such a determination is conclusive and binding on all persons to whom the determination relates.
- (m) This rule 5.9 applies notwithstanding anything to the contrary in this Constitution.

5.10 Admission of new Members – the Directors’ power to determine form and manner

Every applicant for membership must:

- (a) apply in the form and manner determined by the Directors; and
- (b) provide any additional information or material to accompany its application as determined by the Directors.

5.11 Admission of new Members – the ASI Secretariat’s power to administer the process

- (a) The ASI Secretariat must admit as a Member any applicant who has complied with the requirements set by the Directors under rule 5.10.
- (b) The ASI Secretariat must decline to admit any applicant as a Member who has not complied with the requirements set by the Directors under rule 5.10.
- (c) Despite an applicant’s nomination of a membership class, if there is any inaccuracy, doubt or uncertainty over an applicant’s entitlement to be a Member in any particular membership class, the ASI Secretariat may determine the appropriate class, based upon the requirements in this Constitution and the nature and activities of the applicant, and in doing so may consult with the Directors.
- (d) Without limiting any of rules 5.11(a) to 5.11(c), where an applicant has made a nomination under rule 5.8(b), the ASI Secretariat must implement that nomination unless the ASI Secretariat forms the view, acting reasonably, that the nomination does not fairly reflect the predominant business activities of the applicant.
- (e) Once the ASI Secretariat decides to admit a new Member or decline the admission of an applicant for membership, the ASI Secretariat must:
 - (1) advise the applicant of that decision; and

- (2) issue an invoice for the relevant membership fee.
- (f) If the Member's membership fee is not paid within the required time, unless either the Directors or the ASI Secretariat decide otherwise, the admission as a Member is automatically revoked and the organisation is to be regarded as never having been a Member.

5.12 Power to suspend admission of Members

The Directors may suspend the admission of Members at such times and for such periods as they think fit.

5.13 Cessation of membership

- (a) A Member ceases to be a Member:
 - (1) if the Member resigns by notice in writing to ASI;
 - (2) if the Member experiences an Insolvency Event;
 - (3) if the Member is expelled under rule 5.14 or 5.15;
 - (4) if the Member is required to achieve and maintain ASI Certification but the audit visit for assessing that ASI Certification does not occur within the required time, or that Member does not maintain that ASI Certification for any reason; or
 - (5) if the Member has not paid fees that have become due and payable to ASI within the time specified (which may not be less than 30 days) by the ASI Secretariat in a final written request for payment for those fees being sent to the Member, or by any other date then agreed between the Member and the ASI Secretariat from time to time.
- (b) If a Member no longer satisfies applicable eligibility criteria for membership in the relevant membership class, the ASI Secretariat may (and it may consult with the Directors on this issue) determine that the Member's membership should cease, and if the ASI Secretariat does so:
 - (1) it must promptly give written notice to the Member informing the Member that a cessation resolution has been passed and the Member will cease to be a member in 14 days;
 - (2) the Member may, within 14 days from the date of the notice, give written notice to the ASI Secretariat that the Member wishes to appeal the cessation resolution under rule 5.16;
 - (3) the cessation resolution is provisional and does not have effect (including for the purposes of rule 5.17(b)) unless:
 - (A) the Member does not give notice under rule 5.13(b)(2) within time; or
 - (B) the Member gives notice under rule 5.13(b)(2) within time but the expert considering the appeal determines that the cessation resolution is to become effective.

5.14 Expulsion of Members

- (a) Subject to this rule 5.14, the Directors may by resolution expel a Member:
 - (1) who fails to comply with this Constitution;

- (2) who knowingly makes or gives any false, misleading or deceptive statement or representation verbally or in writing to ASI; or
- (3) whose conduct, in the opinion of the Directors, is or has been materially prejudicial to the interests of ASI;

by giving notice in writing of that resolution to the Member.

- (b) If the Directors intend to propose a resolution under rule 5.14(a) they must give the Member written notice of that fact:

- (1) setting out the grounds on which the intended resolution is based; and
- (2) informing the Member that it has 14 days from the date of the notice to give written submissions to the Directors in relation to the proposed resolution,

and the Directors must otherwise observe the principles of natural justice in administering the process under this rule 5.14.

- (c) If the Member:

- (1) gives written submissions in time in relation to the proposed resolution – the Directors must consider those submissions in deciding whether or not to pass the resolution under rule 5.14(a); or
- (2) does not give written submissions in relation to the proposed resolution or does not provide them within time – the Directors may pass the proposed resolution as and when they see fit.

- (d) If the Directors pass the proposed resolution:

- (1) they must promptly give written notice to the Member informing the Member that the Member may, within 14 days from the date of the notice, give written notice to the Directors that the Member wishes to appeal the expulsion resolution under rule 5.16;
- (2) the expulsion resolution is provisional and does not have effect (including for the purposes of rule 5.17(b)) unless:
 - (A) the Member does not give notice under rule 5.14(d)(1) within time; or
 - (B) the Member gives notice under rule 5.14(d)(1) within time but the expert considering the appeal determines that the expulsion resolution is to become effective.

5.15 Complaints mechanism and the disciplining of Members

The Directors may make By-laws in relation to a complaints mechanism which:

- (a) will apply to ASI, Directors and Members; and
- (b) may include the disciplining of Members – provided that any process in a complaints mechanism that may result in:

- (1) the expulsion of a Member; or
- (2) an ASI Certification held by a Member being revoked,

is subject to an appeal process equivalent to that set out in rule 5.16.

5.16 Appeals

If a Member gives a notice of appeal under rule 5.13(b)(2) or 5.14(d)(1) within time:

- (a) an expert must be appointed to determine whether or not, on the merits of the circumstances, the Proposed Decision is to become effective;
- (b) the expert must be:
 - (1) Independent;
 - (2) suitably qualified and experienced; and
 - (3) agreed by the Member and Proposed Decision Maker to make the determination;
- (c) if the Member and the Proposed Decision Maker have not agreed on an expert to make the determination within 10 Business Days from the first date a written nomination of any such expert is given by the Member to the Proposed Decision Maker or the Proposed Decision Maker to the Member, either the Member or the Proposed Decision Maker may request that the national president of Resolution Institute ABN 69 008 651 232 (or his or her nominee) nominates a person to make the determination, and provided the nominee represents to the Member and the Proposed Decision Maker in writing that the nominee:
 - (1) is Independent; and
 - (2) has sufficient qualifications and experience to make the determination,
 the nominee becomes the expert;
- (d) as soon as reasonably practicable after the expert has been agreed or determined, the Member and the Proposed Decision Maker must engage the expert on reasonable terms and refer the matter to the expert for determination in writing expeditiously, as an expert and not an arbitrator;
- (e) the Member and the Proposed Decision Maker may each make a submission to the expert in respect of the Proposed Decision and all written communications between the expert (or expert's advisers) and the Member or the Proposed Decision Maker (or its advisers) must be promptly copied to the Proposed Decision Maker or the Member as applicable;
- (f) the Member and the Proposed Decision Maker must provide the expert with such information as the expert may reasonably require in order to make the determination, subject to the Member and the Proposed Decision Maker (as the case may be) taking reasonable precautions to maintain the confidentiality of that information or to ensure that any legal professional privilege or other privilege attaching to that information is not waived or otherwise lost;
- (g) the Member and the Proposed Decision Maker must ensure that:
 - (1) the expert provides a draft of the expert's determination to the Member and the Proposed Decision Maker at or about the same time and must allow each of the Member and the Proposed Decision Maker a period of 5 Business Days to review and provide any comments to the expert on the draft determination; and
 - (2) the expert provides the expert's final written determination to the Member and the Proposed Decision Maker at or about the same time and promptly after it has been finalised;
- (h) the expert's final written determination on whether or not, on the merits of the circumstances, the Proposed Decision is to become effective, will be conclusive and binding on the Member and ASI except to the extent of any manifest error;

- (i) the costs of the expert must be borne by ASI and the Member in equal shares unless otherwise agreed between the Member and the Proposed Decision Maker in writing;
- (j) each of the Member and the Proposed Decision Maker must consult with the other and do whatever is reasonably requested of the other to effect the engagement of the expert and to assist the expert make the determination as soon as reasonably practicable and within any period required for finalising the determination;
- (k) the appeal process will be governed by the laws of Victoria, Australia; and
- (l) the Member and the Proposed Decision Maker may, in their respective absolute discretions, agree on appeal process different to that set out in rules 5.16(a) to 5.16(k).

5.17 Entries in the register of Members

In relation to the register of Members:

- (a) an organisation admitted as a Member under rule 5.11 – becomes a Member; and
- (b) a Member affected by an event under rule 5.13 – ceases to be a Member,

from the time an entry in the register of Members is made to record that fact.

5.18 Membership fees

- (a) Each Member must pay such fees, being annual subscription fees or other fees, as determined by the Directors as payable in relation to the relevant class of membership.
- (b) A Member's membership year is a 12 month period commencing on the date of admission under rule 5.17(a).
- (c) Fees are payable at the times determined by the Directors.
- (d) The Directors may determine differential fees of any type or amount (including a fee of zero) and differential times for payment:
 - (1) as between classes of membership;
 - (2) as between Members within a class of membership, whether based upon:
 - (A) a Member's annual revenue/turnover;
 - (B) a Member's number of full time equivalent employees;
 - (C) a Member's government/commercial/non-profit/academic status; or
 - (D) any other matter the Directors choose; and
 - (3) to recognise and reflect, in any specific case, payments or other valuable consideration already provided to ASI.
- (e) Notwithstanding anything else in this rule 5.18, a Civil Society Member who has a nominee elected to the ASI Standards Committee under rule 7.2(a)(3), is not required, whilst that nominee holds office, to pay any annual subscription fees.

- (f) Unless the Directors determine otherwise in a general or specific case, where fees are due and payable by a Member to ASI but are unpaid, that Member is not eligible to vote, whether at any general meeting or as part of any written resolution.

5.19 Variation of class rights

Unless otherwise provided by the terms of membership of a class of Members:

- (a) all or any of the rights or privileges attached to the class may be varied by modification of this Constitution by the Members, whether or not ASI is being wound-up, only with the consent in writing of three-quarters of the Members of that class, or with the sanction of a special resolution passed at a separate meeting of the Members of that class;
- (b) the provisions of this Constitution relating to general meetings apply, so far as they can and with such changes as are necessary, to each separate meeting of the Members of that class; and
- (c) the rights or privileges conferred upon the Members of that class are to be taken as not being varied by:
 - (1) the admission of further Members in that class or any other class; or
 - (2) any Member's cessation of membership, whether under rule 5.13 or otherwise.

5.20 Membership not transferable

Membership is personal to the Member and is not transferable.

5.21 Relevant transactions

Where a Member becomes aware that:

- (a) control of the Member has changed or is likely to change; or
- (b) a transaction or restructure has occurred or is likely to occur which affects any part of the Member to which its ASI membership is relevant,

the Member must, subject to confidentially restrictions applicable to that information which it might have, promptly give to the ASI Secretariat written notice of that circumstance providing general details of the circumstance, and must on an ongoing basis also provide other information relating to that circumstance that the ASI Secretariat reasonably requests.

5.22 Restriction on legal proceedings

- (a) Subject to law and rule 5.22(b), a Member may not, in any jurisdiction, commence legal proceedings of any nature against ASI.
- (b) A Member may commence legal proceedings against ASI in relation to any actual or alleged:
 - (1) non-compliance with any Member expulsion or certification revocation process set out in this Constitution or any By-law, to which that Member is or has been subject; or
 - (2) infringement by ASI of the Member's legal or contractual rights as a Member (including rights held by that Member in common with other Members in the same class of membership).

6. ASI Certification

6.1 General requirements

- (a) An audit visit for a Production and Transformation Member's assessment for ASI Certification against the applicable criteria in the ASI Performance Standard for at least 1 facility or product line must occur within 2 years (or such extended period permitted under the ASI Assurance Manual) from being admitted as a Member under rule 5.17(a).
- (b) An audit visit for an Industrial Users Member's assessment for ASI Certification against the applicable criteria in the ASI Performance Standard for at least 1 facility or product line must occur within 2 years (or such extended period permitted under the ASI Assurance Manual) from being admitted as a Member under rule 5.17(a).
- (c) A Member which is required to achieve ASI Certification must, once achieved, maintain certification in relation to at least 1 facility or product line, continuously.
- (d) A Member may have its ASI Certification withdrawn or suspended in accordance with applicable By-laws.
- (e) A change to the ASI Certification requirements set out in this rule 6.1 may only be effected by a change to this Constitution, and any such change is not a variation of the class rights of any class of membership.

6.2 The process for seeking and reviewing ASI Certification

The ASI Assurance Manual may regulate:

- (a) the process for a Member seeking ASI Certification;
- (b) the process for reviewing a Member's compliance with its ASI Certification; and
- (c) any other matter related to ASI Certification.

6.3 Accreditation of auditors

The Directors, in consultation with the ASI Standards Committee or other relevant Committee, may make processes regulating:

- (a) the accreditation of auditors involved in ASI Certification; and
- (b) the rights and responsibilities of those auditors and Members in relation to the audit process.

7. The ASI Standards Committee

7.1 Terms of reference of the ASI Standards Committee

The ASI Standards Committee has responsibility for:

- (a) reviewing and making recommendations on the design, implementation and continual improvement of ASI Certification;
- (b) providing guidance on the consultation and engagement of stakeholders during standards development activities;
- (c) approving new and revised ASI Standards and related normative documents for the Directors to make as By-laws;

- (d) reviewing and making recommendations on ASI's monitoring and evaluation of impacts, including the ASI Theory of Change;
- (e) recommending that ASI convene Working Groups or forums on specific standards-related issues, so as to inform the development of guidance or standards development activities;
- (f) reviewing and making recommendations on permitted representations of ASI Certification by 3rd parties and recommending courses of action to prevent misrepresentation;
- (g) providing guidance relating to the quality and impartiality of ASI Certification and auditor accreditation activities;
- (h) conducting, with the support of the ASI Secretariat, and/or a person engaged by the ASI Secretariat, an annual review of the impartiality of the decision-making processes relating to ASI Certification; and
- (i) any other matters determined by the Directors from time to time.

7.2 Number and term of ASI Standards Committee Members

- (a) The ASI Standards Committee is comprised of:
 - (1) a minimum of 3 and a maximum of 6 persons nominated by the Production and Transformation Members (subject to rule 7.2(b)), but elected by the Members as a whole;
 - (2) a minimum of 3 and a maximum of 6 persons nominated by the Industrial Users Members (subject to rule 7.2(b)), but elected by the Members as a whole;
 - (3) a minimum of 4 and a maximum of 10 persons nominated by the Civil Society Members (subject to rule 7.2(c)), but elected by the Members as a whole; and
 - (4) up to 2 persons nominated by the Indigenous Peoples Advisory Forum, and appointed by the Directors under rule 7.3(b).
- (b) If there are insufficient Members in the Production and Transformation class or Industrial Users class (bearing in mind rule 7.5(b)) to permit 6 nominees to be put forward by the relevant Members in any of the categories referred to in rule 7.2(a)(1) or 7.2(a)(2) respectively, the ASI Standards Committee may seek from the Members generally suggestions of additional candidates for election as ASI Standards Committee Members to make up those vacancies (but not to exceed the number of vacancies), and these additional persons who the ASI Standards Committee decides will also be nominated for election must:
 - (1) in the reasonable opinion of the ASI Standards Committee, fairly reflect the interests of the relevant class of membership; and
 - (2) be chosen to address any perceived skill, experience, gender or representation deficiencies on the ASI Standards Committee.

and the Directors may make By-laws, after consultation with the ASI Governance and People Committee, regulating the process under which the ASI Standards Committee seeks suggestions and determines which of them will be nominated for election.

- (c) If there are insufficient Civil Society Members at the relevant time (bearing in mind rule 7.5(b)) to permit 4 nominees to be put forward in the category referred to in rule 7.2(a)(3), the ASI Standards Committee may seek from the Members generally suggestions of additional candidates for election as ASI Standards Committee Members to make up those vacancies (but not to exceed the number of vacancies), and these additional persons who the ASI Standards Committee decides will also be nominated for election must:

- (1) in the reasonable opinion of the ASI Standards Committee, fairly reflect the interests of the relevant class of membership; and
- (2) be chosen to address any perceived skill, experience, gender or representation deficiencies on the ASI Standards Committee,

and the Directors may make By-laws, after consultation with the ASI Governance and People Committee, regulating the process under which the ASI Standards Committee seeks suggestions and determines which of them will be nominated for election.

- (d) The ASI Standards Committee must inform the Directors of any nominations it makes under rule 7.2(b) or 7.2(c) no less than 14 days before the commencement of the relevant election. The Directors may, after consultation with the ASI Standards Committee, revoke any candidate's nomination where, in their reasonable opinion, the requirements in rules 7.2(b)(1) and 7.2(b)(2) or 7.2(c)(1) and 7.2(c)(2) (as applicable) are not satisfied in relation to that candidate. The Directors must promptly advise the ASI Standards Committee and the ASI Governance and People Committee of any such revocation.
- (e) If any position on the ASI Standards Committee is not filled because either:
 - (1) insufficient nominations have been made under rule 7.2(a), 7.2(b) or 7.2(c) (including where the insufficiency arises by virtue of rule 7.2(d)); or
 - (2) candidates for election are not elected,

such vacancies are to be treated as casual vacancies which may be filled under rule 7.7.

- (f) Subject to rule 7.2(g), an ASI Standards Committee Member referred to in any of rules 7.2(a)(1) to 7.2(a)(3) holds office, subject to rule 7.2(i), until the ASI Standards Committee Member Election Date occurring in the 2nd year after the year of the ASI Standards Committee Member's election.
- (g) An ASI Standards Committee Member who was nominated as an additional candidate under rule 7.2(b) or 7.2(c), holds office, subject to rule 7.2(i), until the ASI Standards Committee Member Election Date occurring in the 1st year after the year of the ASI Standards Committee Member's election.
- (h) An ASI Standards Committee Member referred to in rule 7.2(a)(4) holds office, subject to rule 7.2(i), until the 2nd anniversary of the date of appointment of that person.
- (i) An ASI Standards Committee Member ceases to hold that office:
 - (1) in circumstances where he or she, if he or she was a Director, would cease to hold office as a Director by virtue of rule 9.7 (other than rule 9.7(h)); or
 - (2) if he or she is removed by a resolution of Directors on the basis that the ASI Standards Committee Member has either, in the opinion of those Directors voting in favour of that resolution:
 - (A) brought, or threatened to bring, ASI into serious disrepute or caused ASI serious embarrassment; or
 - (B) caused serious disruption to the smooth and harmonious operations of the ASI Standards Committee or ASI generally (such conduct being over and above engaging in rigorous debate and expressing dissent at a meeting of the ASI Standards Committee).
- (j) An ASI Standards Committee Member who retires under rule 7.2(f), 7.2(g) or 7.2(h), provided he or she is otherwise eligible, may be re-elected or re-appointed, provided that no

such person may hold office for more than 3 consecutive terms, unless the Directors, on a case-by-case basis, determine otherwise.

- (k) An ASI Standards Committee Member in a category referred to in rule 7.2(a)(3) or 7.2(a)(4) is entitled to be paid all reasonable travelling expenses properly incurred by that ASI Standards Committee Member in connection with the affairs of the ASI Standards Committee.

7.3 Appointed ASI Standards Committee Members

- (a) The Directors and the Indigenous Peoples Advisory Forum may agree procedures for the nomination of persons as ASI Standards Committee Members under rule 7.2(a)(4).
- (b) The Directors must promptly appoint all persons nominated under rule 7.2(a)(4) to the ASI Standards Committee.

7.4 Nomination of candidates for election to the ASI Standards Committee

- (a) Not less than 4 months before an AGM, the ASI Secretariat must advise Members entitled to nominate a candidate for election as an ASI Standards Committee Member of that opportunity, providing reasonable details, as they see fit, of any retiring ASI Standards Committee Members (whether retiring under rule 7.2(f), 7.2(g), 7.2(h) or 7.7(a)(2) and ongoing ASI Standards Committee Members, whether elected or appointed.
- (b) In the case of an upcoming vacancy in the position of an ASI Standards Committee Member referred to in rule 7.2(a)(1), any Production and Transformation Member may, by notice in writing to the ASI Secretariat, nominate 1 candidate for election. That candidate must be an officer or employee of the nominating Member.
- (c) In the case of an upcoming vacancy in the position of an ASI Standards Committee Member referred to in rule 7.2(a)(2), any Industrial Users Member may, by notice in writing to the ASI Secretariat, nominate 1 candidate for election. That candidate must be an officer or employee of the nominating Member.
- (d) In the case of an upcoming vacancy in the position of an ASI Standards Committee Member referred to in rule 7.2(a)(3), any Civil Society Member may, by notice in writing to the ASI Secretariat, nominate 1 candidate for election. That candidate must be an officer or employee of the nominating Member.
- (e) Any nomination referred to above must be accompanied by:
 - (1) written acknowledgement from the candidate that he or she will comply with the obligations and duties of ASI Standards Committee Members as set out in the ASI Governance Handbook;
 - (2) an explanation from the nominating Member of the background, expertise and authority of the nominee, which forms the basis for the Member's nomination;
 - (3) a biography of the candidate (being no more than 150 words); and
 - (4) any other information the ASI Governance and People Committee may prescribe from time to time.
- (f) Any nomination referred to above must be received by the ASI Secretariat no less than 3 months before the relevant AGM or such other time as specified by the ASI Secretariat.

7.5 Eligibility

- (a) No Director may be nominated, appointed or elected as an ASI Standards Committee Member.

- (b) A Member may not have more than 1 of its nominees as an ASI Standards Committee Member at any one time.

7.6 The election process

- (a) The ASI Secretariat must review each nomination validly made under rule 7.4 and advise the ASI Governance and People Committee of all eligible candidates.
- (b) If, in relation to a category of ASI Standards Committee Members referred to in rules 7.2(a)(1) to 7.2(a)(3):
 - (1) there is a number of candidates less than or equal to the number of vacancies – those candidates are deemed elected and no formal election need to be conducted; or
 - (2) there is a number of candidates that exceeds the number of vacancies – a formal election must be conducted in respect of that category under rule 7.6(c).
- (c) An election will be conducted in or around March in each year in such manner as the ASI Governance and People Committee determines from time to time, including by electronic ballot and with the ability for Members to split their vote between candidates if they so desire.
- (d) The ASI Secretariat must declare the result of the election as soon as that result is determined.
- (e) A nominee elected as an ASI Standards Committee Member takes office from the relevant ASI Standards Committee Member Election Date.
- (f) It is desirable that gender and geographical diversity be reflected in the composition of the ASI Standards Committee.

7.7 Casual vacancies

- (a) Where a casual vacancy arises in an office referred to in rules 7.2(a)(1) to 7.2(a)(3):
 - (1) less than 8 months after the relevant election (other than through insufficiency of nominations or candidates for election not being elected) – the Directors may appoint the runner-up in that election within 2 months of the vacancy occurring, failing which another election must be held to fill that vacancy and the provisions in this rule 7 relating to nominations and the conduct of an election apply as far as possible to that election; or
 - (2) otherwise – the Directors may:
 - (A) where the vacancy occurred because of the operation of rule 7.2(i)(1) in conjunction with either the equivalent of rule 9.7(e) or 9.7(f), the Directors may reappoint the former ASI Standards Committee Member to that position for the balance of the term that the ASI Standards Committee Member would otherwise have served, despite anything else in this Constitution, and any such reappointment is to be regarded as continuing the previous term, not starting a new term; or
 - (B) in any circumstance – appoint any eligible person to fill any casual vacancy who they consider fairly represents the relevant class of Members, and such appointee holds office only until the declaration of the result of the next ASI Standards Committee Member Election Date.
- (b) A casual vacancy in an office referred to in rule 7.2(a)(4) may be filled under rules 7.3(a) and 7.3(b).

7.8 Alternate ASI Standards Committee Members

- (a) An ASI Standards Committee Member may, by notice in writing signed by the ASI Standards Committee Member and given to the ASI Standards Committee, appoint:
- (1) any other officer or employee of the same Member who nominated the appointing ASI Standards Committee Member, provided such person is not a Director; or
 - (2) if the ASI Standards Committee Member was nominated under rule 7.2(b) or 7.2(c) – any other officer or employee from the same organisation as the ASI Standards Committee Member, provided such person is not a Director,

to be the ASI Standards Committee Member's alternate member to act in his or her place at any specific meeting of the ASI Standards Committee or for any period (subject to rule 7.8(c), not exceeding 30 days from the date specified in the notice, or if no date is specified, from the date the notice is received by the ASI Standards Committee) where the ASI Standards Committee Member is unable to attend to his or her duties or exercise his or her powers as an ASI Standards Committee Member.

- (b) An ASI Standards Committee Member may not, subject to rule 7.8(c), appoint an alternate member under rule 7.8(a) more than 3 times in any Financial Year.
- (c) The time and frequency limitations in rules 7.8(a) and 7.8(b) respectively do not apply where an alternate ASI Standards Committee Member is appointed in respect of an ASI Standards Committee Member who at the time the alternate is to act, is either on:
- (1) maternity leave or paternity leave from his or her nominating Member; or
 - (2) sick leave or other health-related extended leave which has continued for 30 or more continuous days.
- (d) An alternate member may, subject to his or her terms of appointment, exercise all the powers (except the power to appoint an alternate ASI Standards Committee Member) and perform all the duties of the ASI Standards Committee Member who has appointed the alternate member to the extent the ASI Standards Committee Member has not exercised or performed them, including to attend and vote at a meeting of the ASI Standards Committee if his or her appointor is not present. An alternate member is otherwise not entitled, and has no other power, to act as an ASI Standards Committee Member.
- (e) An alternate member is entitled, along with his or her appointor, to notice of meetings of the ASI Standards Committee issued during the period of his or her appointment.
- (f) An alternate member waives notice of a meeting of the ASI Standards Committee for the alternate member and his or her appointor if the alternate member:
- (1) gives written notice of waiver to the ASI Standards Committee before, at or after the meeting; or
 - (2) attends the meeting.
- (g) The office of an alternate member is vacated if:
- (1) the period of appointment determined under rule 7.8(a) ends;
 - (2) the appointor vacates office as an ASI Standards Committee Member; or
 - (3) the appointor terminates the appointment by notice in writing signed by the appointor and given to the ASI Standards Committee (and such notice may be given even if the period of the appointment of the alternate member has not expired).
- (h) An alternate member is not to be taken into account in determining the minimum or maximum number of ASI Standards Committee Members allowed under this Constitution.

- (i) In determining whether a quorum is present at a meeting of the ASI Standards Committee, an alternate member who attends the meeting is counted as an ASI Standards Committee Member for the ASI Standards Committee Member on whose behalf the alternate member is attending.
- (j) An alternate member, while acting as an ASI Standards Committee Member:
 - (1) is responsible to ASI and the ASI Standards Committee for that person's own acts and defaults; and
 - (2) is not the agent of the ASI Standards Committee Member who appointed the alternate member.

7.9 Co-chairs of the ASI Standards Committee

- (a) The ASI Standards Committee will be co-chaired by 2 ASI Standards Committee Members, elected by the ASI Standards Committee Members, and being:
 - (1) 1 co-chair representing aluminium supply chain interests; and
 - (2) 1 co-chair representing civil society and indigenous peoples' interests.
- (b) The specific rights and entitlements of the co-chairs may be determined by the ASI Standards Committee from time to time subject to any relevant By-laws.

7.10 Proceedings of the ASI Standards Committee

- (a) The ASI Standards Committee Members may meet together for the dispatch of business and adjourn and otherwise regulate their meetings as they think fit.
- (b) The contemporaneous linking together by telephone or other electronic means (allowing reasonable interaction between them) of a number of the ASI Standards Committee Members sufficient to constitute a quorum, constitutes a meeting of the ASI Standards Committee and all the provisions in this Constitution relating to meetings of the ASI Standards Committee apply, so far as they can and with such changes as are necessary, to meetings of the ASI Standards Committee by telephone or other electronic means.

7.11 Notice of meetings of the ASI Standards Committee

- (a) Subject to this Constitution, notice of a meeting of the ASI Standards Committee must be given by the ASI Secretariat to each person who is at the time of giving the notice an ASI Standards Committee Member.
- (b) A notice of a meeting of the ASI Standards Committee:
 - (1) must specify the time and place of the meeting;
 - (2) should where practicable state the nature of the business to be transacted at the meeting;
 - (3) may be given in person or by post, or by telephone, fax or other electronic means.
- (c) In the absence of special circumstances, at least 7 days notice of a meeting of the ASI Standards Committee must be given.
- (d) An ASI Standards Committee Member may waive notice of any meeting of the ASI Standards Committee by notifying ASI to that effect in person or by post, or by telephone, fax or other electronic means.

- (e) The non-receipt of notice of a meeting of the ASI Standards Committee by, or a failure to give notice of a meeting of the ASI Standards Committee to, an ASI Standards Committee Member does not invalidate any act, matter or thing done or resolution passed at the meeting if:
 - (1) the non-receipt or failure occurred by accident or error;
 - (2) before or after the meeting, the ASI Standards Committee Member:
 - (A) has waived or waives notice of that meeting under rule 7.11(d); or
 - (B) has notified or notifies ASI of his or her agreement to that act, matter, thing or resolution personally or by post or by telephone, fax or other electronic means; or
 - (3) the ASI Standards Committee Member attended the meeting.
- (f) Attendance by a person at a meeting of the ASI Standards Committee waives any objection that person may have to a failure to give notice of the meeting.

7.12 Quorum at meetings of the ASI Standards Committee Member

- (a) No business may be transacted at a meeting of the ASI Standards Committee unless a quorum of ASI Standards Committee Members is present during the time the business is dealt with.
- (b) Subject to rule 7.12(d)(1), a quorum for a meeting of the ASI Standards Committee is at least half (rounded up if necessary) of the number of ASI Standards Committee Members in office at the relevant time, present at the meeting.
- (c) If a quorum is not present within 15 minutes after the time appointed for a meeting of the ASI Standards Committee, the meeting stands adjourned:
 - (1) to the day, the time and place, that the ASI Standards Committee Members determine; or
 - (2) if no determination is made by the ASI Standards Committee Members, to the same time on the next day and at the same time and place.
- (d) If, at the adjourned meeting, a quorum is not present within 15 minutes after the time appointed for the meeting, then:
 - (1) 5 ASI Standards Committee Members constitutes a quorum; or
 - (2) otherwise – the meeting is dissolved.
- (e) If there is a vacancy in the office of an ASI Standards Committee Member, the remaining ASI Standards Committee Member or ASI Standards Committee Members may act.

7.13 Decisions of the ASI Standards Committee

- (a) A meeting of the ASI Standards Committee at which a quorum is present is competent to exercise all or any of the authorities, powers and discretions vested in or exercisable by the ASI Standards Committee under this Constitution.
- (b) Decisions of the Standards Committee should wherever possible be made by consensus. In the absence of consensus, decisions are to be decided by a majority of votes cast by ASI Standards Committee Members present (including by proxy and alternates) and any such decision is for all purposes a determination of the Standards Committee.

- (c) Each ASI Standards Committee Member may cast 1 deliberative vote in relation to any matter considered at a meeting of the ASI Standards Committee.
- (d) In the case of an equality of votes upon any proposed resolution the chair of the meeting does not have a second or casting vote.

7.14 Proxies for ASI Standards Committee Members

- (a) An ASI Standards Committee Member may attend and vote by proxy at a meeting of the ASI Standards Committee if the proxy is an ASI Standards Committee Member, and has been appointed in writing by the appointor.
- (b) Such an appointment:
 - (1) must identify the specific meeting in relation to which the appointment is made;
 - (2) must either:
 - (A) direct the proxy how to vote on specific proposed substantive decisions; or
 - (B) expressly permit the proxy to vote as the proxy sees fit.
 - (3) to be valid, must be provided to the chair at or before the start of the relevant meeting;
- (c) If an ASI Standards Committee Member holds more than 1 appointment as a proxy, he or she may, in relation to any particular proposed substantive decision:
 - (1) cast his or her own vote in any manner he or she wishes;
 - (2) cast only 1 vote as a proxy appointed in the manner envisaged by rule 7.14(b)(2)(B); and
 - (3) cast any number of votes as a proxy appointed in the manner envisaged by rule 7.14(b)(2)(A).

7.15 Written resolutions of the ASI Standards Committee

- (a) If:
 - (1) all of the ASI Standards Committee Members have received reasonable notice of a proposed act, matter, thing or resolution; and
 - (2) such number of ASI Standards Committee Members who together are sufficient to constitute a quorum, assent to a document containing a statement to the effect that the act, matter or thing has been done or resolution has been passed,then that act, matter, thing or resolution is to be taken as having been done at or passed by a meeting of the ASI Standards Committee.
- (b) For the purposes of rule 7.15(a):
 - (1) the meeting is to be taken as having been held on the day on which, and at the time at which, the document was last assented to by 1 of those constituting that quorum;
 - (2) 2 or more separate documents in identical terms each of which is assented to by 1 or more of the relevant ASI Standards Committee Members are to be taken as constituting 1 document; and

- (3) an ASI Standards Committee Member may signify assent to a document by signing the document or by notifying ASI of the ASI Standards Committee Member's assent in person or by post, or by telephone, fax or other electronic means.
- (c) Where an ASI Standards Committee Member signifies assent to a document verbally in person or by telephone, the ASI Standards Committee Member must by way of confirmation either:
 - (1) promptly send to ASI an email confirming the ASI Standards Committee Member's assent; or
 - (2) sign the document at the next meeting of the ASI Standards Committee attended by that ASI Standards Committee Member,

but failure to do so does not invalidate the act, matter, thing or resolution to which the document relates.

8. General meetings

8.1 Calling general meetings

- (a) The Directors may, whenever they think fit, call and arrange to hold a general meeting.
- (b) A general meeting may be called and arranged to be held only as provided by this rule 8.1 or as provided by the Corporations Act.
- (c) The Directors may change the venue for, postpone or cancel a general meeting unless the meeting is called and arranged to be held by the Members or the court under the Corporations Act. If a general meeting is called and arranged to be held under section 249D of the Corporations Act, the Directors may not postpone it beyond the date by which section 249D requires it to be held and may not cancel it without the consent of the requisitioning Members.

8.2 Notice of general meetings

- (a) Subject to this Constitution, at least 21 days notice (or such other minimum period as may be prescribed by the Corporations Act from time to time) of a general meeting must be given in the manner authorised by rule 18.1 to each person who is at the date of the notice:
 - (1) a Member;
 - (2) a Director; or
 - (3) a person who audits the financial records and reports of ASI.
- (b) A notice of a general meeting must specify:
 - (1) the date, time and place of the meeting;
 - (2) if the meeting is to be held in 2 or more places – the technology that will be used to facilitate this; and
 - (3) except as provided in rule 8.2(d), state the general nature of the business to be transacted at the meeting.
- (c) Except as required by the Corporations Act or as provided by rule 8.2(d), no business other than that specified in the notice convening a general meeting may be transacted during that general meeting.

- (d) It is not necessary for a notice of an AGM to state that the business to be transacted at the meeting includes the consideration of the annual financial report, directors' report and auditor's report, the election of Directors, the declaration of the results of an election of Directors, the appointment of the financial auditor or the fixing of the financial auditor's remuneration.
- (e) A person may waive notice of any general meeting by notice in writing to ASI.
- (f) The non-receipt of notice of a general meeting or proxy form by, or a failure to give notice of a general meeting or a proxy form to, any person entitled to receive notice of a general meeting under this rule 8.2 does not invalidate any act, matter or thing done or resolution passed at the general meeting if:
 - (1) the non-receipt or failure occurred by accident or error; or
 - (2) before or after the meeting, the person:
 - (A) has waived or waives notice of that meeting under rule 8.2(e); or
 - (B) has notified or notifies ASI of the person's agreement to that act, matter, thing or resolution by notice in writing to ASI.
- (g) A person's attendance at a general meeting waives any objection that person may have to a failure to give notice, or the giving of a defective notice, of the meeting unless the person at the beginning of the meeting objects to the holding of the meeting.

8.3 Quorum at general meetings

- (a) No business may be transacted at any general meeting, except the election of a chair and the adjournment of the meeting, unless a quorum of Members is present during the time the business is dealt with.
- (b) Subject to rule 8.3(c)(2)(B)(i), a quorum for a general meeting is 10 Members present at the meeting.
- (c) If a quorum is not present within 30 minutes after the time appointed for a general meeting:
 - (1) where the meeting was convened upon the requisition of Members, the meeting must be dissolved; or
 - (2) in any other case:
 - (A) the meeting stands adjourned to such day, and at such time and place, as the Directors determine or, if no determination is made by the Directors, to the same day in the next week at the same time and place; and
 - (B) if, at the adjourned meeting, a quorum is not present within 30 minutes after the time appointed for the meeting, then:
 - (i) if at least 5 Members are present at the meeting, those Members constitute a quorum; or
 - (ii) otherwise – the meeting is dissolved.

8.4 Chair of general meetings

- (a) The Chair must (if present within 15 minutes after the time appointed for the meeting and willing to act) preside as chair at each general meeting.

- (b) If at a general meeting:
- (1) there is no Chair;
 - (2) the Chair is not present within 15 minutes after the time appointed for the meeting; or
 - (3) the Chair is present within that time but is not willing to act as chair of the meeting,
- then:
- (4) the Directors present must elect as chair of the meeting another Director who is present and willing to act; or
 - (5) if no other Director willing to act is present at the meeting, the Members may elect as chair of the meeting a Member who is present and willing to act.
- (c) Despite anything in rule 8.4(b), if the Chair later attends a general meeting, provided he or she is willing to act, the Chair must take over as chair of the general meeting.

8.5 Conduct of general meetings

- (a) A Member is entitled to attend, speak and, subject to rule 8.6(a), vote at a general meeting.
- (b) Subject to the provisions of the Corporations Act, the chair of a general meeting is responsible for the general conduct of the meeting and for the procedures to be adopted at the meeting.
- (c) The chair of a general meeting may at any time he or she considers it necessary or desirable for the proper and orderly conduct of the meeting (subject to the rights of Members at a general meeting as set out in the Corporations Act):
 - (1) impose a limit on the time that a person may speak on each motion or other item of business and terminate debate or discussion on any business, question, motion or resolution being considered by the meeting and require the business, question, motion or resolution to be put to a vote of the Members present; and
 - (2) adopt any procedures for casting or recording votes at the meeting, including the appointment of scrutineers.
- (d) Any question arising at a general meeting relating to the order of business, procedure or conduct of the meeting must be referred to the chair of the meeting, whose decision is final.
- (e) The chair of a general meeting may take any action he or she considers appropriate for the safety of persons attending the meeting and the orderly conduct of the meeting and may refuse admission to, or require to leave and remain out of, the meeting any person:
 - (1) in possession of a pictorial recording or sound recording device which in the opinion of the chair may or does cause inconvenience or disruption to the meeting;
 - (2) in possession of a placard or banner;
 - (3) in possession of an article considered by the chair to be dangerous, offensive or liable to cause disruption;
 - (4) who refuses to produce or permit examination of any article, or the contents of any article, in the person's possession;
 - (5) who behaves or threatens to behave in a dangerous, offensive or disruptive way; or

- (6) who is not entitled to receive notice of the general meeting.

The chair may delegate the powers conferred by this rule 8.5(e) to any person he or she thinks fit.

- (f) The chair of a general meeting may, and must if so directed by the meeting, adjourn the meeting from time to time and from place to place, but no business may be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place.
- (g) Where a meeting is adjourned for 30 days or more, notice of the adjourned meeting must be given as in the case of an original meeting.
- (h) Except as provided by rule 8.5(g), it is not necessary to give any notice of an adjournment or of the business to be transacted at an adjourned meeting.
- (i) Where a meeting is adjourned, the Directors may change the venue of, postpone or cancel the adjourned meeting unless the meeting was called and arranged to be held by the Members or the court under the Corporations Act. If a meeting is called and arranged to be held under section 249D of the Corporations Act the Directors may not postpone it beyond the date by which section 249D requires it to be held and may not cancel it without the consent of the requisitioning Members.
- (j) Nothing in rule 8.5 is to be taken to limit the powers conferred on the chair of a meeting by law.

8.6 Decisions at general meetings and electronic ballots

- (a) Except in the case of any resolution which under this Constitution or as a matter of law requires a special majority, questions arising at a general meeting are to be decided by a majority of votes cast by Members present at the meeting and eligible to vote, and any such decision is for all purposes a decision of the Members.
- (b) In the case of an equality of votes upon any proposed resolution, the resolution is to be regarded as defeated.
- (c) A resolution put to the vote of a general meeting must be decided on a poll.
- (d) Subject to rule 8.6(e), a poll will be taken in such manner and either at once or after an interval or adjournment or otherwise as the chair of the meeting directs, and the result of the poll will be the resolution of the meeting.
- (e) A poll on the election of a chair of the meeting or on a question of adjournment must be taken immediately.
- (f) Any resolution that could be considered and voted upon at a general meeting (other than the election of a Chair or the adjournment of the meeting), may be submitted to Members and voted upon by an electronic ballot, to be conducted at such time and in such manner as the ASI Secretariat determines (subject to any applicable By-laws), and a reference in this Constitution related to voting at a general meeting is to be interpreted as including voting in an electronic ballot. A resolution passed by an electronic ballot is regarded as passed at the time the result of the electronic ballot is declared, unless the wording of the resolution itself states otherwise.

8.7 Voting rights

- (a) A Member is eligible to vote at a general meeting subject to rule 5.18(e).

- (b) The voting power of each class of membership is weighted, subject to rule 8.7(c), according to the table below, and the weighting applies irrespective of the number of Members in the particular class:

MEMBERSHIP CLASS	WEIGHT
Production and Transformation	30%
Industrial Users	20%
Civil Society	30%
Downstream Supporters	10%
Associations	5%
General Supporters	5%

- (c) If at any time there are:
- (1) no Members in the Downstream Members class – the Industrial Users class has a class weighting of 30%; or
 - (2) no Members in another class – the ASI Governance and People Committee may allocate the class weighting that would otherwise be exercisable by Members in that class to or between any 1 or more of the other classes with at least 1 Member.
- (d) The weighting of each Member’s vote is therefore determined by dividing the class weighting specified in rule 8.7(b) by the number of Members in that class.
- (e) A proxy or Representative is entitled to vote separately for each Member the person represents, in addition to any votes the person may have as a Member in its own right.
- (f) An objection to the qualification of a person to vote at a general meeting:
- (1) must be raised before or at the meeting at which the vote objected to is given or tendered; and
 - (2) must be referred to the chair of the meeting, whose decision is final.
- (g) A vote not disallowed by the chair of a meeting under rule 8.7(f) is valid for all purposes.

8.8 Representation at general meetings

- (a) Subject to this Constitution, each Member entitled to vote at a general meeting may vote:
- (1) in person or by its Representative; or
 - (2) by proxy.
- (b) A proxy or Representative may, but need not, be a Member.
- (c) A proxy or Representative may be appointed for all general meetings, or for any number of general meetings, or for a particular general meeting.
- (d) Unless otherwise provided in the instrument, but subject to the Corporations Act, an instrument appointing a proxy or Representative will be taken to:
- (1) confer authority to agree to a meeting being convened by shorter notice than is required by the Corporations Act or by this Constitution;

- (2) confer authority to speak to any proposed resolution on which the proxy or Representative may vote;
 - (3) appoint the chair of the general meeting as the proxy unless the Member clearly specifies another person as proxy and that person attends the general meeting;
 - (4) even though the instrument may refer to specific resolutions and may direct the proxy or Representative how to vote on those resolutions, confer authority:
 - (A) to vote on any amendment moved to the proposed resolutions and on any motion that the proposed resolutions not be put or any similar motion;
 - (B) to vote on any procedural motion, including any motion to elect the chair, to (only in the case of a chair elected under rule 8.4(b)(5)) vacate the chair or to adjourn the meeting; and
 - (C) to act generally at the meeting; and
 - (5) even though the instrument may refer to a specific meeting to be held at a specified time or venue, where the meeting is rescheduled or adjourned to another time or changed to another venue, confer authority to attend and vote at the re-scheduled or adjourned meeting or at the new venue.
- (e) An instrument appointing a proxy may direct the manner in which the proxy is to vote in respect of a particular resolution and, where an instrument so provides, the proxy is not entitled to vote on the proposed resolution except as directed in the instrument.
- (f) An instrument appointing a proxy need not be in any particular form provided it is in writing, legally valid and either:
- (1) signed by the appointer or the appointer's attorney; or
 - (2) authenticated in such manner as the Directors may determine.
- (g) A proxy may not vote at a general meeting or adjourned meeting unless the instrument appointing the proxy, and the authority under which the instrument is signed or a certified copy of the authority, are received in the places, fax numbers or electronic addresses at least:
- (1) 48 hours (or such other minimum period as may be prescribed by the Corporations Act from time to time); or
 - (2) such lesser period specified for this purpose in the notice calling the meeting,
- and for this purpose:
- (3) the place may be ASI's registered office or other place specified in the notice and a fax number or electronic address may be the fax number or electronic address at ASI's registered office or the fax number or electronic address specified in the notice; and
 - (4) the lesser period may be any time before the time set for holding the meeting or adjourned meeting.
- (h) The Directors may waive all or any of the requirements of rules 8.8(f) and 8.8(g) and in particular may, upon the production of such other evidence as the Directors require to prove the validity of the appointment of a proxy, accept:
- (1) an oral appointment of a proxy;

- (2) an appointment of a proxy which is not signed or executed in the manner required by rule 8.8(f); and
 - (3) the deposit, tabling or production of a copy (including a copy sent by facsimile) of an instrument appointing a proxy or of the power of attorney or other authority under which the instrument is signed.
- (i) A vote given in accordance with the terms of an instrument appointing a proxy is valid despite the revocation of the instrument or of the authority under which the instrument was executed, if no notice in writing of the revocation has been received by ASI by the time and at 1 of the places at which the instrument appointing the proxy is required to be received under rule 8.8(g).
 - (j) The appointment of a proxy is not revoked by the appointer attending and taking part in the general meeting but, if the appointer votes on any resolution, the proxy is not entitled to vote, and must not vote, as the appointer's proxy on the resolution.
 - (k) A proxy and a Representative for the same Member may attend and take part in a general meeting but, if the proxy votes on any resolution, the Representative is not entitled to vote, and must not vote, as the Member's Representative on the resolution.

9. Directors

9.1 Number and term of Directors

- (a) The board of Directors is comprised of:
 - (1) up to 2 Directors nominated by the Production and Transformation Members (subject to rule 9.1(b)), but elected by the Members as a whole;
 - (2) up to 2 Directors nominated by the Industrial Users Members (subject to rule 9.1(b)), but elected by the Members as a whole;
 - (3) up to 2 Directors nominated by the Civil Society Members (subject to rule 9.1(b)), but elected by the Members as a whole; and
 - (4) up to 2 Independent Directors.
- (b) If any position on the board of Directors capable of being filled by election is not filled because either:
 - (1) insufficient nominations have been made under rule 9.1(a); or
 - (2) candidates for election are not elected,such vacancies are to be treated as casual vacancies which may be filled under rule 9.6.
- (c) A Director referred to in rule 9.1(a)(1), 9.1(a)(2) or 9.1(a)(3) holds office, subject to rule 9.7, for a period of approximately 2 years ending on the Director Election Date on which that Director is replaced or re-elected.
- (d) A Director who retires under rule 9.1(b), provided he or she is otherwise eligible, may be re-elected, provided that no Director may hold office for more than 3 consecutive terms.
- (e) The term of office of an Independent Director is determined under rule 9.2(b).

9.2 The Independent Directors

- (a) Subject to rule 9.1(a)(4), the Directors may from time to time appoint an Independent person as an Independent Director. In making any such appointment, the Directors must:
 - (1) endeavour to address any perceived skill or experience deficiency on the board; and
 - (2) taking into account the residency of the elected Directors, ensure there are at least 2 Directors who ordinarily reside in Australia.
- (b) An Independent Director holds office, subject to rule 9.7, for a term determined by the Directors at the time of appointment (being no longer than 2 years from the time of appointment).
- (c) If there is any vacancy in the number of Independent Directors, the Directors must seek the advice of the ASI Governance and People Committee, and if, within 4 weeks of the Directors seeking guidance, the ASI Governance and People Committee recommends that a particular appointment be made, the Directors must, subject to law, use their power under rule 9.2(a) to make that appointment. The Directors may not make an appointment of an Independent Director without first seeking the advice of the ASI Governance and People Committee and giving the ASI Governance and People Committee at least 4 weeks to provide that advice.
- (d) In recommending and appointing Independent Directors, the ASI Governance and People Committee and the Directors must:
 - (1) bear in mind the Corporations Act requirement for a minimum of 2 Directors to ordinarily reside in Australia; and
 - (2) consider addressing any gender imbalance in the prevailing composition of the board of Directors.

9.3 Nomination of candidates for election

- (a) Not less than 4 months before an AGM, the ASI Secretariat must advise Members entitled to nominate a candidate for election as a Director of that opportunity, providing reasonable details, as they see fit, of any retiring Directors (whether retiring under rule 9.1(b) or 9.6(a)(2)) and ongoing Directors, whether elected or appointed.
- (b) In the case of an upcoming vacancy in the position of a Director referred to in rule 9.1(a)(1) that is to be filled by election, any Production and Transformation Member may, by notice in writing to the ASI Secretariat, nominate 1 candidate for election. That candidate must be an officer or employee of the nominating Member.
- (c) In the case of an upcoming vacancy in the position of a Director referred to in rule 9.1(a)(2) that is to be filled by election, any Industrial Users Member may, by notice in writing to the ASI Secretariat, nominate 1 candidate for election. That candidate must be an officer or employee of the nominating Member.
- (d) In the case of an upcoming vacancy in the position of a Director referred to in rule 9.1(a)(3) that is to be filled by election, any Civil Society Member may, by notice in writing to the ASI Secretariat, nominate 1 candidate for election. That candidate must be an officer or employee of the nominating Member.
- (e) The ASI Governance and People Committee may, of its own motion, nominate 1 or more candidates for election to any upcoming vacant position.
- (f) Any nomination referred to above must be accompanied by:
 - (1) the written consent of the candidate to be a Director;

- (2) an explanation from the nominating Member of the background, expertise and authority of the nominee, which forms the basis for the Member's nomination;
 - (3) a biography of the candidate (being no more than 150 words); and
 - (4) any other information the ASI Governance and People Committee may prescribe from time to time.
- (g) Any nomination referred to above must be received by the ASI Secretariat no less than 3 months before the relevant AGM or such other time as specified by the ASI Secretariat.

9.4 Eligibility

- (a) No ASI Standards Committee Member or alternate member of an ASI Standards Committee Member may be nominated, appointed or elected as a Director.
- (b) A Member may not have more than 1 of its nominees as a Director at any one time.

9.5 The election process

- (a) The ASI Secretariat must review each nomination validly made under rule 9.3 and advise the ASI Governance and People Committee of all eligible candidates.
- (b) If, in relation to a category Directors referred to in rules 9.1(a)(1) to 9.1(a)(3):
 - (1) there is a number of candidates less than or equal to the number of vacancies – those candidates are deemed elected and no formal election need to be conducted; or
 - (2) there is a number of candidates that exceeds the number of vacancies – a formal election must be conducted in respect of that category under rule 9.5(c).
- (c) An election will be conducted in or around March in each year in such manner as the ASI Governance and People Committee determines from time to time, including by electronic ballot and with the ability for Members to split their vote between candidates if they so desire.
- (d) The ASI Secretariat must declare the result of the election as soon as that result is determined.
- (e) A nominee elected as a Director takes office from the relevant Director Election Date.
- (f) It is desirable that gender and geographical diversity be reflected in the composition of the board of Directors.

9.6 Casual vacancies

- (a) Where a casual vacancy arises in an office referred to in rules 9.1(a)(1) to 9.1(a)(3):
 - (1) less than 8 months after the relevant election (other than through insufficiency of nominations or candidates for election not being elected) – the Directors may appoint the runner-up in that election within 2 months of the vacancy occurring, failing which another election must be held to fill that vacancy and the provisions in this rule 9 relating to nominations and the conduct of an election apply as far as possible to that election; or
 - (2) otherwise – the Directors may:
 - (A) where the vacancy occurred because of the operation of rule 9.7(e) or 9.7(f), the Directors may reappoint the former Director to that position for the balance of the term that the Director would otherwise have served, despite anything else

in this Constitution, and any such reappointment is to be regarded as continuing the previous term, not starting a new term; or

- (B) in any circumstance – appoint any eligible person to fill any casual vacancy who they consider fairly represents the relevant class of Members, and such appointee holds office only until the next Director Election Date.

- (b) A casual vacancy in an office referred to in rule 9.1(a)(4) may be filled under rule 9.2.

9.7 Vacation of office

In addition to the circumstances prescribed by the Corporations Act, the office of a Director becomes vacant if the Director:

- (a) becomes of unsound mind or a person who is, or whose estate is, liable to be dealt with in any way under the law relating to mental health;
- (b) becomes bankrupt or insolvent or makes any arrangement or composition with his or her creditors generally;
- (c) is convicted on indictment of an offence and the Directors do not within 1 month after that conviction resolve to confirm the Director's appointment or election (as the case may be) to the office of Director;
- (d) is absent from 2 consecutive meetings of the Directors, without the consent of the Directors, unless at the next meeting of the Directors, the Directors decide otherwise;
- (e) in the case of a Director who is elected to that office – the Director ceases to be an officer or employee of his or her nominating Member, the nominating Member of that Director ceases to be a Member, or the nominating Member of that Director becomes a Member in a different class of membership;
- (f) in the case of a Director who is appointed under rule 9.6 – the Director ceases to be an officer or employee of the organisation he or she was engaged or employed by at the time of his or her appointment, a Member of which that Director is an officer or employee ceases to be a Member, or a Member of which that Director is an officer or employee becomes a Member in a different class of membership;
- (g) resigns by notice in writing to ASI; or
- (h) is removed by a resolution of Members on the basis that the Director has either, in the opinion of those Members voting in favour of that resolution:
 - (1) brought, or threatened to bring, ASI into serious disrepute or caused ASI serious embarrassment; or
 - (2) caused serious disruption to the smooth and harmonious operations of the Directors or ASI generally (such conduct being over and above engaging in rigorous debate and expressing dissent at a meeting of the Directors).

9.8 Remuneration and expenses of Directors

- (a) Other than where permitted under rule 9.8(b) or 9.8(d), no Director is entitled to remuneration in that capacity.
- (b) Any:
 - (1) Independent Director; or

- (2) Director elected under rule 9.1(a)(3) (being those nominated by Civil Society Members) or appointed under rules 9.1(b) and 9.6 to fill a casual vacancy in such a position,

may be paid remuneration in accordance with the following process:

- (3) the ASI Secretariat must, at least every 3 years, engage a remuneration consultant to provide guidance on an appropriate range for director remuneration for organisations which are fairly comparable to ASI, which may include organisations which are similar in size and nature to ASI;
 - (4) the Directors may determine that one or more Directors are to be paid remuneration which, unless special circumstances exist (including actual or anticipated regulatory, industry or other changes or circumstances), must fall within the Director Remuneration Band;
 - (5) remuneration (if any) may be different between different Directors; and
 - (6) the determination of a Director's remuneration (if any) under rule 9.8(b)(4) must be made at least on an annual basis.
- (c) A Director is entitled to be paid all reasonable travelling expenses properly incurred by that Director in connection with the affairs of ASI, however Production and Transformation Members and Industrial Users Members are expected to fund expenses of Directors who are employed by, or an officer of, those Members.
 - (d) If a Director renders or is called upon to perform extra services or to make any special exertions in connection with the affairs of ASI (including services or exertions in a professional or technical capacity, including as a member of a committee or as Chair), the Directors may arrange for special remuneration to be paid to that Director, provided the amount payable is approved by the Directors and is not more than an amount which commercially would be reasonable payment for such services or exertions.

9.9 Interested Directors

- (a) A Director may be or become a director or other officer of, or otherwise interested in, any related body corporate or any other body corporate promoted by ASI or in which ASI may be interested as a shareholder or otherwise and is not accountable to ASI for any other benefits received by the Director as a director or officer of, or from having an interest in, that body corporate.
- (b) The Directors may exercise the voting rights conferred by shares in any body corporate held or owned by ASI in such manner in all respects as the Directors think fit (including voting in favour of any resolution appointing a Director as a director or other officer of that body corporate or voting for the payment of remuneration to the other officers of that body corporate) and a Director may, if permitted by law, vote in favour of the exercise of those voting rights notwithstanding that he or she is, or may be about to be appointed, a director or other officer of that other body corporate and, as such, interested in the exercise of those voting rights.
- (c) A Director is not disqualified merely because of being a Director from contracting with ASI in any respect including by providing services to ASI in any professional capacity (other than as a financial auditor).
- (d) No Director contracting with or being interested in any arrangement involving ASI is liable to account to ASI for any profit realised by or under any such contract or arrangement merely because of the Director holding office as a Director or because of the fiduciary obligations arising out of that office.

- (e) Subject to rule 9.9(f), a Director who is in any way interested in any contract or arrangement or proposed contract or arrangement may, despite that interest:
 - (1) be counted in determining whether or not a quorum is present at any meeting of Directors considering that contract or arrangement or proposed contract or arrangement;
 - (2) vote in respect of, or in respect of any matter arising out of, the contract or arrangement or proposed contract or arrangement; and
 - (3) sign or countersign any document relating to that contract or arrangement or proposed contract or arrangement ASI may execute.
- (f) Rule 9.9(e) does not apply if, and to the extent that, it would be contrary to the Corporations Act (including provisions of the Corporations Act which regulate matters concerning material personal interests of Directors).
- (g) The Directors may make By-laws requiring the disclosure of interests that a Director, and any person deemed by the Directors to be related to or associated with the Director, may have in any matter concerning ASI or a related body corporate.

9.10 Powers and duties of Directors

- (a) The Directors are ultimately responsible for managing the business of ASI and may exercise to the exclusion of ASI in general meeting all the powers of ASI which are not required, by the Corporations Act, the ACNC Legislation, or by this Constitution, to be exercised by ASI in general meeting.
- (b) Without limiting the generality of rule 9.10(a), the Directors may exercise all the powers of ASI to borrow or otherwise raise money, to charge any property or business of ASI and to issue debentures or give any other security for a debt, liability or obligation of ASI or of any other person.
- (c) The Directors may determine how cheques, promissory notes, bankers drafts, bills of exchange or other negotiable instruments must be signed, drawn, accepted, endorsed or otherwise executed, as the case may be, by or on behalf of ASI.
- (d) The Directors may:
 - (1) appoint any person to be an agent or attorney of ASI for such purposes with such powers, discretions and duties (including powers, discretions and duties vested in or exercisable by the Directors), for such period and upon such conditions as they think fit;
 - (2) authorise an agent or attorney to delegate all or any of the powers, discretions and duties vested in the agent or attorney; and
 - (3) subject to any contract between ASI and the relevant agent or attorney and any applicable industrial law, remove or dismiss any agent or attorney of ASI at any time, with or without cause.
- (e) A power of attorney may contain such provisions for the protection and convenience of the attorney or persons dealing with the attorney as the Directors think fit.

- (f) Each Director must ensure that he or she is aware of, and complies with, his or her duties as a Director under relevant legislation and the common law, including in particular, the duties set out in governance standard 5 of the *Australian Charities and Not-for-profits Commission Regulation 2013* (Cth), which at the time this rule 9.10(f) was approved, were:
- (1) to exercise his or her powers and discharge his or her duties with the degree of care and diligence that a reasonable individual would exercise if he or she was a Director;
 - (2) to act in good faith in ASI's best interests and to further the charitable objects of ASI set out in rule 2;
 - (3) not to misuse his or her position as a Director;
 - (4) not to misuse information he or she gains in the performance of his or her duties as a Director;
 - (5) to disclose any perceived or actual material conflicts of interest experienced by him or her, in the manner set out in rule 9.9;
 - (6) to ensure that the financial affairs of ASI are managed in a responsible manner; and
 - (7) not to allow ASI to operate while insolvent.
- (g) Each Director must use all reasonable endeavours to assist ASI to comply with the ACNC Legislation.

9.11 Proceedings of Directors

- (a) The Directors may meet together for the dispatch of business and adjourn and otherwise regulate their meetings as they think fit.
- (b) The Directors should meet at least 4 times in each Financial Year. At least 1 of those meetings should be a face-to-face meeting.
- (c) The contemporaneous linking together by telephone or other electronic means (allowing reasonable interaction between them) of a number of the Directors sufficient to constitute a quorum, constitutes a meeting of the Directors and all the provisions in this Constitution relating to meetings of the Directors apply, so far as they can and with such changes as are necessary, to meetings of the Directors by telephone or other electronic means.
- (d) A meeting by telephone or other electronic means is to be taken to be held at the place determined by the chair of the meeting provided that at least 1 of the Directors involved was at that place for the duration of the meeting.

9.12 Convening of meetings of Directors

- (a) The Chair or any 4 or more Directors may, whenever they think fit, convene a meeting of the Directors.
- (b) The ASI Chief Executive Officer must, when requested by the Chair or on the requisition of any 4 or more Directors, convene a meeting of the Directors.

9.13 Notice of meetings of Directors

- (a) Subject to this Constitution, notice of a meeting of Directors must be given to each person who is at the time of giving the notice a Director, other than a Director on leave of absence approved by the Directors.

- (b) A notice of a meeting of Directors:
 - (1) must specify the time and place of the meeting;
 - (2) should where practicable state the nature of the business to be transacted at the meeting;
 - (3) may be given immediately before the meeting; and
 - (4) may be given in person or by post, or by telephone, fax or other electronic means.
- (c) In the absence of special circumstances, at least 48 hours notice of a meeting of the Directors should be given.
- (d) A Director may waive notice of any meeting of Directors by notifying ASI to that effect in person or by post, or by telephone, fax or other electronic means.
- (e) The non-receipt of notice of a meeting of Directors by, or a failure to give notice of a meeting of Directors to, a Director does not invalidate any act, matter or thing done or resolution passed at the meeting if:
 - (1) the non-receipt or failure occurred by accident or error;
 - (2) before or after the meeting, the Director:
 - (A) has waived or waives notice of that meeting under rule 9.13(d); or
 - (B) has notified or notifies ASI of his or her agreement to that act, matter, thing or resolution personally or by post or by telephone, fax or other electronic means; or
 - (3) the Director attended the meeting.
- (f) Attendance by a person at a meeting of Directors waives any objection that person may have to a failure to give notice of the meeting.

9.14 Quorum at meetings of Directors

- (a) No business may be transacted at a meeting of Directors unless a quorum of Directors is present during the time the business is dealt with.
- (b) Subject to rule 9.14(d)(1), a quorum for a meeting of the Directors is at least half (rounded up if necessary) of the number of Directors in office at the relevant time, present at the meeting.
- (c) If a quorum is not present within 15 minutes after the time appointed for a meeting of Directors, the meeting stands adjourned:
 - (1) to the day, the time and place, that the Directors determine; or
 - (2) if no determination is made by the Directors, to the same time on the next day and at the same time and place.
- (d) If, at the adjourned meeting, a quorum is not present within 15 minutes after the time appointed for the meeting, then:
 - (1) 2 Directors constitutes a quorum; or
 - (2) otherwise – the meeting is dissolved.

- (e) If there is a vacancy in the office of a Director, the remaining Director or Directors may act.

9.15 Chair

- (a) The Directors must elect 1 of the Directors to be Chair of ASI for a term not exceeding 3 years.
- (b) No person may be elected Chair for more than a cumulative, whether or not consecutive, 3 years, unless the Directors allow otherwise in any specific case.
- (c) The Chair has such powers and duties as set out in this Constitution and as determined by the Directors.
- (d) The Chair must (if present within 10 minutes after the time appointed for the holding of the meeting and willing to act) preside as chair at each meeting of Directors.
- (e) If at a meeting of Directors:
 - (1) there is no Chair;
 - (2) the Chair is not present within 10 minutes after the time appointed for the holding of the meeting; or
 - (3) the Chair is present within that time but is not willing to act as chair of the meeting,the Directors present must elect 1 of themselves to chair the meeting.
- (f) Despite anything in rule 9.15(e), if the Chair later attends a meeting of Directors, the Chair, provided he or she is willing to act, must take over as chair of the meeting.
- (g) If the office of Chair becomes vacant for any reason, the Directors must elect an acting-Chair until the next meeting of the Directors when an item of business of the meeting must be the election of a new Chair.
- (h) The election of a Chair under this rule 9.15 will be conducted in such manner as the Directors determine.

9.16 Decisions of Directors

- (a) A meeting of Directors at which a quorum is present is competent to exercise all or any of the authorities, powers and discretions vested in or exercisable by the Directors under this Constitution.
- (b) Questions arising at a meeting of Directors are to be decided by a majority of votes cast by the Directors present and any such decision is for all purposes a determination of the Directors.
- (c) Each Director may cast 1 deliberative vote in relation to any matter considered at a meeting of the Directors.
- (d) Other than in relation to an election of the Chair under rule **Error! Reference source not found.**, in the case of an equality of votes upon any proposed resolution the chair of the meeting, in addition to his or her deliberative vote, has a casting vote which the Chair may or may not choose to cast.

9.17 Proxies for Directors

- (a) A Director may attend and vote by proxy at a meeting of the Directors if the proxy is a Director, and has been appointed in writing by the appointor.

- (b) Such an appointment:
 - (1) must identify the specific meeting in relation to which the appointment is made;
 - (2) must either:
 - (A) direct the proxy how to vote on specific proposed substantive decisions; or
 - (B) expressly permit the proxy to vote as the proxy sees fit.
 - (3) to be valid, must be provided to the Chair at or before the start of the relevant meeting;
- (c) If a Director holds more than 1 appointment as a proxy, he or she may, in relation to any particular proposed substantive decision:
 - (1) cast his or her own vote in any manner he or she wishes;
 - (2) cast only 1 vote as a proxy appointed in the manner envisaged by rule 9.17(b)(2)(B); and
 - (3) cast any number of votes as a proxy appointed in the manner envisaged by rule 9.17(b)(2)(A) .

9.18 Written resolutions

- (a) If:
 - (1) all of the Directors have received reasonable notice of a proposed act, matter, thing or resolution; and
 - (2) such number of Directors who are eligible to consider the act, matter, thing or resolution and who together are sufficient to constitute a quorum, assent to a document containing a statement to the effect that the act, matter or thing has been done or resolution has been passed,then that act, matter, thing or resolution is to be taken as having been done at or passed by a meeting of the Directors.
- (b) For the purposes of rule 9.18(a):
 - (1) the meeting is to be taken as having been held on the day on which, and at the time at which, the document was last assented to by 1 of those constituting that quorum;
 - (2) 2 or more separate documents in identical terms each of which is assented to by 1 or more of the relevant Directors are to be taken as constituting 1 document; and
 - (3) a Director may signify assent to a document by signing the document or by notifying ASI of the Director's assent in person or by post, or by telephone, fax or other electronic means.
- (c) Where a Director signifies assent to a document verbally in person or by telephone, the Director must by way of confirmation either:
 - (1) promptly send to ASI an email confirming the Director's assent; or
 - (2) sign the document at the next meeting of the Directors attended by that Director,but failure to do so does not invalidate the act, matter, thing or resolution to which the document relates.

9.19 Committees of Directors and the ASI Governance and People Committee

- (a) The Directors may, by making a By-law, establish a committee or committees:
 - (1) consisting of such number of Directors (if any) as they think fit (but the Chair may not be a member of any financial audit or similar committee);
 - (2) consisting of such non-Directors and non-Members as they think fit;
 - (3) the chair of which must be a Director unless the relevant By-law requires or allows otherwise;
 - (4) with such persons including non-Directors and non-Members as observers, as they think fit; and
 - (5) with such purposes and functions as set out in the By-law.
- (b) Any non-Director or non-Member who is a member of a committee may only vote on that committee if the relevant By-law permits.
- (c) The Directors may, in the relevant By-law or by resolution, delegate any of their powers to a committee.
- (d) A committee to which any powers have been so delegated must exercise the powers delegated in accordance with any directions of the Directors.
- (e) The provisions of this Constitution applying to meetings and resolutions of Directors apply, so far as they can and with such changes as are necessary, to meetings and resolutions of a committee.
- (f) The Directors must establish a committee under this rule 9.19, to be called the ASI Governance and People Committee, to oversee:
 - (1) the integrity and effectiveness of ASI's governance;
 - (2) board-level competence and skills, board recruitment and succession planning, and reviews of board and individual Director effectiveness; and
 - (3) ASI Standards Committee-level competence and skills, ASI Standards Committee recruitment and succession planning, and reviews of ASI Standards Committee and individual ASI Standards Committee Member effectiveness.
- (g) The ASI Governance and People Committee must have the following features:
 - (1) membership of 4 Directors, being 1 drawn from each of the classes referred to in rules 9.1(a)(1) to 9.1(a)(4);
 - (2) a chair elected by members of the ASI Governance and People Committee;
 - (3) a quorum of 2 members; and
 - (4) each member has an ordinary term of the lesser of 2 years and the duration for which he or she is a Director, but is eligible for re-appointment at the end of a term provided he or she is a Director.
- (h) The Directors must also establish the following committees under this rule 9.19:
 - (1) the ASI Finance, Audit and Risk Committee; and

- (2) a legal committee.

9.20 Delegation to individual Directors

- (a) The Directors may delegate any of their powers to 1 Director.
- (b) A Director to whom any powers have been so delegated must exercise the powers delegated in accordance with any directions of the Directors.

9.21 Validity of acts

An act done by a person acting as a Director or by a meeting of Directors or a committee of Directors attended by a person acting as a Director is not invalidated by reason only of:

- (a) a defect in the appointment of the person as a Director;
- (b) the person being disqualified to be a Director or having vacated office; or
- (c) the person not being entitled to vote,

if that circumstance was not known by the person or the Directors or committee (as the case may be) when the act was done.

10. Secretary and the ASI Secretariat

10.1 Secretary

- (a) The Directors must appoint 1 or more persons as a company secretary for the purposes of the Corporations Act, at least 1 of which must ordinarily reside in Australia.
- (b) In addition to other duties set out in this Constitution, the Secretary must attend all meetings of the Directors and all general meetings and must conduct all correspondence and generally carry out the instructions of the Directors.

10.2 ASI Secretariat

- (a) The Secretary may, subject to any directions or requirements of the Directors from time to time, employ and/or engage persons to assist him or her in relation to the administration and affairs of ASI, and any such group of people is the ASI Secretariat.
- (b) The ASI Secretariat has such functions and powers as are (subject to any directions or requirements of the Directors from time to time):
- (1) set out in this Constitution; and
- (2) determined by the Secretary from time to time.

11. The ASI Chief Executive Officer and other executives

11.1 Officers

- (a) The Directors may appoint a chief executive officer for ASI, to be called the ASI Chief Executive Officer.
- (b) The Directors may appoint other officers for ASI.

11.2 Provisions applicable to all executive officers

- (a) A reference in this rule 11.2 to an executive officer is a reference to an officer appointed under rule 11.1(a) or 11.1(b).
- (b) The appointment of an executive officer may be for such period, at such remuneration and upon such conditions as the Directors think fit.
- (c) Subject to any contract between ASI and the relevant executive officer and any applicable industrial law, any executive officer of ASI may be removed or dismissed by the Directors at any time, with or without cause, whether or not the executive officer is also a Director at the time.
- (d) The Directors may:
 - (1) confer on an executive officer such powers, discretions and duties (including any powers, discretions and duties vested in or exercisable by the Directors) as they think fit;
 - (2) withdraw, suspend or vary any of the powers, discretions and duties conferred on an executive officer; and
 - (3) authorise the executive officer to delegate all or any of the powers, discretions and duties conferred on the executive officer.
- (e) An act done by a person acting as an executive officer is not invalidated by reason only of:
 - (1) a defect in the person's appointment as an executive officer; or
 - (2) the person being disqualified to be an executive officer,if that circumstance was not known by the person when the act was done.

12. Indigenous Peoples Advisory Forum

- (a) The Directors must use all reasonable endeavours to establish an indigenous peoples forum, to be called the Indigenous Peoples Advisory Forum. The Indigenous Peoples Advisory Forum will be comprised of representatives from indigenous peoples organisations and indigenous peoples' rights experts, where practicable with connection to the aluminium value chain.
- (b) Geographic and gender diversity will be reflected in the composition of the forum where reasonably possible.
- (c) The responsibilities of the forum will be to:
 - (1) liaise with the Directors and ASI Standards Committee on issues material to indigenous peoples;
 - (2) nominate 2 representatives to the ASI Standards Committee under rule 7.2(a)(4);
 - (3) recommend processes for participatory monitoring that can directly involve indigenous peoples;
 - (4) act as a consultative body for the ASI Complaints Mechanism from an indigenous peoples perspective; and
 - (5) any other matters determined by the Directors from time to time.

13. Indemnity and insurance

13.1 Persons to whom rules 13.2 and 13.5 apply

Rules 13.2 and 13.5 apply to each Official.

13.2 Indemnity

Subject to rule 13.3, ASI must indemnify each Official on a full indemnity basis and to the full extent permitted by law against all Liabilities incurred by the Official as an Official, including:

- (a) a liability for negligence; and
- (b) a liability for reasonable legal costs.

13.3 Limit on indemnity

- (a) The indemnity in rule 13.2 does not operate in relation to any Liability which:
 - (1) is a Liability to ASI or any of its related bodies corporate;
 - (2) is a Liability for a pecuniary penalty order under section 1317G of the Corporations Act or a compensation order under section 1317H of the Corporations Act; or
 - (3) arises out of conduct of the Official which was not in good faith, or which involves wilful misconduct, gross negligence, reckless misbehaviour or fraud,provided that this rule 13.3(a) does not apply to a Liability for legal costs.
- (b) The indemnity in rule 13.2 does not operate in relation to legal costs incurred by the Official in defending an action for a Liability if the costs are incurred:
 - (1) in defending or resisting proceedings in which the Official is found to have a Liability referred to in rule 13.3(a);
 - (2) in defending or resisting criminal proceedings in which the Official is found guilty;
 - (3) in defending or resisting proceedings brought by ASIC or a liquidator for a court order if the grounds for making the order are found by the court to have been established. For the avoidance of doubt, this does not include costs incurred in responding to actions taken by ASIC or a liquidator as part of an investigation before commencing proceedings for the court order; or
 - (4) in connection with proceedings for relief to the Official under the Corporations Act in which the court denies the relief.
- (c) If there is any appeal in relation to any proceedings referred to in rule 13.3(b), it is the outcome of the final appeal that is relevant for the purposes of rule 13.3(b).
- (d) The indemnity in rule 13.2:
 - (1) does not extend to and is not an indemnity against any amount in respect of which the indemnity would otherwise be illegal, void, unenforceable or not permitted by law; and
 - (2) does not operate in respect of any Liability of the Official to the extent that Liability is covered by insurance.

13.4 Extent of indemnity

The indemnity in rule 13.2:

- (a) is enforceable without the Official having to first incur any expense or make any payment;
- (b) is a continuing obligation and is enforceable by the Official even though the Official may have ceased to be an officer of ASI or its related bodies corporate or to hold the non-officer position the Official originally held; and
- (c) applies to Liabilities incurred both before and after the Adoption Date.

13.5 Insurance

ASI must, to the extent permitted by law:

- (a) purchase and maintain insurance; or
- (b) pay or agree to pay a premium for insurance,

for each Official against any Liability incurred by the Official as an Official including a liability for negligence or for reasonable costs and expenses incurred in defending proceedings, whether civil or criminal and whatever their outcome.

13.6 Savings

Nothing in rule 13.2 or 13.5:

- (a) affects any other right or remedy that a person to whom those rules apply may have in respect of any Liability referred to in those rules; or
- (b) limits the capacity of ASI to indemnify or provide or pay for insurance for any person to whom those rules do not apply.

13.7 Deed

ASI may enter into a deed with any Official to give effect to the rights conferred by rules 13.1 to 13.6, or the exercise of a discretion under rules 13.1 to 13.6 on such terms as the Directors think fit which are not inconsistent with rules 13.1 to 13.6.

14. Winding-up

- (a) If, on the winding-up or dissolution of ASI, any property remains after satisfaction of all its debts and liabilities, this property must only be given or transferred to a company, fund, institution or authority located anywhere in the world:
 - (1) which has objects similar to the objects of ASI; and
 - (2) whose constitution prohibits distributions or payments to its members or former members to an extent at least as great as is outlined in rule 4.
- (b) The identity of the entity referred to in rule 14(a) must be decided by the Directors, or if the Directors do not wish to decide or do not decide, it must be decided by the Members by ordinary resolution at or before the time of winding-up or dissolution of ASI and, if the Members cannot or do not decide, by the Supreme Court of Victoria.
- (c) Every Member undertakes to contribute to the property of ASI in the event of it being wound-up while he, she or it is a Member, or within 1 year after he, she or it ceases to be a Member, for payment of the debts and liabilities of ASI (contracted before he, she or it ceases to be a

Member) and of the costs, charges, and expenses of winding-up and for the adjustment of the rights of the contributories among themselves, such amount as may be required, not exceeding \$10.

15. Minutes and records

15.1 Minutes of meetings

The Secretary must ensure minutes of proceedings and resolutions of general meetings and of meetings of the Directors (including committees of the Directors) are recorded in Books kept for that purpose, within 1 month after the relevant meeting is held.

15.2 Minutes of resolutions passed without a meeting

The Secretary must ensure that minutes of resolutions passed by Directors (and committees of Directors) without a meeting are recorded in Books kept for the purpose within 1 month after the resolution is passed.

15.3 Signing of minutes

- (a) The minutes of a meeting must be signed within a reasonable time by the chair of the meeting or by the chair of the next meeting.
- (b) The minutes of the passing of a resolution without a meeting must be signed by a Director within a reasonable time after the resolution is passed.
- (c) The signing of minutes by a chair or a Director may occur electronically in any manner permitted by relevant law, which may include signing a printed copy of the document and sending it electronically to ASI.

15.4 Minutes as evidence

A minute that is recorded and signed under rules 15.1 to 15.3 is evidence of the proceeding or resolution to which it relates unless the contrary is proved.

15.5 Inspection of records

- (a) The Directors must ensure the minute Books for general meetings are open for inspection by Members free of charge, including by making them available on ASI's website.
- (b) Subject to rule 15.5(a), the Directors may determine whether and to what extent, and at what time and places and under what conditions, the minute Books, financial records and other documents of ASI or any of them will be open to the inspection of Members (other than Directors).
- (c) Without limiting rule 15.5(b), the Directors may make minutes of meetings of Directors available for inspection by Members at such times and at such places as they see fit. The Directors may redact from such minutes confidential information and other content they consider should not be disclosed to Members.
- (d) A Member (other than a Director) does not have the right to inspect any Books, records or documents of ASI except as provided in this constitution, as provided by law or as authorised by the Directors.

15.6 Document retention and archives

The Directors may establish, maintain and administer policies as they see fit for the retention and archiving of the minute Books, financial records and other documents of ASI, consistent with:

- (a) legal requirements;
- (b) historical records preservation priorities;
- (c) confidentiality restrictions;
- (d) privacy considerations; and
- (e) other relevant matters.

16. Accounts and audit

16.1 Accounts

ASI must prepare and deal with such accounts as required under the Corporations Act and the ACNC Legislation.

16.2 Audit

ASI must appoint a properly qualified financial auditor whose duties will be regulated in accordance with the Corporations Act and the ACNC Legislation.

17. Execution of documents

ASI may execute a document if it is signed by:

- (a) 2 Directors; or
- (b) a Director and the Secretary.

18. Notices

18.1 Notices by ASI to Members

- (a) A notice may be given by ASI to a Member by:
 - (1) serving it personally at, or by sending it by post in a prepaid envelope to, the Member's address as shown in the register of Members, or by sending it to the fax number or electronic address, or such other address the Member has supplied to ASI for the giving of notices; or
 - (2) making a copy of it accessible electronically on a website of or relating to ASI.
- (b) The fact that a person has supplied a fax number or electronic address for the giving of notices does not:
 - (1) require ASI to give any notice to that person by fax or electronic means; or
 - (2) prevent ASI from giving any notice to that person in the manner envisaged by rule 18.1(a)(2).
- (c) A signature to any notice given by ASI to a Member under this rule 18.1 may be in writing or a facsimile printed or affixed by some mechanical, electronic or other means.

- (d) A certificate signed by a Director or secretary of ASI to the effect that a notice has been given in accordance with this Constitution is conclusive evidence of that fact.

18.2 Notices by ASI to Directors

Subject to this Constitution, a notice may be given by ASI to any Director either by serving it personally at, or by sending it by post in a prepaid envelope to, the Director's usual residential or business address, or by sending it to the fax number or electronic address, or such other address as the Director has supplied to ASI for the giving of notices.

18.3 Notices by Members or Directors to ASI

Subject to this Constitution, a notice may be given by a Member or Director to ASI by serving it on ASI at, or by sending it by post in a prepaid envelope to, the registered office or principal mailing address of ASI or by sending it to the principal fax number or principal electronic address of ASI at its registered office.

18.4 Time of service

- (a) Where a notice is sent by post, service of the notice is to be taken to be effected if a prepaid envelope containing the notice is properly addressed and placed in the post and to have been effected 5 Business Days after it is sent.
- (b) Where a notice is sent by fax or electronic means service of the notice is to be taken to be effected on the Business Day after the date it is sent.
- (c) Where ASI gives a notice under rule 18.1(a)(2), service of the notice is to be taken to be effected when the notice was 1st so made accessible.

18.5 Other communications and documents

Rules 18.1 to 18.4 (inclusive) apply, so far as they can and with such changes as are necessary, to the service of any communication or document.

18.6 Notices in writing

A reference in this Constitution to a notice or other communication in writing includes a notice given by fax or electronic means.

19. By-laws

19.1 By-laws are made by the Directors

The Directors may from time to time, in their absolute discretion, make, amend, add to, rescind or replace by-laws concerning any aspect of the membership, governance, management, operation or activities of ASI including:

- (a) any matter this Constitution envisages may be regulated by By-laws; and
- (b) any other matter relevant to ASI that the Directors choose to regulate.

19.2 Conflict between the Constitution and By-laws

To the extent of any conflict between this Constitution and any By-law, this Constitution prevails.

19.3 Effectiveness and promulgation of By-laws

Any By-law made, and any amendment, addition, rescission or replacement:

- (a) has effect on and from the date it is made unless otherwise stated in the relevant instrument; and
- (b) must be promulgated to those affected, provided that failure to bring it to the attention of any person does not render it or anything done in accordance with it void, voidable or ineffective.

19.4 Enforceability of By-laws

- (a) Any By-law:
 - (1) is as valid and enforceable as if it was repeated in this Constitution; and
 - (2) can be enforced by legal action.
- (b) A failure by a Director, other officer of ASI or Member to comply with a By-law is deemed to be a failure by that Director, other officer of ASI or Member to comply with this Constitution.

19.5 Special provisions regarding ASI Standards and the ASI Assurance Manual

The Directors may make, rescind or replace By-laws embodying an ASI Standard or the ASI Assurance Manual only where:

- (a) in the Directors' opinion, due process has been followed by the relevant Committee in developing the proposed By-law; and
- (b) any material risks identified by that Committee or the Directors in relation to the proposed By-law have been appropriately considered and addressed by the Committee, to the satisfaction of the Directors.

20. General

20.1 Submission to jurisdiction

Each Member submits to the non-exclusive jurisdiction of the Supreme Court of Victoria, Australia and the Courts which may hear appeals from that Court.

20.2 Prohibition and enforceability

- (a) Any provision of, or the application of any provision of, this Constitution which is prohibited in any place is, in that place, ineffective only to the extent of that prohibition.
- (b) Any provision of, or the application of any provision of, this Constitution which is void, illegal or unenforceable in any place does not affect the validity, legality or enforceability of that provision in any other place or of the remaining provisions in that or any other place.