Accredited Grain Surveyor Assurance Scheme

Complaint Handling and Investigation Policy

1. Purpose and objectives

1.1 The purpose of this policy is to establish the process for:

(a) the submission, assessment, investigation and determination of complaints relating to the conduct of Accredited Marine Surveyors by the Australasian Institute of Marine Surveyors (AIMS) under the Accredited Grain Surveyor Assurance Scheme (AGSA) Scheme; and

(b) review of decisions made by AIMS in relation to complaints, applications for accreditations, and any other reviewable decisions made under any policy relating to the AGSA Scheme that is in force from time to time.

1.2 AIMS recognises that complaints relating to the professional and ethical practice and standards expected of Accredited Marine Surveyors, in accordance with the relevant legislation may arise. AIMS is committed to:

(a) giving Complainants a fair opportunity to make a complaint;

(b) giving complaints the due consideration and attention warranted in the circumstances, having regard to the nature of the complaint and the seriousness of the conduct alleged and the actual or potential harm arising from that conduct;

(c) affording the due procedural fairness to both the Complainant and the Respondent, including by taking reasonable steps to investigate and determine complaints in a manner consistent with the overarching principles of procedural fairness as set out in clause 2 of this policy; and

(d) handling complaints in a manner which is not contrary to the interests of, or reasonably likely to cause damage to, the marine surveyor industry in Australia.

1.3 Complaints received by AIMS will be investigated and handled in accordance with this policy. Where applicable, complaints will progress through the initial phase (clause 5), investigation phase (clause 6) and determination phase (clause 7).

1.4 Requests for the review of a decision made by AIMS will be handled in accordance with the processes set out in clause 9, except for where the decision is a non-reviewable decision, under:

(a) this policy; or

(b) the *AGSA Accreditation Policy*; or

(c) any other policy relating to the AGSA Scheme in force from time to time.

1.5 Records relating to any complaint or request for review of a decision will be used solely for the purpose of, and in accordance with, undertaking the processes set out in this policy and will be handled confidentially in accordance with the *Privacy Act 1988* (Cth) and any applicable AGSA privacy policy in force from time to time. This clause does not prevent AIMS from disclosing or producing documents or information where required or compelled to do by law or order of a Court.

1.6 Definitions of key terms and abbreviations used in this document are provided at the end of this document to support consistent interpretation.

2. Overarching Principles and Standard of Proof

2.1 Unless expressly provided otherwise in this policy, all persons involved in investigating a matter or making any Determination (including in respect of a review of a decision) must have regard to, and take reasonable steps, to ensure that their investigations and decision-making are conducted in a manner consistent with the following overarching principles of procedural fairness:

(a) The privacy, physical safety and dignity of all persons involved in any disciplinary or decision-making process should be respected, so far as is reasonable and appropriate. This extends (without limitation) to the privacy, physical safety and dignity of the Complainant, the Respondent, any affected person, the Complaints Manager, each member of the Board, each decision maker and any person constituting a review panel.

(b) The fair hearing rule is important. A person who is the subject of a complaint has a right to be provided with:

(i) sufficient information about the allegations brought against them to enable them an opportunity to properly reply to each allegation; and

(ii) a reasonable opportunity, with reasonable notice, to be heard and to reply to the allegations made against them.

(c) Decisions must not be influenced by bias or any conflict of interest. Where a decision maker considers that they are unable to make a decision free from bias or a conflict of interest, they must recuse themselves and request that the Chairperson appoint another person in their place.

(d) Penalties and discipline should not be disproportionate to the severity or significance of the wrongful conduct or resultant actual or potential harm. Whether a penalty or disciplinary action is disproportionate is to be assessed objectively, having regard to whether a reasonable person would consider it to be disproportionate.

(e) Decisions should **not** be made until reasonable enquiries and investigations have been completed and all parties have been heard or have been provided with a reasonable opportunity to be heard. Decision makers must not pre-judge matters, persons or circumstances.

(f) Decisions should be made:

(i) taking into account only relevant factors, considerations and evidence; and

(ii) without regard to, or influence from, irrelevant factors, considerations, evidence, submissions, rumours or questions; and

(iii) based upon facts and evidence which are supported or proven from reliable and credible sources of information and witnesses.

(g) Where a decision will negatively affect a person, it must be supported by facts and information.

(h) A person who is reasonably likely to be negatively affected by a decision has the right to be informed of the reasons for that decision. Where reasons for a decision are not provided, the person likely to be negatively affected by the decision may request that those reasons be provided to them in writing.

(i) Past conduct, prior decisions and penalties should not have a bearing on the decision as such circumstances or facts will generally be irrelevant to the investigation and decision-making process. These may only be considered:

(i) for the purposes of determining an appropriate penalty to apply in accordance with this policy;

(ii) if the evidence demonstrates a clear and indisputable pattern or escalation of the same or substantially similar behaviour(s); and/or

(iii) if multiple complaints about the same or substantially similar conduct by the same respondent are received at or around the same time.

(j) Investigations and decision-making in accordance with this policy should not be subject to any unnecessary delays.

2.2 Where any finding of fact is made by a Decision Maker under this policy, that finding is to be made **on the balance of probabilities**, meaning that **it is more likely than not** the case.

Guidance note:

- *For example, if a decision maker made a finding of fact that a Respondent drove a car yesterday, then they have to be convinced on the evidence available that it is more likely than not that the Respondent drove a car yesterday.*
- *This is a lower standard of proof than the standard applicable when attributing criminal responsibility (i.e. 'beyond reasonable doubt'). For the purposes of making a finding of fact under this policy, the Decision Maker does not need to be so certain that they are satisfied that the fact is absolutely certain and there is no doubt whatsoever that it is so.*

3. Submission of Complaints

3.1 Any person or entity, including the Department of Agriculture, Fisheries and Forestry (department), and AIMS, may make a complaint to AIMS about an Accredited Marine Surveyor in accordance with this policy.

3.2 To make a complaint about an Accredited Marine Surveyor, the Complainant must complete the *Grievance and Complaint Form* published by AIMS and submit it, together with any supporting evidence by email to grain@aimsurveyors.com.au.

3.3 Complaints will be assessed, investigated and determined in accordance with this policy **only if:**

(a) the complaint relates to the conduct of an Accredited Marine Surveyor who:

(i) is, at the time the complaint is submitted, accredited by AIMS under the AGSA Scheme; and

(ii) was, at the time when the conduct occurred, accredited by AIMS under the AGSA Scheme; and

(b) the conduct, which is the subject of the complaint, occurred:

(i) after the commencement of the AGSA Scheme on 1 July 2023; and

(ii) within the 12 months immediately prior to the date that the complaint was made.

3.4 AIMS is not responsible for and will not investigate complaints which do not satisfy the criteria in clause 3.3 above, including complaints relating to Authorised Officers.

3.5 If a complaint satisfies the criteria in clause 3.3 above but also relates to an Authorised Officer, AIMS will investigate the complaint only to the extent that it relates to the Accredited Marine Surveyor. AIMS will provide a copy of the complaint to the department so that matter relating to the Authorised Officer may be considered as appropriate. For the avoidance of doubt, AIMS is not required to take action on any part of a complaint that relates to Authorised Officers.

3.6 Complaint relating to the conduct of an Authorised Officer should be submitted to the department by email to grain.export@aff.gov.au.

4. Complaint Handling

4.1 The phases of the complaint process will be overseen and handled by the following persons:

(a) the initial phase (clause 5) will be overseen and handled by the Complaints Manager;

(b) the investigation phase (clause 6) will be overseen and handled by the Complaints Manager; and

(c) the determination phase (clause 7) will be overseen and handled by a Decision Maker appointed in accordance with clause 4.2.

4.2 The Board will appoint a decision maker for the complaint as follows:

(a) if the Respondent has been the subject of one or more complaints (excluding the current complaint) during the 24 month period before the current complaint was submitted – the Board or a Board Subset will be appointed as the decision maker;

(b) if, following the investigation phase, the Board or the Complaints Manager considers that the conduct that is the subject of the complaint, or the harm resulting from that conduct, is sufficiently serious complex or significant to warrant review by the Board or a Board Subset – the Board or a Board Subset will be appointed as the decision maker; or

(c) if the complaint does not fall into the categories in paragraph (a) or (b) above – the Complaint Manager will be appointed as the decision maker.

4.3 If a complaint is referred to the Board or a Board Subset as the decision maker under clause 4.2 above, and a member of the Board is the Respondent, that Board member must recuse themselves. The Board may appoint an independent person who is not a Board member to join the Board or Board Subset as the Decision Maker for the purposes of determining the complaint.

5. Initial Phase

5.1 When a complaint which satisfies the criteria of clause 3.3 is received, the Complaint Manager will undertake an initial assessment to review the nature of the complaint and any supporting evidence provided by the Complainant.

5.2 If, following the initial assessment of the complaint, the Complaint Manager forms the view that:

(a) the complaint does not contain sufficient information or details; or

(b) insufficient evidence has been provided in support of the complaint,

AIMS will notify the Complainant in writing and request that the Complainant provide additional information or supporting evidence within 14 days (request for information).

5.3 If the Complainant does not provide the additional information or supporting evidence in accordance with the request for information, including within the specified timeframe, the complaint will be deemed to be 'not pressed' by the Complainant. The investigation process will not proceed, and AIMS will notify the Complainant in writing of this outcome.

5.4 If the complaint contains all necessary information and detail and sufficient supporting evidence has been provided (either on initial submission or following a request for information) it will proceed to the investigation phase, and AIMS will notify the Complainant of this.

5.5 Unless AIMS requires further information, documents, evidence or submissions from the Complainant under this policy, AIMS is not required to contact the Complainant further after giving notice under clause 5.3 or clause 5.4 (as applicable).

5.6 To protect the privacy of the Respondent and any other persons involved, the findings and outcome of the investigation phase and the determination Phase will not be disclosed to the Complainant unless all relevant persons (including the Respondent) provide their express prior written consent.

6. Investigation Phase

6.1 AIMS may suspend the respondent's accreditation in accordance with clause 8.1 at any time during the investigation phase.

6.2 If the complaint relates to alleged criminal conduct by the Respondent, including fraud or bribery:

(a) AIMS will notify the department of the complaint;

(b) AIMS will continue to investigate the complaint in accordance with this policy, in consultation with, and having regard to any input from the department, for the purpose of determining the effect on the Respondent's accreditation;

(c) If the complaint relates to an alleged breach of the *Export Control Act 2020* (Cth), AIMS will provide a copy of the complaint to the department for the purpose of performing its functions under that Act, including investigating any offence or possible breach of a civil penalty provision);

(d) The department or AIMS may, in consultation with the other party and acting reasonably, refer the matter to any another law enforcement agency as they consider appropriate; and

(e) AIMS will provide any information it holds about the Respondent to the department, where reasonably directed to do so, in writing.

6.3 If a complaint is referred to the department under clause 6.2 and, after considering the complaint, forms the view that it does not relate to a breach of the *Export Control Act 2020* (Cth), the department may refer the complaint back to AIMS and give written notice of its decision, including reasons for the decision.

6.4 AIMS will give the Respondent a written notice (**First Notice**), which will:

(a) advise the Respondent that a complaint has been received;

(b) set out the details of the allegations, so far as is possible without disclosing, expressly or by implication, the identity of the Complainant; and

(c) invite the Respondent to provide a written response to the allegations within 14 days of that First Notice.

6.5 If the Respondent does not provide a written response in accordance with the First Notice, AIMS will give the Respondent further written notice (**Second Notice**), inviting the Respondent to provide a written response within 14 days of that Second Notice.

6.6 The Complaint Manager will take steps to investigate the complaint, and in doing so:

(a) must have regard to the evidence provided by the Complainant in support of the complaint;

(b) must have regard to any written response or evidence provided by the Respondent in reply;

(c) subject to the overarching principles and clause 10.1, may have regard to any complaints against the Respondent that are the same or substantially similar to the complaint being investigated, including any supporting evidence;

(d) may contact the Complainant to discuss the complaint or obtain further information or evidence that the Complaint Manager considers relevant;

(e) must consult with the department about the Complaint and have regard to any comments provided;

(f) may contact the Respondent to discuss the complaint or obtain any further information or evidence that the Complaint Manager considers relevant; and

(g) may contact any other person who has, or is reasonably likely to have, information or evidence that the Complaint Manager considers relevant.

6.7 Once the Complaint Manager has completed their investigation of the complaint, the Complaint Manager will provide written advice to the Board that:

(a) Includes a copy of the *Grievance and Complaint Form* submitted by the Complainant;

(b) summarises the nature of the complaint;

(c) summarises the process undertaken, including whether the respondent's accreditation was suspended under this policy (and, if so, whether it remains suspended);

(d) sets out the Complaint Manager's opinion on whether on the balance of probabilities the conduct complained of occurred, and the basis of that opinion;

(e) sets out the Complaint Manager's view about who should determine the complaint, having regard to clause 4.2; and

(f) identifies possible penalties that may be appropriate in the circumstances, and the reasons why.

6.8 At least 14 days after the date of the Second Notice, whether or not the Respondent has provided any written response, AIMS will give the Respondent a written notice (**Third Notice**), which will:

(a) inform the Respondent that the investigation phase has been completed;

(b) advise the Respondent of the possible outcomes and penalties that may be applied in the determination phase; and

(c) invite the Respondent to provide written submissions about the proposed outcomes and penalties within 14 days of the Third Notice.

6.9 On the later of:

(a) fourteen days after the date of the Third Notice; or

(b) the date upon which the Complaint Manager gives written advice to the Board in accordance with clause 6.7,

the complaint will proceed to the determination phase.

7. Determination Phase

7.1 After reviewing the Complaint Manager's written advice, provided under clause 6.7, the Board will:

(a) appoint a decision maker in accordance with clause 4.2;

(b) refer the complaint to that decision maker for determination; and

(c) provide, or direct that relevant persons provide all documents, information and evidence relating to the complaint to the decision maker, including material submitted with the complaint and obtained during the investigation phase.

7.2 If the decision maker considers that further evidence or information may be available and should be considered before making a determination, they may:

(a) refer the complaint back to the Complaint Manager for further investigations by written notice, specifying the further evidence or information that may be available; and

(b) take any reasonable steps to obtain, or otherwise ascertain the existence or whereabouts of, the further evidence and information.

7.3 If the complaint is referred to the Complaint Manager under clause 7.2(a):

(a) the Complaint Manager is not required to repeat the investigation phase unless directed to do so by the decision maker;

(b) the Complaint Manager shall comply with any lawful and reasonable directions of the decision maker report back on any developments or findings; and

(c) after completing further investigations, the decision maker must determine the complaint in accordance with clause 7.4.

7.4 Once the decision maker has considered all the available evidence, information and documents, the decision maker must determine the complaint (determination) by **either**:

(a) affirming the complaint by:

(i) finding, on the balance of probabilities, that the Respondent engaged in the conduct complained of; and

(ii) deciding any penalty to be applied in accordance with clause 7.5 and clause 7.6;

OR

(b) dismissing the complaint by finding, on the balance of probabilities, that the Respondent did not engage in the conduct complained of.

Determination.

7.5 If the Respondent is found, on the balance of probabilities, to have engaged in the conduct complained of, the decision maker may apply any appropriate penalty, including one or more of the following:

(a) a written warning;

(b) the imposition of any conditions on the respondent's accreditation, including:

(i) requiring the respondent to rectify or remedy the conduct and provide evidence of that action to AIMS;

(ii) requiring the respondent to undertake further training, which may include, but is not limited to, remedial training in theory units relevant to grain operations or bulk vessels;

(iii) requiring supervision by another Accredited Marine Surveyor when performing bulk vessel surveys.

(c) suspension of accreditation in accordance with clause 8.1;

(d) cancellation of accreditation in accordance with clause 8.2; or

(e) prohibiting the Respondent from applying for accreditation in accordance with clause 8.3.

7.6 In deciding any penalty, the decision maker must have regard to:

(a) the overarching principles;

(b) the nature of the conduct, including whether it constitutes a breach of the relevant legislation or applicable ethical standards at the time that the conduct occurred;

(c) any harm caused, or likely to be caused, to any person or to the reputation of Accredited Marine Surveyors, AIMS or the department;

(d) prior complaints against the respondent, including:

(i) the number of complaints;

(ii) the time between complaints;

(iii) whether the complaints relate to similar conduct;

(iv) any clear patterns or escalation of behaviours; and

(v) the outcomes of previous complaint investigations, including any penalties applied.

(e) the Respondent's attitude and level of cooperation during complaint investigation, including the credibility of the evidence;

(f) any remorse demonstrated by the Respondent

(g) the Respondent's experience

(h) the severity of, and likelihood that, the conduct will affect grain exports; and

(i) the likelihood of the Respondent engaging in similar conduct in the future.

7.7 After making a determination, AIMS will give the responded a written notice (**Notice of Decision**), which will:

(a) state whether the complaint is affirmed or dismissed; and

(b) if affirmed:

(i) set out the penalties to be applied; and

(ii) advise the Respondent that they have a period of 14 days to request written reasons for the determination.

7.8 From the date the Notice of Decision is given, AIMS will take any necessary steps to enforce or give effect to the determination.

7.9 If the respondent requests written reasons for the determination within 14 days of receiving the Notice of Decision, AIMS must:

(a) provide written reasons for the determination; and

(b) notify the respondent that they have 14 days from receipt of those reasons to request a review under clause 9.

8. Consequences for accreditation

Suspension of accreditation

8.1 Where AIMS suspends a respondent's accreditation, AIMS will give the respondent a suspension notice. That suspension will:

(a) be subject to any conditions that AIMS considers appropriate in the circumstances;

(b) take effect immediately, or on date specified, continue until the earliest of:

(i) date specified in the notice, or until further written notice by AIMS, which must not be later than the expiry of the respondent's current accreditation;

(ii) the date on which the respondent fulfils all the conditions stated in the suspension notice, if applicable;

(iii) date on which respondent's accreditation is cancelled under clause 8.2, if applicable.

Cancellation of accreditation

8.2 Where AIMS cancels a respondent's accreditation, AIMS will give the respondent a cancellation notice. That cancellation will:

(a) take effect on the date specified in the notice or, until further written notice by AIMS;

(b) end the respondent's accreditation, and disentitle the respondent from any benefits or rights associated with that accreditation, from the date that the cancellation takes effect; and

(c) prohibit the Respondent from making any application for accreditation for the period stated in the notice, or for a period not exceeding 12 months.

8.3 The period of a prohibition under clause 8.2(c) must be determined by AIMS having regard to the principles of clause 2.1(d).

Prohibition of application

8.4 Where a respondent is prohibited from making an application for accreditation, AIMS will give the respondent a prohibition notice. That prohibition will:

(a) be subject to any conditions that AIMS considers appropriate;

(b) take effect immediately, or from date specified in the notice; and

(c) continue until lifted on the later of:

(i) the date specified in the notice, or until further written notice by AIMS, which must not be later than 12 months from the prohibition notice.; or

(ii) the date on which the respondent fulfils all the conditions stated in the notice, if applicable.

8.5 The period of a prohibition under rule 8.2(c) must be determined by AIMS having regard to the principles of clause 2.1(d).

8.6 If a respondent's accreditation is cancelled under clause 8.2, AIMS is not required to issue a prohibition notice, as the cancellation notice will operate to impose the prohibition under clause 8.2(c).

9. Review of Decisions

9.1 An affected person may apply for a review of the decision by submitting a completed *Request for Review of Decision Form*, with the written notice of the decision issued by AIMS, to AIMS at grain@aimssurveyors.com.au within 14 days of the date of the decision, or date of receipt of written reasons for the decision.

9.2 AIMS will review the decision **only if** the *Request for Review of Decision Form* is submitted by the affected person within the period specified in clause 9.1.

9.3 AIMS may, to the extent that it is not included in the *Request for Review of Decision Form*, request for further information from the affected person, which:

(a) specifies the part or parts of the decision that are to be the subject of the review, including whether the review relates only to a penalty or penalties applied under clause 7;

(b) for each part of the decision that is to be the subject of the review, specifies the grounds on which the review is sought, including:

(i) whether the affected person considers that the initial decision maker did not comply with the policy under which the decision was made, and the details of the non-compliance;

(ii) whether the affected person considers that the decision was affected by bias or a conflict of interest on the part of the initial decision maker, and the details of that bias or conflict of interest and how it affected the decision;

(iii) whether the affected person considers that initial decision maker:

(A) failed to consider evidence that should have been considered; or

(B) considered evidence that was not relevant to the decision;

(C) gave inappropriate weight to certain evidence in making the decision;

and the details of that evidence and its relevance (or lack thereof) to the decision;

(iv) whether the affected person considers that the decision (including a penalty applied under clause 7 of this policy) was disproportionate in the circumstances, and details of how it is disproportionate; and

(v) whether the affected person considers that:

(A) in making the decision the initial decision maker was required to the overarching principles, and did not do so; and

(B) had the initial decision maker had regard to the overarching principles, the decision would not have been made.

9.4 Upon receiving a *Request for Review of Decision Form* that satisfies the criteria of clause 9.1 and any further information requested under clause 9.3, AIMS will refer the request to the Chairperson, who:

(a) if the initial decision maker was the complaint manager only, will refer the decision to the board or a board subset for review; or

(b) if the decision was made by any other initial decision maker, will:

(i) notify the department of the request for review and, if requested by the, provide it with a copy of the *Request for Review of Decision Form*; and

(ii) appoint a review panel in accordance with clause 9.5 and refer the decision it for review.

9.5 A review panel appointed by the Chairperson must l comprise of no fewer than 3 persons. Each member of the panel must:

(a) not be the complaint manager or the initial decision maker;

(b) be sufficiently independent from the affected person and the initial decision maker to avoid actual bias or an apprehension of bias;

(c) not have a conflict of interest with the affected person or the initial decision maker that is likely to affect the outcome of the review; and

(d) be appropriately qualified and experienced to understand and consider the subject matter of the review, including familiarity with the AGSA Scheme and policy or policies under which the decision was made.

The Chairperson must have due regard to any advice received from the department in relation to the composition of the review panel.

9.6 The board or board subset and the review panel (as applicable) must review the decision by:

(a) Having regard to, and conducting the review in accordance with, the overarching principles;

(b) Making the review decision as if they were the initial decision maker, including by reviewing and considering:

(i) all submissions, facts and evidence that were available to the initial decision maker at the time the decision was made; and

(ii) all factors that the initial decision maker was required to consider in making the decision; and

(iii) the powers, and any limitations of those powers, and actions available to the initial decision maker at the time that the decision was made; and

(c) inviting and receiving submissions, either orally or in writing, from the affected person in relation to the decision and the grounds for review;

(d) notifying the department of the review and providing it with an opportunity to provide comments to AIMS in relation to the review;

(e) determining the outcome of the review, that is the review determination by:

(i) voiding the decision, in which case, the decision will be treated as never having been made; or

(ii) vary the decision, that is a replacement decision, in which case the replacement decision will be treated as having been made at the time of the original decision; or

(iii) affirming the decision.

(f) notifying the affected person and the department in writing of the review determination and any replacement decision.

9.7 A review determination, including any replacement decision, made under clause 9 is final and binding and is a non-reviewable decision. No further review of the review determination or the decision that was the subject of the review may be sought by the affected person.

10. General

Duplication of complaints

10.1 Where AIMS has received more than one complaint in relation to the same or substantially similar conduct by a respondent, AIMS may, at any stage of the initial or investigation process, determine that:

(a) the complaints should be dealt with together, and deal with the complaints accordingly;

(b) only one the complaints should be investigated, and cease investigating the other complaints, in which case AIMS must notify the relevant complainants in writing of its decision not to investigate their complaint because a similar complaint is being, or has been, investigated; or

(c) the complaints should be dealt with separately, even if a determination under clause 10.1(a) has previously been made, and deal with the complaints accordingly.

10.2 In giving any notice to any complainant in accordance with rule 10.1, AIMS will:

(a) comply with its obligations under the *Privacy Act 1988* (Cth);

(b) not disclose the identity of any other Complainant;

(c) not disclose the details of any other complaint made against the respondent, including the number of complaints made, except that AIMS may disclose that a similar complaint in respect of the respondent has been or is being investigated.

Notices

10.3 Any notice given by AIMS under this policy:

(a) to a complainant must be sent:

(i) electronically to the complainant's email address; or

(ii) by post to the complainant's postal address,

as specified by the complainant in the *Grievance and Complaint Form* submitted by that person;

(b) to a respondent must be sent:

(i) electronically to the email address of the respondent held on record by AIMS; and

(ii) by post to the postal address of the respondent held on record by AIMS;

(c) to an affected person, as defined in this policy, must be sent:

(i) electronically to the affected person's email address; or

(ii) by post to the affected person's postal address, as specified by the affected person in the *Request for Review of Decision Form* submitted by that person.

10.4 A notice given by AIMS in accordance with this policy is taken to have been received:

(a) If sent electronically, on the day it is sent by AIMS; or

(b) If sent by post, 5 days after it is posted by AIMS.

If a notice is sent after 5:00pm on any day, it is taken to have been sent on the following day.

11. Definitions and Abbreviations

11.1 In this policy, unless context requires otherwise:

(a) **Accreditation** means accreditation as a marine surveyor granted by AIMS under the AGSA Scheme.

(b) **Accreditation Application** means an application for accreditation as a marine surveyor by AIMS under the AGSA Scheme.

(c) **Accreditation Decision** means a decision by AIMS to:

(i) suspend a person's accreditation under this policy;

(ii) cancel a person's accreditation pursuant to this policy or the *AGSA Accreditation Policy*;

(iii) prohibit a person from making an application for accreditation under this policy; or

(iv) reject a person's application for accreditation under the *AGSA Accreditation Policy*,

as notified in writing and explained in the written reasons (if requested by the relevant person) for that decision.

(d) **Accredited Marine Surveyor** means a marine surveyor who is accredited by AIMS under the AGSA Scheme.

(e) **Affected Person** means (as applicable):

(i) in respect of a complaint decision, the respondent to the relevant complaint; and

(ii) in respect of an accreditation Decision, the person:

(A) whose accreditation was impacted by a suspension or cancellation;

(B) who is prohibited from making an accreditation application; or

(C) whose accreditation application was rejected by AIMS.

(f) **AGSA Scheme** means the Accredited Grain Surveyor Assurance Scheme operated by AIMS for the accreditation of marine surveyors.

(g) **AIMS** means the Australasian Institute of Marine Surveyors.

(h) **Applicant** means an eligible person who has made an accreditation application.

(i) **Authorised Officer (AO**) are individuals who are trained and assessed by the department and are appointed as Australian Government officials under the Export Control Act 2020 (Cth). An AO is able to perform a range of export functions on behalf of the department.

(j) **Board** means the board of directors of AIMS at the relevant time.

(k) **Board Subset** means a subset of the Board as determined by the Board from time to time and not comprising less than 2 directors of AIMS.

(l) **Bulk Vessel** has the same meaning as the Plant Rules, that is, a vessel that is designed to be used to transport prescribed plants or plant products in bulk from Australian territory to a final overseas destination.

(m) **Bulk Vessel Survey** means the survey of a bulk vessel by an Accredited Marine Surveyor.

(n) **Cancellation Notice** means a written notice issued by AIMS under *AGSA Complaint Handling and Investigation Policy*, to an Accredited Marine Surveyor notifying them that their accreditation has been cancelled and advising them of the terms and conditions of the cancellation.

(o) **Chairperson** means the chairperson of the Board at the relevant time.

(p) **Complainant** means the person making the relevant complaint.

(q) **Complaint Decision** means a determination, or any part of a determination, made by a decision maker under this policy as notified to the respondent in a notice of decision.

(r) **Complaints Manager** means the person appointed by the AIMS Board to manage complaints in accordance with this policy.

(s) **DAFF or the department** means the Department of Agriculture, Fisheries and Forestry, or such other Commonwealth Government department overseeing the AGSA Scheme at the relevant time.

(t) **Days** means calendar days except where the last day of any period prescribed falls on a Saturday, Sunday or public holiday, the action may be done on the first following day which is not a Saturday, Sunday or public holiday.

(u) **Decision** means any complaint decision or accreditation decision but does not include a non-reviewable decision.

(v) **Decision Maker** means the person(s) appointed by the Board in accordance with this policy to determine a complaint.

(w) **Determination** means a Decision made by AIMS in relation to a complaint after considering all available evidence, information and documentation.

(x) **Determination Phase** means the steps taken by AIMS after completion of the investigation phase in respect of a complaint, as specified this policy.

(y) **First Notice** means the initial written notice given by AIMS to an Accredited Marine Surveyor notifying them that a complaint has been received, the details of the complaint and inviting a written response.

(z) **Initial Decision Maker** means the person who made the decision.

(aa) **Initial Phase** means the initial steps taken by AIMS when a complaint is received, as specified in this policy.

(bb) **Investigation Phase** means the steps taken by AIMS after completion of the initial phase in the investigation of a complaint, as specified in this policy.

(cc) **Non-Reviewable Decision** means a decision made under this policy, or any other policy, in force at the time, in relation to the AGSA Scheme that cannot be appealed or reconsidered.

(dd) **Notice of Decision** means a written notice given by AIMS to an Accredited Marine Surveyor notifying that marine surveyor of outcome of a decision.

(ee) **Not pressed** means that the complainant has withdrawn or abandoned the matter, and further actions will not be taken in relation to the specific claim or complaint.

(ff) **Overarching Principles** means the overarching principles of procedural fairness stated in this policy.

(gg) **Prohibition Notice** means a written notice given by AIMS to a marine surveyor under this policy notifying them that they are prohibited from making an application for accreditation and advising the terms and conditions of that prohibition.

(hh) **Relevant Legislation** means all applicable statutes and statutory instruments (including any rules and regulations) in force from time to time which create or impose obligations upon marine surveyors, including (but not limited to) the conduct of bulk vessel surveys, and includes the Export Control (Plants and Plant Products) Rules 2021 (Cth)

(ii) **Replacement Decision** means a Decision given by AIMS that sets aside an earlier Decision.

(jj) **Request for Information** means a formal request issued by AIMS requiring a person to provide information, documents or evidence relevant to the assessment of a complaint, application or renewal.

(kk) **Respondent** means the person against whom the relevant complaint is made.

(ll) **Review Determination** means a Decision given by AIMS that decides to either set aside, vary or affirm an earlier Determination.

(mm) **Review Panel** means the panel appointed by the Chairperson in accordance with rules 9.4 and 9.5 to review a Decision in accordance with rule 9.

(nn) **Second Notice** means a further written notice given by AIMS to an Accredited Marine Surveyor inviting a written response within 14 days.

(oo) **Suspension Notice** means a written notice given by AIMS to an Accredited Marine Surveyor under this policy notifying them that their accreditation has been suspended and advising the terms and conditions of that suspension.

(pp) **Third Notice** means written notice given by AIMS to an Accredited Marine Surveyor notifying that the investigation phase has concluded, the possible outcomes that may be applied in the determination phase and inviting a written response from that marine surveyor within 14 days.

(qq) **Written Reasons** means, in respect of any decision or determination, a written summary of the reasons for that decision or determination, which must include (without limitation):

(i) a summary of the evidence which the person(s) making the decision relied upon in making the decision or determination; and

(ii) a summary of the factors which the person(s) making the decision had regard to in making the decision or determination.