



## ASTI Holdings Limited

(Incorporated in the Republic of Singapore)

(Company Registration No. 199901514C)

(the “Company”)

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1. RECEIPT ON 19 JULY 2023 OF NOTICE OF EXTRAORDINARY GENERAL MEETING PURSUANT TO SECTION 177 OF THE COMPANIES ACT 1967 OF SINGAPORE (THE “JULY REQUISITION”)
  2. ANNUAL GENERAL MEETING TO BE HELD ON 31 AUGUST 2023 (THE “FY2021 AGM”)
  3. SIAS DIALOGUE SESSION WITH ASTI MANAGEMENT, BOARD AND SHAREHOLDERS TO BE HELD ON 21 AUGUST 2023 (THE “SIAS DIALOGUE”)
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1. The Company refers to the announcement made by the Company on 18 August 2023 (the “**18 August Announcement**”) on the matters set out in the title of this Announcement.

This Announcement is a follow up to the 18 August Announcement, and will address 4 areas:

- (1) The views and duty of the Board of Directors in relation to the matters mentioned below.
- (2) A balanced set of views, setting out the basic arguments of the Requisitioning Shareholders in respect of the extraordinary general meeting originally scheduled for 22 August 2023 (the “**Proposed EGM**”) under the July Requisition, and the Company’s position.
- (3) The Annual General Meeting to be held on 31 August 2023 (the “**FY2021 AGM**”).
- (4) The SIAS Dialogue organised by the Company for 7.00 pm on Monday 21 August 2023 (the “**SIAS Dialogue**”).

*Unless the context otherwise requires, terms defined or incorporated as defined in the 18 August SIAS Dialogue Announcement have the same meanings in this Announcement.*

2. **The views and duty of the Board of Directors**

- (a) The Board of Directors (the “**Board**”) wishes to point out that under the Companies Act 1967 as well as the Constitution of the Company, all of the business and affairs of the Company are managed by the Directors who may exercise all powers of the Company except where there is any requirement for any such power to be exercised by shareholders in a general meeting of the Company. The Directors have the fiduciary duty and the onerous burden, among other matters, to scrutinize whether the July Requisition, including whether the Proposed EGM is properly and validly called, and whether the Proposed EGM itself is invalid.
- (b) The Requisitioning Shareholders proceeded pursuant to section 177 of the Companies Act 1967 (“**Section 177**”). Under Section 177, the Requisitioning Shareholders “may **call** a meeting of the Company” (emphasis added). If they do not take all steps required to **CALL** the Proposed EGM or if the Proposed EGM is not properly **called**, the Directors cannot sit idly by; instead, the Directors will take the necessary action to inform all shareholders of that invalidity.

- (c) None of the Directors own any shares in the Company, and are reviewing all these matters in performance of their fiduciary duties as Directors. Accordingly, having taken legal advice and after reviewing the situation, the Board reaffirms its position that the Proposed EGM is invalidly called, and that the Proposed EGM itself is invalid.

### 3. **The July Requisition – Balancing the Views**

- (a) Under the July Requisition, the Requisitioning Shareholders attempted to call an extraordinary general meeting originally scheduled for 22 August 2023 (the “**Proposed EGM**”). As announced in the 14 August Announcement relating to the invalid Proposed EGM, the Company regards the Proposed EGM to have been invalidly called, and that the Proposed EGM itself is invalid. That announcement cited 3 grounds (summarised here):

**(A) Failure, neglect or reckless disregard in not sending the Notice of the Proposed EGM to all shareholders of the Company (“Ground A”):**

That the Requisitioning Shareholders had failed and/or neglected, or deliberately and recklessly without regard for their duty to give such notice to “all Members” of the Company.

**(B) Failure or neglect to ensure the Auditor received the Notice of Proposed EGM (“Ground B”):**

That the Requisitioning Shareholders had failed and/or neglected to send the Notice of the Proposed EGM to the Auditor of the Company (i.e. Ernst & Young LLP) thereby failing to ensure that the Auditor is served with the notice it is entitled to receive by the latest date permitted for sending of such notice or at all.

**(C) Usurping the Right, Power and Entitlement of the Directors to scrutinize, attend and conduct the Proposed EGM (“Ground C”):**

That the Requisitioning Shareholders were usurping the right, power and entitlement of the Directors to scrutinize, attend and conduct the Proposed EGM, therefore it is impossible for the Proposed EGM to be conducted properly, fairly and otherwise in the best interest of the Company and the general body of shareholders; further, this will cause pandemonium and create confusion which could prejudice as well as irretrievably harm the interests of the general body of shareholders of the Company.

- (b) On the evening of Friday 18 August 2023, the Requisitioning Shareholders (through their lawyers (the “**RS Lawyers**”)) wrote to the Company’s lawyers (the “**Co’s Lawyers**”) setting out their main case why in their view the Proposed EGM is not invalidly called (i.e. addressing only Ground A). That letter did not address Grounds B or C. The Company is aware that the Requisitioning Shareholders have taken a highly litigative stance; accordingly, the Company is advised that the Company and/or the general body of shareholders may be prejudiced if the Company was to make announcements attaching the correspondence between the respective lawyers. The Company had not wished to put out details (especially since the RS lawyers had from their very first letter written after the July Requisition Notice was given to the Company, engaged in language which spoke of “litigation”). By a separate email on Friday 18 August 2023 night, the Requisitioning Shareholders’ lawyers demanded that their views be announced in a SGXNet Announcement. To give a better and balanced view of their arguments, the Company summarised their arguments (which, as mentioned, related to Ground A) in subparagraph (c) below.

- (c) In the view of the lawyers for the Requisitioning Shareholders:
- (i) There *“can be no dispute”* that the Requisitioning Shareholders had validly given Notice of the Proposed EGM, which had been given by the single act of advertising it in *The Straits Times* and *Lianhe Zaobao* on 31 July 2023. (The Company disputes this legal proposition, and also notes that there was no Proxy Form set out in the advertisements.)
  - (ii) Even though the Requisitioning Shareholders are *“not legally obliged to do so, they had undertaken their best endeavours to do so for the benefit of the Company’s shareholders”* by *“additionally”* sending the Notice of Proposed EGM to the shareholders (using a list of shareholders which was more than a year old – i.e. the *“Shareholding List as at 22 July 2022”* (the **“July 2022 Shareholding List”**)). (The Board sees this to be an argument by the RS Lawyers that the sending of the Notice of Proposed EGM (using the July 2022 Shareholding List) was an optional extra.)
  - (iii) The Requisitioning Shareholders had, earlier (in relation to their unsuccessful attempt in April 2023 to call a similar extraordinary general meeting (the **“April Requisition”**)) written lawyers’ letters dated 13 April 2023 where for the first time they cited the provision of the law (section 192(3) of the Companies Act) under which they were requesting for a shareholding list. They expressly directed to the Company to give to the Requisitioning Shareholders a Shareholding List as at a date *“on or after 11 July 2022”*. At that point in time, that would be a list which was already about 10 months old. They obtained that the July 2022 Shareholding List on 12 May 2023 (i.e. the Shareholding List they asked for and obtained was made up as at a date which is *“on or after 11 July 2022”*). In the RS Lawyers’ letter, they now blame the Company for *“intentionally”* providing to them *“an outdated Shareholding List”*. They claimed that they *“would not have been aware that the July 2022 Shareholding List that was provided to them was outdated”*. (The Board points out that such a list was received and signed for by a Partner of the RS Lawyers under a letter dated 12 May 2023 which, twice, cited that the shareholding list was made up as at 22 July 2022.)
  - (iv) The RS Lawyers had not since obtained any further list of shareholding from the Company. The Requisitioning Shareholders claim that they *“had no alternative but to issue the Notice of the Proposed EGM to shareholders based on the July 2022 Shareholding List”*. They repeated that they are *“not obliged to do so”* but *“had additionally arranged for physical notices of meeting to be dispatched to the shareholders”*. (Even though they wrote to the Board in July 2023, it was not until 2 August 2023 (i.e. past the latest date of 31 July 2023, for sending to the shareholders the Notice of the Proposed EGM), did they confirm any legally binding provision of law under which they were writing, despite being repeatedly asked by the Company),
  - (v) Further, they referred to an inspection by 5 lawyers from the RS Lawyers’ firm at the Company’s registered office; they inspected the Company’s register of members and index (pursuant to section 192(2) of the Companies Act) on the afternoon of 16 August 2023. The inspection took about 2 ½ hours. In the course of that, certain issues as to the conduct of certain of the Requisitioning Shareholders’ lawyers arose. The RS Lawyers accuse the Company of being *“obstructive”*. The factors and events at that inspection brought up by the Co’s Lawyers’ letter dated 16 August 2023 were challenged by the RS Lawyers’ letter dated 18 August 2023. (These are now disputed issues of fact and of law, which might require the RS Lawyers to give evidence, and these might need to be dealt with at an appropriate forum.)

- (vi) The Requisitioning Shareholders take the view that there is “*no basis or merit*” in the Company’s announcing that the Proposed EGM has not been validly called or convened, reiterating that they had “*duly given written notice of the Proposed EGM ... by advertisement in the daily press*”. As such they will be proceeding with the Proposed EGM. (The Board is advised that this is a mistaken interpretation of the requirements for the Notice of the Proposed EGM to be given in order to properly and validly call the Proposed EGM, as the Requisitioning Shareholders were trying to do pursuant to Section 177.)
- (d) In order to balance the views of the Requisitioning Shareholders in subparagraph (c) above with those of the Company, the Company would like to point out the factors in subparagraph (e) to (j) below.
- (e) The Board has reviewed the situation, the legal advice it has received, as well as the documentation involved. The Company’s position (on Ground A mentioned above) is that:
  - (i) There is no legal basis for the Requisitioning Shareholders’ optimism that the Notice of the Proposed EGM can be properly given by the single act of advertising in newspapers. This would be wrong in law, and failure to give proper and valid notice would render the Proposed EGM invalidly called and therefore cannot and should not be proceeded with.
  - (ii) The Board is advised that, in addition to such advertisements, the Constitution requires that proper notices in writing must be given (in the present case, practically the only option is by post) within the time for giving notices provided by the Constitution. Under the Constitution, the Notice of the Proposed EGM must be sent to “***all Members***” – i.e. to all shareholders at their proper addresses they had registered with the Company.
  - (iii) The Requisitioning Shareholders did not request for any fresh shareholding list under any provision of law (as asked, twice, by the Co’s Lawyers). Instead, the answers given by the RS Lawyers were evasive, on both occasions deliberately avoiding giving an answer as to which provision of law they were relying on. As mentioned, their request cited section 192(3) of the Companies Act only on 2 August 2023 (i.e. 2 days past the deadline for sending the Notice of the Proposed EGM in order for the notice period to be complied with).
  - (iv) In any event, the Requisitioning Shareholders ignored, or forgot, or otherwise refused to heed the warnings and suggestions of the Company given on 14 April 2023, not to use an outdated shareholding list and that the Company would be compelled to challenge it if they did (see subparagraph (f) below).
  - (v) Despite knowing that they should request, in advance of making a requisition under Section 177, a shareholding list updated to a “*current or future*” date, in relation to the July Requisition the Requisitioning Shareholders did not do so. They had, intentionally or unintentionally, themselves omitted to get an updated shareholding list (which they easily could have if they acted in advance by a matter of just a few more days). They now try to blame the Company for their own omission.
  - (vi) Despite the Company’s express warnings that the July 2022 Shareholding List was seriously outdated and too dangerous to be relied upon, the RS Lawyers insisted that the Requisitioning Shareholders could use it for the despatch of the notice in writing (i.e. the Notice of the EGM) to “*all Members*” (to quote Regulation 48 of the Constitution). By so doing, they disregarded and were insouciant to the rights of the general body of shareholders to receive the Notice of the EGM at the respective proper addresses.

- (vii) The Company's position, made clear to the Requisitioning Shareholders since 14 April 2023 (see subparagraphs (f)(iii) and (v) below), that the Company will object to any use of such an outdated shareholding list. The Requisitioning Shareholders knew or ought to know that the use of the July 2022 Shareholding List for despatch of the Notice of the Proposed EGM amounts to disregarding the rights of shareholders to receive that notice at the proper address and is a failure or neglect on their part, and/or a deliberate and reckless act.
- (f) The Board was perturbed that the Requisitioning Shareholders did not heed the Company's warnings and suggestions in, especially, the Company's letter dated 14 April 2023 (the "**14 April Letter**"). By the RS Lawyer's 2 letters dated 13 April 2023 to the Company, the Requisitioning Shareholders had expressly directed the Company to give to them (under section 192(3) of the Companies Act) a shareholding list as at a date "*on or after 11 July 2022*". The Company had responded in the 14 April Letter; where the Company:
- (i) Warned the Requisitioning Shareholders "*not to presume that an old list of shareholders (after 11 July 2023) is precisely the same as the current list of shareholders just because the trading in shares in the Company have been suspended*", and reminding them "*that, for one, there are likely to be shareholders who have (for instance) changed their addresses*".
  - (ii) Pointed out to them that "*if they are genuine about sending proper notices to their proper addresses*", the Company urged them to "*provide a recent or future date*" as the date as of which that list of shareholders is to be made up.
  - (iii) Warned that the Company "*will vehemently object to and challenge the infraction on shareholders' rights if, perchance, the Requisitioning Shareholders choose to be insouciant to shareholders being given proper notices at their proper addresses, by using just any list of shareholders made up as of any date after 11 July 2023 (other than as at a more current date as mentioned above)*".
  - (iv) Reminded the Requisitioning Shareholders that the list of shareholders they were requesting (i.e. made up as at any date "*on or after 11 July 2022*") may not be appropriate for them to use to call a general meeting pursuant to Section 177. The Company pointed out that "*in effect the Requisitioning Shareholders have left it to the Company to select whatever date, so long as it falls after 11 July 2022*". However, the Company gave the Requisitioning Shareholders the additional opportunity to the Requisitioning Shareholders to give a "*recent or future*" date of the list of shareholders which might suit their purpose in calling a general meeting. The Company pointed out that if the Company did not hear from them that day, the Company will have to assume there is no change in this instruction (i.e. a list of shareholders would - as directed by the Requisitioning Shareholders - be made up as at any date "*on or after 11 July 2022*"). (The RS Lawyers had never replied on this. After the RS Lawyers obtained the July 2022 Shareholding List on 12 May 2023, there was no correspondence at all relating to shareholding lists until the July Requisition.)
  - (v) Additionally warned that it is the responsibility of the Requisitioning Shareholders "*to see to the use (for the purpose of despatch relating to the proposed EGM) of a list of shareholders as at a more current date as mentioned above*", and again that the Company "*will ... object to and challenge such use of any other list of shareholders*".
  - (vi) Pointed out to the Requisitioning Shareholders, as a practical way forward, that "*in practice when members exercise their rights under section 177 of the Companies Act to call for any general meeting, those members would normally, in advance, make a proper request for the relevant list of shareholders for despatch of notices to shareholders*".

- (g) As clarified above, there was no mention in the RS Lawyer’s letter dated 18 August 2023 as to their position on Ground B. The Company has information that no Notice of the Proposed EGM was received by the Auditor as at 14 August 2023, before the Company made the 14 August Announcement.
- (h) The RS Lawyers’ letter dated 18 August 2023 also did not address Ground C. The Company is advised that the Requisitioning Shareholders are usurping the rights, powers and entitlements of the Directors, thus preventing and/or impeding them from exercising their fiduciary duties to the Company and the general body of shareholders. This includes the Directors’ duty and responsibilities to scrutinize the calling of the Proposed EGM, and the conduct of matters in the lead up to, and the actual attendance and conducting of the Proposed EGM (assuming it was properly called and held). Further, this conduct of usurpation continued as the RS Lawyers maintained that based on their belief that the Directors had no right or power or entitlement at all just because they were proceeding under Section 177, the Requisitioning Shareholders were entitled not to answer any query as to the calling of the Proposed EGM raised by the Directors. This was also extended to what was, in their belief, excluding the Directors from attending or chairing the Proposed EGM. These actions by the Requisitioning Shareholders made it impossible for the Proposed EGM to be held and conducted in accordance with the Constitution and the general law. Therefore, the Proposed EGM is invalid.
- (i) This act of usurpation is exemplified by the words of the RS Lawyers’ letter dated 2 August 2023, that the Requisitioning Shareholders categorically disagree with the Directors’ intention to conduct the Proposed EGM (which the Directors say is not to be conducted by the Requisitioning Shareholders just because they are acting under Section 177), and (quoting from that letter):

***“The Requisitioning Shareholders or their nominated representatives will be conducting and chairing the meeting and unless any member of the Board are also members of the Company (i.e. their names are entered into the register of members kept by the Company under section 190 of the Companies Act), he/she will not be allowed into the meeting venue and/or participate in the meeting. Further, for the same reasons, the Requisitioning Shareholders are not obliged to and will not be responding to the Board’s queries set out at [the Co’s Lawyers’ letter dated 1 August 2023, which enquired as to whether the Notice of the Proposed EGM was sent to all shareholders, when, the mode of sending, etc.]”.***

- (j) Therefore, the Company notified the Requisitioning Shareholders on 14 August 2023 to the effect that:
- (i) the Proposed EGM will not be recognized as a proper or valid extraordinary general meeting of the Company; and
- (ii) any resolution purported to be passed at the Proposed EGM (assuming it is carried on to be held by the Requisitioning Shareholders) will therefore not constitute a valid resolution of the shareholders of the Company and will have no effect on the Company or its general body of shareholders.

#### **4. The FY2021 AGM at 2.00 pm on Thursday 31 August 2023**

- (a) As announced in the Company’s announcement made on 16 August 2023, the undisputed and validly called, and statutorily required Annual General Meeting will be held on 31 August 2023 (the “FY2021 AGM”). Any attempt by the Requisitioning Shareholders to proceed with the clearly invalid Proposed EGM on 22 August 2023 (i.e. 9 days earlier) is likely to cause pandemonium and confusion as to the carrying out of the FY2021 AGM. This will be harmful on the Company’s good governance and business, and will be to the detriment of both the Company and the general body of shareholders of the Company.

- (b) The Board notes that in view that 4 Directors will be retiring from office and seeking re-election at the FY2021 AGM. Under Regulation 93 of the Constitution, shareholders may send to the Company's registered office notices in writing (satisfying the technical details of that Regulation 93) to propose a person to be appointed as a Director of the Company at the forthcoming FY2021 AGM. Such notices would have to be sent not later than 11 clear days before 31 August 2023 (the date of FY2021 AGM). The Board also announces that, as at 11.59 pm on 19 August 2023 (the last day, being 11 clear days before 31 August 2023), no such notices in writing has been sent to the registered office by any shareholder.
- (c) The Board regrets that the Requisitioning Shareholders (who, the Board also notes, have access to legal advice) had failed, neglected and/or refused to take this opportunity to seek election of their proposed candidates for appointment at the FY2021 AGM, as Directors. In the Board's view, this would have been a far better approach for the Requisitioning Shareholders as they could be put up for election and, if they so wished and have adequate voting support from the other shareholders, the candidates so nominated by the Requisitioning Shareholders will have the chance to be voted in as Directors of the Company. This, too, will mean that the Proposed EGM is not necessary for the Requisitioning Shareholders to achieve substantially all their purposes in attempting to call the Proposed EGM. If so, this contributes to avoiding the pandemonium the Proposed EGM will cause if the Requisitioning Shareholders choose to proceed with it.
- (d) The Board continues to encourage all shareholders to attend, in person or by proxy, the FY2021 AGM at 2.00pm on 31 August 2023.

**5. The SIAS Dialogue at 7.00 pm on Monday 21 August 2023**

- (a) The Board notes the remarks of the Securities Investors Association (Singapore) ("**SIAS**") that shareholders are encouraged to attend both the Proposed EGM and the FY2021 AGM. This will be among the topics discussed at the SIAS Dialogue.
- (b) Meanwhile, the Board hopes that this Announcement clarifies and gives more balance to the differing viewpoints of the Requisitioning Shareholders, and also provides an insight as to the reasoning of the Board as to why the Board maintains that the Proposed EGM is invalidly called and is itself invalid.
- (c) The Board encourages and looks forward to all shareholders who have any question, to attend and participate in the discussions at the SIAS Dialogue.

**The shares in the Company have been suspended from trading on the Singapore Exchange Securities Trading Limited since 5 July 2022.**

**Shareholders are advised to exercise caution when dealing or trading in the shares of the Company, Shareholders are advised to read this Announcement, previous announcements, and any further announcements by the Company carefully. When in doubt as to the action they should take, shareholders should consult their stock brokers, bank managers, solicitors, accountants or other professional advisers.**

**By Order of the Board**

**DR. KRIENGSAK CHAREONWONGSAK  
NON-EXECUTIVE CHAIRMAN  
ASTI HOLDINGS LIMITED**

20 August 2023