

TO BE APPROVED AGM 2026

**CONSTITUTION OF THE GERMAN-NEW
ZEALAND CHAMBER OF COMMERCE
INCORPORATED**

Table of Contents

- 1. **Name1**
- 2. **Definitions and Interpretation1**
 - Definitions1
 - Interpretation2
 - Notices2
- 3. **Purposes and Powers.....3**
- 4. **Non-Profit, Income, Funds and Assets.....4**
- 5. **Membership5**
 - Membership Applications5
 - Membership consent5
- 6. **Termination of Membership.....5**
- 7. **Register of Members.....6**
- 8. **Membership Fees and levies7**
- 9. **Annual General meetings.....7**
 - Proceedings at General Meetings.....8
 - Resolution passed in lieu of meeting9
- 10. **Officers and Honorary Patron.....9**
- 11. **Board9**
 - Overall Responsibility for Management9
 - Composition.....9
 - Election of Board Members.....10
 - Alternate Board Members10
 - Vacancy10
 - Absence without Leave11
 - Other Grounds for Removal of Board Member.....11
 - Proceedings of Board.....11
 - Chairperson11
 - Defects in Appointment12
- 12. **Eligibility of Board Members12**
- 13. **Term of Office for Board Members.....12**
- 14. **Executive Director.....12**
- 15. **Duties owed to Chamber by Board Members13**
- 16. **Conflicts of Interest.....14**

17.	Indemnity and insurance	15
18.	Contact Person	15
19.	Financial	15
20.	Auditor	16
21.	Treasurer	16
22.	Alteration of the Constitution	16
23.	Bylaws	17
24.	Registered Office	17
25.	Liability	17
26.	Dispute resolution process	17
	Disputes.....	17
	How a complaint is made.....	17
	Person who makes complaint has right to be heard.....	18
	Respondent has right to be heard.....	18
	Investigating and determining disputes.....	19
	Circumstances in which a process may not proceed.....	19
	Refer complaint.....	19
	Decision makers.....	19
27.	Ending the Chamber	20
28.	Transition	20
	Transition of Members.....	20
	Transition of Board Members.....	20
	Transition of Bylaws.....	21

Constitution of the German-New Zealand Chamber of Commerce Incorporated

1. Name

- 1.1 The name of the Chamber is **German-New Zealand Chamber of Commerce Incorporated**.

2. Definitions and Interpretation

Definitions

- 2.1 In this Constitution, unless the context otherwise requires:

Act means the Incorporated Societies Act 2022 and any regulations made under that Act.

Annual General Meeting means a meeting of the Members of the Chamber held once a year convened under this Constitution.

Auditor means the entity or person/s appointed under clause 20.1.

BMWK means the Bundesministerium für Wirtschaft und Klimaschutz or Federal Ministry for Economic Affairs and Climate Action, or such other name as may be updated from time to time.

Board means the persons appointed in accordance with clause 11 who will be deemed to be the Chamber's Committee for the purposes of the Act.

Board Members mean the persons appointed or co-opted to the Board, including each Officer and any person appointed to fill a vacancy or as an alternate Board Member.

Bylaws means any bylaws, policies, codes of conduct, or regulations of the Chamber made under clause 23.1.

Chamber means the German-New Zealand Chamber of Commerce Incorporated, headquartered in Auckland, New Zealand.

Constitution means this Constitution as amended from time to time in accordance with clause 22.

DIHK means Deutsche Industrie - und Handelskammer or German Chamber of Commerce and Industry, Breite Strasse 29, 10178 Berlin, Germany.

Executive Director means the person appointed as Executive Director or Chief Executive Officer of the Chamber pursuant to clause 14.

General Meeting means an Annual General Meeting or a Special General Meeting of the Chamber.

Germany means the Federal Republic of Germany.

Interested has the meaning set out in section 62 of the Act.

Interests Register means the register of disclosures made by Board Members kept by or on behalf of the Board pursuant to section 63 of the Act.

Matter has the meaning set out in section 62(4) of the Act.

Member means any Member of the Chamber whether Regular, Individual, Honorary or Life Member.

Member Register means the register of Members kept in accordance with clause 7.1.

Officers means those persons appointed to the offices referred to in clause 10.1 either by the Annual General Meeting or by the Board in accordance with clause 11.11.

Registrar means the Registrar of Incorporated Societies.

Special General Meeting means a meeting of the Members, other than an Annual General Meeting, called for a specific purpose or purposes.

Working Day means any day of the week other than:

- (a) Saturday, Sunday, Waitangi Day, Good Friday, Easter Monday, Anzac Day, the Sovereign's birthday, Te Rā Aro ki a Matariki/Matariki Observance Day, and Labour Day; and
- (b) if Waitangi Day or Anzac Day falls on a Saturday or Sunday, the following Monday; and
- (c) a day in the period commencing on 24 December in any year and ending on 5 January in the following year, both days inclusive; and
- (d) the day observed as the anniversary in Auckland, New Zealand.

Interpretation

- 2.2 Words importing persons include partnerships, companies and other bodies and organisations whether incorporated or unincorporated in New Zealand or Germany.
- 2.3 Words referring to the singular include the plural and vice versa.
- 2.4 References to statutory provisions are references to those provisions as amended or re-enacted.
- 2.5 All periods of time or notice exclude the days on which they are given.

Notices

- 2.6 Unless specified otherwise in this Constitution any notice or other communication (**Notice**) given under this Constitution must be in writing.
- 2.7 A Notice may be served on:
 - (a) the Chamber at its registered office address recorded with the Registrar pursuant to the Act or by emailing the Executive Director;
 - (b) Members by:
 - (i) emailing it to the email address noted for each respective Member in the Member Register;
 - (ii) delivery or post to the address noted for each respective Member in the Member Register, or, if a Member is a company or other body corporate, to the registered office address for that Member; and
 - (c) any person who has ceased to be a Member by email or physical delivery in accordance with clause 2.7(b), to the last known email or physical address of the person.

- 2.8 The Chamber may change its address for Notices for the purposes of clause 2.7 by giving Notice to all Members.
- 2.9 A Notice sent by email is deemed served at the time evidenced by the sender's sent email history, unless the other party can prove it was not received.
- 2.10 A Notice delivered to an address or delivered personally is deemed served on delivery.
- 2.11 A Notice given by post is deemed to have been served on the fifth Working Day following the date of posting of the Notice.

3. Purposes and Powers

- 3.1 The purposes for which the Chamber is established are as follows:
- (a) to promote the establishment of closer economic co-operation between New Zealand and Germany;
 - (b) to act in a liaison and co-ordinating function in promoting and developing trade, commerce and business between New Zealand and Germany and to encourage an improvement in communication and mutual assistance between Members, Governments, Government Departments, Trade Officials and business enterprises and other persons engaged or concerned in trade, commerce and business or any related services in New Zealand and Germany;
 - (c) to promote the consideration and discussion of all questions affecting trade relations between New Zealand and Germany, to establish a forum for the interchange of views among Members and to encourage the greater dissemination of information on trade between New Zealand and Germany from private and governmental sources in both countries;
 - (d) to hold conferences and meetings for the discussion of all matters affecting trade between New Zealand and Germany, to publish copies of papers, lectures, magazines, journals and books and generally to collect, collate and publish information of use or interest to Members of the Chamber;
 - (e) to represent the interests and views of the Members and in particular to provide a medium for making representations to private or government organisations of the views of the Chamber on matters relating to or affecting trade, commerce and business between New Zealand and Germany;
 - (f) to take all steps as may be deemed necessary to promote and protect the interests of Members;
 - (g) to purchase, take on lease or otherwise acquire such property real and personal as the Board thinks necessary or convenient;
 - (h) to sell, improve, maintain, manage, exchange, lease, mortgage, dispose of, turn to account or otherwise deal with all or any part of the property, assets and rights of the Chamber;
 - (i) at the request of or in consultation and agreement with the DIHK or any German Government Department undertake activities in Pacific Islands Forum countries involving Germany for or in relation to any of the purposes outlined above; and

- (j) generally and in furtherance of and not in limitation of the foregoing purposes outlined above to do all such other things as in the opinion of the Chamber or the Board may be incidental or conducive to the attainment of any of those purposes.
- 3.2 The Chamber is recognised by the DIHK as a bilateral foreign trade Chamber of Commerce. The Chamber will maintain membership of the German Chambers of Commerce worldwide network (Aussenhandelskammer or AHK).
- 3.3 The Chamber will implement its activities in co-operation with DIHK and with institutions and public authorities in New Zealand and Germany which are concerned with the work of the Chamber.
- 3.4 The Chamber may, as resolved by the Board, establish and open branches and subsidiaries in New Zealand and pursuant to clause 3.1(i), another Pacific Islands Forum country.

4. Non-Profit, Income, Funds and Assets

- 4.1 The Chamber is a non-profit organisation and must not carry on business for the purposes of distributing profits to Members.
- 4.2 The income, profits, financial surplus, assets and property of the Chamber shall be applied solely towards the promotion of the purposes as set out in clause 3.1 and no portion of it will be paid or transferred directly or indirectly to Members, except that nothing in this Constitution will prevent the payment in good faith of:
- (a) remuneration to any Officer or employee of the Chamber or to any Member in return for services actually rendered to the Chamber;
 - (b) supply of goods or services to the Chamber in the ordinary course of business by a Member;
 - (c) reasonable allowance and travelling expenses to Board Members; or
 - (d) making a payment to a Member in carrying out the purposes of the Chamber set out clause 3.1.
- 4.3 The income receivable by the Chamber to carry out its purposes and related activities may comprise, but is not limited to:
- (a) membership fees;
 - (b) remuneration and fees for services;
 - (c) public grants (Bundeszuwendungen) from the BMWK;
 - (d) sponsorships;
 - (e) interest and returns on the Chamber's invested assets; and
 - (f) other grants and subsidies.
- 4.4 The Chamber may enter into conditional funding agreements with German Government Agencies (including but not limited to the BMWK or its successor agencies) for the promotion of German foreign trade to New Zealand and/or any other country specified in such funding arrangements, provided that such funding is:
- (a) for the purposes of pursuing or fulfilling any of the Chamber's purposes; and

- (b) on terms, conditions and details approved by the Board.

5. Membership

5.1 The Chamber must have at least 10 Regular Members.

5.2 Unless otherwise resolved in a General Meeting, the classes of Members of the Chamber are:

(a) **Regular Member**

Any business enterprises which are engaged or concerned in or in any way interested in trade, business or commerce between New Zealand and Germany unless the Board waives such qualification.

(b) **Individual Member**

Any persons who, in the opinion of the Board, may add value to the Chamber as a result of their connections with Germany.

(c) **Honorary Member**

Any person or persons either in a personal capacity or by virtue of the office which such person or persons hold invited by the Board to be Honorary Members of the Chamber. Honorary Members shall not be liable for membership dues.

Notwithstanding clause 6.1, the Board may terminate such Honorary Memberships in any case and at any time without notice.

(d) **Life Members**

Any person or persons nominated by the Board for Life Membership and approved at a General Meeting. Life Members shall not be liable for membership dues.

Membership Applications

5.3 Applications for membership shall be made in writing or online (in a form satisfactory to the Board) by or on behalf of the applicant to the Board. The Board may decline or approve applications for membership in its absolute discretion. The applicant must agree, if the application is approved by the Board, to abide by the Constitution of the Chamber and to pay such membership dues as are properly assessed by the Chamber.

5.3A Nothing in clause 5.3 shall apply to an application for membership approved by the Executive Director prior to 13 November 2025. The membership of any new Member is deemed to have been valid and effectual since such approval to the same extent as that of any Member whose membership is approved by the Board.

Membership consent

5.4 A person or entity consents to becoming a Member by signing the application for membership or by submitting a completed online application form to the Chamber.

6. Termination of Membership

6.1 The membership of any Member ceases:

- (a) on the date of resignation, expulsion, or death of a Member;

- (b) on the date a receiver, a receiver and manager, liquidator, external administrator, trustee in bankruptcy or analogous external administrator being appointed over the assets and undertakings of the relevant Member, or on the date the Member resolved to wind itself up (or has taken against it any action having the effect of its winding up) or declares bankruptcy; or
 - (c) in accordance with clause 6.3.
- 6.2 Members may resign by giving written notice of resignation to the Board. Such resignation will take effect from the date the notice is received by the Board.
- 6.3 If a Member fails to meet the obligation to pay the annual membership fee within one month after the date of a second reminder to pay, the relevant Member's membership shall cease.
- 6.4 If a Member:
 - (a) refuses or fails to comply with the provisions of this Constitution; or
 - (b) is guilty of any conduct which, in the opinion of the Board, is unbecoming of a Member or prejudicial to the interests of the Chamber;

the Board has the power to suspend or expel the Member from the Chamber by resolution passed by a two-thirds majority of the Board. Any suspension resolved by the Board will be on conditions the Board deems fit in its sole discretion.
- 6.5 At least one week prior to the meeting of the Board at which a resolution under clause 6.4 is to be considered, the President or Executive Director shall notify the Member concerned in writing and request a response by the Member to the allegations made against the Member and the intended resolution for exclusion or suspension of the Member.
- 6.6 If the resolution in clause 6.4 is passed, the President or the Executive Director will notify the relevant Member in writing that the Board has resolved to exclude or suspend the Member, as applicable. The exclusion or suspension is deemed effective upon the date of the resolution.
- 6.7 The cessation of membership under this clause 6:
 - (a) does not establish or give rise to any refund of membership fees to the Member for the current financial year nor any claim against the assets of the Chamber; and
 - (b) the Member continues to be liable for all monies due to the Chamber including unpaid membership fees for the current financial year.

7. Register of Members

- 7.1 The Chamber must keep a register of its Members containing:
 - (a) each Member's name, address, occupation, email address and telephone number;
 - (b) the class of Members to which the Member belongs;
 - (c) the date on which the Member became a Member;
 - (d) the date on which a person ceased to be a Member;
 - (e) the name of each person who has ceased to be a Member of the Chamber within the previous 7 years;

- (f) any other information required by this Constitution or the Act (including by regulations published under the Act); and
- (g) any other information specified by a resolution of the Board.

7.2 Members must provide written notice to the Chamber of any change to the details in clause 7.1.

7.3 The Member Register must be updated as soon as practicable after the Chamber becomes aware of changes to the information recorded in the Member Register.

8. Membership Fees and levies

8.1 Every Regular Member and Individual Member must pay to the Chamber such annual membership fees and other sum or sums of money as may be fixed by resolution of the Regular Members in General Meeting and payable annually or otherwise as determined by the Board.

9. Annual General Meetings

9.1 Annual General Meetings of the Chamber must be held once in every calendar year at a locality and on a date decided by the Board (not being later than 6 months after the balance date of the Chamber and not later than 15 months after the holding of the last preceding Annual General Meeting). The business of the Annual General Meeting must include the following matters:

- (a) the Chamber's annual report and financial statements;
- (b) the resolutions and other matters specified in the Notice of Meeting;
- (c) annual membership fees;
- (d) election of Officers and other Board Members with the exception of the Executive Director;
- (e) appointment of Auditor;
- (f) appointment of Life Members; and
- (g) any other matter authorised by the Chairperson to be considered at the Annual General Meeting.

9.2 Special General Meetings may be convened at any time by the Board and must be convened by the Board upon the requisition in writing of at least 10 of the Regular Members entitled to vote at a General Meeting. The business to be dealt with at any Special General Meeting must be specified in the notice convening the Special General Meeting.

9.3 All Members may attend General Meetings of the Chamber but only Regular Members and Individual Members may vote in person or by a duly authorised representative. Each Regular Member and Individual Member has one vote except in relation to any resolution relating to an alteration of this Constitution where Individual Members may not vote.

9.4 A duly authorised representative of a Regular Member shall be the Regular Member's chief executive officer or such other senior executive or other officer of the Regular Member appointed in writing by the Regular Member.

- 9.5 Votes at any General Meeting of the Chamber may be given by proxy and the following provisions shall apply:
- (a) the instrument appointing a proxy must be in writing signed by or on behalf of the appointer or their duly authorised attorney and delivered to the Executive Director or the Chairperson of a General Meeting prior to the start of the General Meeting;
 - (b) where a notice of General Meeting provides for electronic lodgement of proxies, a proxy lodged at the electronic address specified in the notice is taken to have been received at the Chamber at its registered office and validated by the Member provided that the requirements for electronic lodgement of proxies set out in the notice has been complied with; and
 - (c) no person other than the Chairperson of a General Meeting may hold proxies which would entitle them to exercise more than five votes including their own vote.
- 9.6 At least 15 Working Days' Notice of any Annual General Meeting and at least 10 Working Days' Notice of any Special General Meeting must be given to all Members and the Auditor. Notice may be given in accordance with clause 2.7. Accidental failure to give notice to any Member shall not invalidate the meeting. The quorum necessary for a General Meeting shall be 20 of the Regular Members of the Chamber present whether in person or by proxy.

Proceedings at General Meetings

- 9.7 General Meetings must be conducted in accordance with the following rules:
- (a) only Regular Members and Individual Members who have fully paid their membership dues shall be entitled to vote at General Meetings. Honorary and Life Members may be present at General Meetings but are not entitled to vote;
 - (b) resolutions submitted to General Meetings shall be decided by a show of hands unless a poll is requested by 3 Members having the right to vote;
 - (c) unless otherwise provided for in this Constitution, all matters shall be decided by a simple majority of votes of Regular Members and Individual Members present in person or by proxy;
 - (d) in the event of an equality of voting the Chairperson shall be entitled to a second or casting vote;
 - (e) the Chairperson for any General Meeting shall be the President of the Chamber or failing him or her, a Vice President of the Chamber. If neither the President nor a Vice President are present within 15 minutes of the time appointed for the meeting or none of them is willing to act as Chairperson the meeting may appoint a Regular Member to act as Chairperson;
 - (f) other than a Special General Meeting requisitioned under clause 9.2, if within half an hour of the time appointed for any General Meeting a quorum is not present, the meeting shall stand adjourned to the same day in the next week at the same time and place or such other date, time and place as may be determined by the Chairperson. If at such adjourned meeting, a quorum is not present, those Members who are entitled to vote and are present shall form a quorum and may transact business for which the meeting was called;

- (g) if a Special General Meeting requisitioned under clause 9.2 does not have a quorum present within half an hour of the time appointed for that Special General Meeting, that meeting shall be dissolved; and
- (h) minutes of each General Meeting will be prepared, recording the passing or rejection of resolutions and results of votes, and will be signed by the Chairperson and by the Executive Director or by the Chairperson and any Board Member who was present at the General Meeting.

Resolution passed in lieu of meeting

- 9.8 A resolution in writing signed or consented to in writing by a 75% or higher majority of Members who are entitled to vote will be valid as if it had been passed at a General Meeting if the requirements in clauses 9.9 and 9.10 are complied with. Any resolution may consist of several documents in the same form each signed by one or more Members.
- 9.9 The Board must ensure that a proposed resolution is sent to Members entitled to vote which contains:
- (a) the date it was circulated to all Members entitled to vote; and
 - (b) a statement that the proposed resolution will lapse if it is not passed within 3 months, or any lesser period stated, of the date specified in clause 9.9(a).
- 9.10 The Board must ensure that within 5 Working Days after a resolution is passed under clause 9.8, a copy of the resolution is sent to the address, including an electronic address, of all Members who did not approve the resolution.

10. Officers and Honorary Patron

- 10.1 Subject to clause 12, the Officers of the Chamber shall consist of a President, one or more Vice Presidents as may be determined by the Board, a Treasurer, the Executive Director and such Officers (if any) which the Chamber in General Meeting shall deem to be necessary or desirable for the conduct of the affairs of the Chamber.
- 10.2 The Board may appoint any person as Honorary Patron of the Chamber to perform such functions in the furtherance of the purposes of the Chamber as set out in this Constitution as may be determined by the Board and agreed with the Honorary Patron.

11. Board

Overall Responsibility for Management

- 11.1 The Board must govern, direct and supervise the operation and affairs of the Chamber.
- 11.2 The governance, direction and supervision of the business of the Chamber is vested in the Board and the Board may exercise all such powers and do all such acts and things as the Chamber is by its Constitution or otherwise authorised to exercise and do and are not required to be exercised or done by the Chamber in General Meeting under this Constitution or the Act.

Composition

- 11.3 Subject to clause 12, the Board shall have at least 6 and not more than 12 Board Members excluding the Executive Director, comprising all the Officers of the Chamber and

such other Regular Members of the Chamber who shall be elected as Board Members at the Annual General Meeting of the Chamber.

11.4 The Chamber aspires to a Board composition which, where possible:

- (a) reflects the diversity of gender, geographical location and industrial sectors of Members; and
- (b) provides for equal representation by New Zealand owned and German owned businesses operating in New Zealand.

Election of Board Members

11.5 Nominations for the election of Officers and Board Members (except for the Executive Director) shall be in writing signed by a proposer who is a Regular Member of the Chamber or a duly authorised representative of such Member and countersigned by the candidate and lodged with the Executive Director at least 5 Working Days before the Annual General Meeting at which the election is to take place.

11.6 If at the Annual General Meeting, there is more than one applicant for any position, the election will be by secret ballot. If there is only one applicant for any position, that person will be declared to be elected without the need for a vote.

Alternate Board Members

11.7 Subject to clause 12, the Board may co-opt Board Members.

11.8 Subject to clause 12, every Board Member (other than the Executive Director, President or Treasurer) may, by notice given in writing to the Chamber, appoint any person (including any other Board Member) to act as an alternate Board Member in the Board Member's place, provided the appointee is approved by the other Board Members, either generally or in respect of a specified meeting or meetings during the Board Member's absence or inability to act as a Board Member. Every Board Member may, at the Board Member's discretion, by notice in writing to the Chamber, remove that Board Member's alternate Board Member.

11.9 On any such appointment being made the alternate Board Member may, while acting in the place of the Board Member, represent, exercise and discharge all the powers, rights, duties and privileges (but not including the right of acting as chairperson) of the Board Member appointing the alternate Board Member, and is subject in all respects to the same terms and provisions as that Board Member (except as regards the power to appoint an alternate Board Member under clause 11.8. For the purpose of establishing a quorum of the Board an alternate Board Member is deemed to be the Board Member who has appointed them.

11.10 The notice of appointment of an alternate Board Member must include an address for service of notice of meetings of the Board. Failure to give an address will not invalidate the appointment but notice of meetings of the Board need not be given to the alternate Board Member until an address is provided to the Chamber.

Vacancy

11.11 If any office becomes vacant through any cause whatsoever the Board shall have the power to appoint any Regular Member to fill any such vacancy and the person or persons so appointed shall hold office until the next ensuing Annual General Meeting.

Absence without Leave

- 11.12 If any Board Member is absent without leave from 3 consecutive Board meetings the Board may by resolution remove that Board Member from office.

Other Grounds for Removal of Board Member

- 11.13 The Board may, by a resolution of a three-quarters majority of the Board, remove any Board Member (other than the Executive Director) from the Board before the expiry of their term of office if the Board considers that Board Member has seriously breached duties under this Constitution or the Act or is no longer suitable to be a Board Member. The Board Member who is the subject of the motion must be counted for the purpose of reaching a quorum but will not participate in the vote on the motion.

- 11.14 Before considering a motion for removal, the Board Member affected by the motion must be given:

- (a) notice that a Board meeting is to be held to discuss the motion to remove them and the basis for the motion;
- (b) adequate time to prepare a response;
- (c) the opportunity prior to the Board meeting to make written submissions; and
- (d) the opportunity to be heard at the Board meeting.

- 11.15 A person ceases to be a Board Member if:

- (a) the person resigns by delivering a Notice of resignation to the Board;
- (b) the person is removed from office under this Constitution; and
- (c) the person becomes disqualified from being an officer under section 47(3) of the Act;

Proceedings of Board

- 11.16 The Board may meet either in person or by video, telephone or by other means of communication by which all persons participating in the meeting are able to hear and be heard by all other participants and otherwise regulate their meetings as they think fit. Questions arising at any meeting shall be decided by a majority of votes. In the case of an equality of votes the Chairperson shall have a second or casting vote.

- 11.17 Any 2 Board Members may at any time summon a meeting of the Board by giving 5 Working Days' Notice to all Board Members.

- 11.18 The quorum necessary for the transaction of the business of the Board shall be 4 Board Members.

Chairperson

- 11.19 Subject to clauses 11.20 and 11.21, the President shall preside as Chairperson at every meeting of the Board.

- 11.20 If there is no President or if at any meeting the President is not present within 10 minutes after the time appointed for holding of the meeting or is unwilling to act as Chairperson, the Vice President (or, if more than one, then one of them elected by the Board Members) shall act as Chairperson.

- 11.21 If there is no Vice President or if at any meeting no Vice President is present within 10 minutes after the time appointed for the holding of the meeting or is not willing to act as

Chairperson, the Board Members present shall choose one of their Members (other than the Executive Director) to be Chairperson.

Defects in Appointment

11.22 All acts done by any meeting of the Board or by any person acting as a Board Member shall, notwithstanding that it be afterwards discovered that there was some defect in the appointment of such member or person, or that they or any of them were disqualified, be as valid as if every such person has been duly appointed and was qualified to be a Board Member.

12. Eligibility of Board Members

12.1 Every Board Member (including every Officer and any person co-opted under clause 11.7 or appointed to fill a vacancy under clause 11.11 or alternate Board Member) must, in writing:

- (a) consent to be a Board Member (and where applicable, an Officer); and
- (b) certify that they are not disqualified from being elected, appointed, or holding office as a Board Member by this Constitution or under section 47 of Act.

12.2 Only one person representing a Regular Member is eligible to become or remain as a Board Member at the same time.

13. Term of Office for Board Members

13.1 Notwithstanding any provision to the contrary, nothing in this clause 13 shall apply to the Executive Director.

13.2 Subject to clause 28, other than the Executive Director, each Board Member is elected for a 2 year term in office from the date of election at the relevant Annual General Meeting, except that if the date of the Annual General Meeting in the second year of the term occurs on a date which is earlier or later than 2 years, then the term will be automatically reduced or extended to that date. A Board Member is permitted to stand for re-election for two further consecutive terms of 2 years and thereafter shall not be eligible for re-election until the second Annual General Meeting after the end of their term.

13.3 A Board Member who has:

- (a) completed a term as President immediately prior to an Annual General Meeting; and
- (b) at that Annual General Meeting has served three consecutive terms as a Board Member,

may stand for re-election as a Board Member (other than as President or Vice President) for one further term of 2 years.

14. Executive Director

14.1 Subject to clause 12, the Board (excluding any existing or outgoing Executive Director) may, subject to the approval of the DIHK, appoint a person to the office of Executive Director for such periods and on such terms as they think fit and subject to the terms of any agreement entered into, may terminate any such appointment.

- 14.2 The Executive Director shall not while holding office be subject to retirement by rotation, but his or her appointment as an Officer shall automatically terminate if he or she ceases to be Executive Director for any reason.
- 14.3 The Executive Director shall:
- (a) be responsible for the management and day to day administration of the Chamber;
 - (b) notify Members of the Chamber of each meeting of the Chamber and Board Members of meetings of the Board and give all such notices as may be required by this Constitution;
 - (c) keep, maintain and update the Member Register;
 - (d) keep a record of all proceedings of meetings of the Chamber; and
 - (e) do such other things in relation to the affairs of the Chamber and the Board as from time to time the Board may require or delegate to the Executive Director.
- 14.4 The Executive Director may appoint, engage and remove such employees, staff, agents, consultants and advisers as he or she deems necessary or desirable for the purposes of the Chamber. All such personnel shall at all times carry out their duties under the supervision and control of the Executive Director.

15. Duties owed to Chamber by Board Members

- 15.1 For the purposes of this clause 15, a reference to a "Board Member" has the same meaning as a reference to an "Officer" in the Act and includes any natural person occupying a position in the Chamber that allows the person to exercise significant influence over the management or administration of the Chamber.
- 15.2 A Board Member:
- (a) when exercising powers or performing duties as a Board Member, must act in good faith and in what the Board Member believes to be the best interests of the Chamber;
 - (b) must exercise a power as a Board Member for a proper purpose;
 - (c) must not act, or agree to the Chamber acting, in a manner that contravenes the Act or this Constitution;
 - (d) when exercising powers or performing duties as a Board Member, must exercise the care and diligence that a reasonable person with the same responsibilities would exercise in the same circumstances, taking into account, but without limitation:
 - (i) the nature of the Chamber;
 - (ii) the nature of the decision; and
 - (iii) the position of the Board Member and the nature of the responsibilities undertaken by them;
 - (e) must not:

- (i) agree to the activities of the Chamber being carried on in a manner likely to create a substantial risk of serious loss to the Chamber's creditors; or
- (ii) cause or allow the activities of the Chamber to be carried on in a manner likely to create a substantial risk of serious loss to the Chamber's creditors;
- (f) must not agree to the Chamber incurring an obligation unless the Board Member believes at that time on reasonable grounds that the Chamber will be able to perform the obligation when it is required to do so; and
- (g) must not engage in conduct which may bring the Chamber into disrepute.

15.3 A Board Member, when exercising powers or performing duties as a Board Member, may rely on reports, statements, and financial data and other information prepared or supplied, and on professional or expert advice given, by:

- (a) an employee of the Chamber whom the Board Member believes on reasonable grounds to be reliable and competent in relation to the matters concerned;
- (b) a professional adviser or expert in relation to matters that the Board Member believes on reasonable grounds to be within the person's professional or expert competence; or
- (c) any other Board Member or subcommittee of Board Members on which the Board Member did not serve in relation to matters within the Board Member's or subcommittee's designated authority,

only if the Board Member acts in good faith, makes proper inquiry where the need for inquiry is indicated by the circumstances, and has no knowledge that the reliance is unwarranted.

15.4 The duties referred to in clauses 15.2 and 15.3 are owed to the Chamber (rather than the Members).

16. Conflicts of Interest

16.1 The Board must keep an Interests Register.

16.2 A Board Member who is Interested in a Matter relating to the Chamber must disclose details of the nature and extent of the interest, including any monetary value of the interest if it can be quantified:

- (a) to the Board as soon as practicable after the Board Member becomes aware that they are Interested in the Matter; and
- (b) in the Interests Register.

16.3 A Board Member who is Interested in a Matter:

- (a) must not vote or take part in a decision of the Board relating to that Matter;
- (b) must not sign any document in relation to that Matter;
- (c) may take part in any Board discussion and be present at the time of the Board decision, unless the Board decides otherwise; and
- (d) may be counted for the purpose of determining whether there is a quorum at any meeting at which the Matter is considered.

- 16.4 Clauses 16.3(a) and 16.3(b) do not apply to a Board Member in relation to a particular Matter if all Board Members who are not Interested in the Matter consent to the Interested Board Member acting as referred to in clauses 16.3(a) and 16.3(b).
- 16.5 Despite clause 16.4, if 50% or more of the Board Members are Interested in a Matter, a Special General Meeting must be called to consider and determine the Matter.

17. Indemnity and insurance

- 17.1 The Chamber may indemnify and/or effect insurance for its own current and former Board Members, Members, and employees to the fullest extent permitted by sections 94 to 98 of the Act.

18. Contact Person

- 18.1 The Board must appoint at least 1, and a maximum of 3, persons to be the Chamber's Contact Person, subject to those persons meeting the eligibility criteria set out in the Act. The Board must advise the Registrar of any change in the Contact Person or that person's Contact Details.

19. Financial

- 19.1 The financial year of the Chamber shall commence on the 1st day of January in each year. The balance date for the Chamber shall be 31 December or the date that the Board determines by resolution.
- 19.2 The Chamber shall cause to be kept proper books of account in which shall be kept full, true and complete accounts of the affairs, assets and transactions of the Chamber and the Board shall present to the Annual General Meeting a report and balance sheet covering the activities of the Chamber during each year.
- 19.3 The funds of the Chamber may be banked in such Bank or financial institutions as the Board may from time to time determine and the Chamber's bank account shall be operated by persons specifically nominated by the Board.
- 19.4 Pursuant to clause 3.1(i) the Board may from time to time for the purpose of the Chamber raise or borrow such sum or sums of money as it may think necessary or expedient in the interest of the Chamber, and for such purpose to give guarantees, bonds and indemnities.
- 19.5 The funds of the Chamber shall be devoted solely to the furtherance of the purposes of the Chamber as set out in this Constitution and taking into account the principles of economic efficiency and thrift subject to the duties of Board Members under the Act.

The Officers and the Board Members (other than the Executive Director) shall unless otherwise determined by the Chamber in General Meeting serve without remuneration but shall be entitled to be reimbursed in respect of expenses incurred in relation to the business of the Chamber but this provision shall not prejudice the Board's right to employ staff in relation to the business and affairs of the Chamber.

- 19.6 The Chamber must prepare, and register with the Registrar, financial statements in accordance with the requirements and timeframes specified in the Act.

20. Auditor

- 20.1 The accounts and financial statements of the Chamber shall be audited annually and reported on by an auditor appointed by the Annual General Meeting. The auditor shall hold no other office in the Chamber and shall receive such fee as the Board may from time to time approve. If a vacancy should occur in the office of auditor during any year the Board shall appoint an auditor to hold office until the next Annual General Meeting.
- 20.2 The Board may determine that it is desirable to appoint a new Auditor at intervals of 3 to 5 years.

21. Treasurer

- 21.1 The Treasurer shall:
- (a) supervise the financial practises of the Chamber including the application of the Four Eyes accounting principle in relation to the authorisation of payments by the Chamber to suppliers and such other practises as the Board or the Treasurer may consider necessary or desirable; and
 - (b) liaise with the Auditor.

22. Alteration of the Constitution

- 22.1 Subject to section 31 of the Act and the prior approval of the DIHK, this Constitution may be altered, added to or rescinded by resolution of the Chamber in General Meeting upon not less than two-thirds majority of the Regular Members present in person or by proxy and voting provided that written Notice of:
- (a) the intention to propose such resolution;
 - (b) the proposed text of the alterations, additions or rescissions; and
 - (c) the form of the Constitution after incorporating and consolidating the proposed alterations, additions or rescissions,
- is contained in the Notice calling such meeting.
- 22.2 Notwithstanding the provisions of clause 22.1, if in the opinion of the Board, an amendment to this Constitution would have no more than a minor effect or is to correct errors or makes similar technical alterations, then the Board must give Notice of the amendment to every Regular Member stating the text of the amendment and the right of Regular Members to object to the amendment.
- 22.3 If the Board does not receive any objections from Members within 20 Working Days after the date on which the Notice is sent, or any longer period of time that the Board decides, then the Board may make that amendment. If it does receive an objection, then the Board may not make the amendment.
- 22.4 If any situation arises that, in the opinion of the Board, is not provided for in this Constitution or any Bylaws, the matter will be determined by the Board.

23. **Bylaws**

- 23.1 The Board may make and amend Bylaws for the conduct and control of the Chamber's activities and codes of conduct applicable to Members. No Bylaw may contravene or be inconsistent with the Act, any other laws, or this Constitution. Bylaws are binding on Members.

24. **Registered Office**

- 24.1 The registered office of the Chamber will be at such place as the Board from time to time determines.

25. **Liability**

- 25.1 No action in law or otherwise shall lie in favour of any Members or their executors or administrators against any other Member or any Board Member or Officer in respect of any act, matter or thing done omitted or to suffered or purported to be done, omitted or suffered in pursuance of the provisions of this Constitution notwithstanding any irregularity or informality occurring in or about the doing or omitting or suffering of any act, matter or thing. No Board Member shall be liable for any loss or expense of the Chamber or any Member unless the same shall occur as a result of their wilful default.
- 25.2 No Member shall be under any liability in respect of any contract, debt or other obligation made or incurred by the Chamber.

26. **Dispute resolution process**

Disputes

- 26.1 The Chamber may consider, resolve, and/or decide disputes between any one or more Members (acting in their capacity as Members), any one or more Board Members (acting in their capacity as Board Members) and/or the Chamber, that relate to an allegation that:
- (a) a Member or a Board Member has engaged in misconduct; or
 - (b) a Member or a Board Member has breached, or is likely to breach, a duty under this Constitution, any Bylaw or the Act; or
 - (c) the Chamber has breached, or is likely to breach, a duty under this Constitution, any Bylaw or the Act; or
 - (d) a Member's rights or interests as a Member have been damaged or Members' rights or interests generally have been damaged.

How a complaint is made

- 26.2 A Member or a Board Member may make a complaint by giving Notice to the Board, or any subcommittee established for this purpose, that:
- (a) states that the Member or the Board Member is starting a procedure for resolving a dispute under this Constitution;
 - (b) sets out the allegation to which the dispute relates and who the allegation is against; and

(c) sets out any other information reasonably required by the Chamber.

26.3 The Chamber may make a complaint involving an allegation against a Member or a Board Member by giving Notice to the person concerned that:

(a) states that the Chamber is starting a procedure for resolving a dispute under this Constitution; and

(b) sets out the allegation to which the dispute relates.

26.4 The information given under clauses 26.2(b) and 26.3(b) must be enough to ensure that a person against whom an allegation is made is fairly advised of the allegation concerning them, with sufficient details given to enable them to prepare a response.

Person who makes complaint has right to be heard

26.5 Unless the Chamber decides not to proceed, the Member has a right to be heard before the complaint is resolved or any outcome is determined. A Member must be taken to have been given the right if:

(a) the Member has a reasonable opportunity to be heard in writing or at an oral hearing, if one is held; and

(b) an oral hearing is held if the decision maker considers that an oral hearing is needed to ensure an adequate hearing; and

(c) an oral hearing, if any, is held before the decision maker; and

(d) the Member's written statement or submissions, if any, are considered by the decision maker.

26.6 If the Chamber makes a complaint, it has a right to be heard before the complaint is resolved or any outcome is determined and a Board Member may exercise that right on behalf of the Chamber. The Chamber must be taken to have been given the right if:

(a) they have a reasonable opportunity to be heard in writing or at an oral hearing, if one is held; and

(b) an oral hearing is held if the decision maker considers that an oral hearing is needed to ensure an adequate hearing; and

(c) an oral hearing, if any, is held before the decision maker; and

(d) its written statement or submissions, if any, are considered by the decision maker.

Respondent has right to be heard

26.7 The Member or Board Member who, or the Chamber which, is the subject of the complaint (**Respondent**) has a right to be heard before the complaint is resolved or any outcome is determined. If the Respondent is the Chamber, a Board Member may exercise the right on behalf of the Chamber.

26.8 A Respondent must be taken to have been given the right if:

(a) the Respondent is fairly advised of all allegations concerning the Respondent, with sufficient details and time given to enable the Respondent to prepare a response; and

(b) the Respondent has a reasonable opportunity to be heard in writing or at an oral hearing, if one is to be held; and

- (c) an oral hearing is held if the decision maker considers that an oral hearing is needed to ensure an adequate hearing; and
- (d) an oral hearing, if any, is held before the decision maker; and
- (e) the Respondent's written statement or submissions, if any, are considered by the decision maker.

Investigating and determining disputes

26.9 The Chamber must as soon as is reasonably practicable after receiving a complaint or grievance, investigate and determine the complaint or grievance in a fair, efficient, and effective manner.

Circumstances in which a process may not proceed

26.10 Despite this clause 26.10 and any other clause in this Constitution, but subject to the Act, the Chamber may decide not to proceed with a matter if:

- (a) the complaint is trivial: or
- (b) the complaint does not appear to disclose or involve any allegation of the following kind:
 - (i) any material misconduct; or
 - (ii) any material breach or likelihood of material breach of a duty under this Constitution or the Act; or
 - (iii) any material damage to a Member's rights or interests or Members' rights or interests generally; or
- (c) the complaint appears to be without foundation or there is no apparent evidence to support it; or
- (d) the person who makes the complaint has an insignificant interest in the matter; or
- (e) the conduct, incident, event, or issue giving rise to the complaint has already been investigated and dealt with under this Constitution; or
- (f) there has been an undue delay in making the complaint.

Refer complaint

26.11 The Chamber may refer a complaint to:

- (a) a subcommittee or an external person to investigate and report; or
- (b) a subcommittee, an arbitral tribunal, or an external person to investigate and make a decision; or
- (c) with the consent of all parties to the complaint, to any type of consensual dispute resolution such as mediation or facilitation.

Decision makers

26.12 An individual may not act as a decision maker in relation to a complaint if 2 or more Members of the decision-making body (whether it is the Board, a complaints subcommittee, tribunal, or other) consider that there are reasonable grounds to believe that the individual may not be:

- (a) impartial; or
- (b) able to consider the matter without a predetermined view.

27. Ending the Chamber

- 27.1 The Board must give Notice to all Members of at least 30 Working Days of a proposed motion:
- (a) to remove the Chamber from the Register;
 - (b) for the distribution of the Chamber's surplus assets; or
 - (c) to appoint a liquidator.
- 27.2 The Notice must comply with section 228 of the Act and include details of the General Meeting at which the proposed motion is to be considered.
- 27.3 Any resolution for a motion set out in clause 27.1 must be passed by a majority of three-quarters or more of the Members present and entitled to vote and voting at the General Meeting at which the motion is considered.
- 27.4 The surplus assets of the Chamber, after the payment of all costs, debts, and liabilities, and refund of all unutilised public grants (Bundeszuwendungen) under clause 4.3(c) to the BMWK and any other unutilised funds, grants or subsidies pursuant to clause 4.3(f) or received from any German Government Agencies pursuant to clause 4.4 to the grantor or funder must be distributed to any not-for-profit entity or entities that have similar purposes to the Chamber as determined in accordance with the Act following consultation with DIHK.

28. Transition

- 28.1 This clause 28 applies to facilitate transition of the Chamber from its previous rules to this Constitution. If this clause is inconsistent with any other clause in this Constitution, this clause will apply to the extent of the inconsistency and the other clause will not.

Transition of Members

- 28.2 Subject to this Constitution, every Member who or which was a Member of the Chamber and recorded on the Member Register immediately prior to the commencement of this Constitution, will continue as a Member.

Transition of Board Members

- 28.3 Subject to this Constitution, every Board Member who was a Board Member immediately prior to the commencement of this Constitution will continue as a Board Member until the next Annual General Meeting and the following provisions will apply notwithstanding clause 13:
- (a) each consecutive year of service as a Committee Member under the Chamber's rules registered under the Incorporated Societies Act 1908 shall not count as a year of a term of service as a Board Member under this Constitution; and
 - (b) the President will use reasonable endeavours to ensure an orderly transition of elected Board Members takes place from the first Annual General Meeting following the commencement of this Constitution in a manner that ensures Board Member

continuity occurs in order to retain an appropriate level of institutional Board knowledge and experience throughout the transition to full application of the Term of Office rules as set out in clause 13 with effect from no later than the Annual General Meeting in 2028.

Transition of Bylaws

- 28.4 All Bylaws which were in force immediately prior to this Constitution coming into force will continue in force, unless otherwise decided by the Board. If any of those Bylaws are inconsistent with this Constitution (whether in whole or in part), the Board will determine the matter as it sees fit.
- 28.5 For a period of 24 months following the adoption of this Constitution, the Board may:
- (a) amend any requirement for, and/or the date by which this Constitution requires, anything to be done to facilitate transition of the Chamber to this Constitution;
 - (b) decide any matter arising, including where such matter would normally be or is required to be guided or determined by a Bylaw or policy or process and that Bylaw or policy or process is not yet in place or does not yet exist.