



AUSTRALIA - KOREA
BUSINESS COUNCIL



CONSTITUTION

OF

AUSTRALIA-KOREA BUSINESS COUNCIL LIMITED

APRIL 2024

AUSTRALIA-KOREA BUSINESS COUNCIL



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Corporations Act

Company Limited by Guarantee

**CONSTITUTION OF
AUSTRALIA-KOREA BUSINESS COUNCIL LIMITED**

1. Name

The name of the association is "Australia-Korea Business Council Limited" ("the **AKBC**").

2. Office

The registered office of the AKBC will be situated in Melbourne or elsewhere in Australia as may be determined by the Directors from time to time.

3. Objects

The objects for which the AKBC is established are:

- (a) to foster friendship and understanding between the business communities of Australia and the Republic of Korea ("**Korea**"); and
- (b) to promote technical and economic co-operation, trade, investment, education and tourism between Australia and Korea.

4. Income and Property

The income and property of the AKBC shall be applied solely towards the promotion of the objects of the AKBC as set out in this Constitution. No part of the AKBC's income and property may be paid or transferred directly or indirectly by way of dividend, bonus or otherwise by way of profit to the persons who at any time are or have been members of the AKBC or to any person claiming through any of them. However, this clause does not prevent:

- (a) The payment in good faith of remuneration to any employee of the AKBC or to any member or other person in return for any services actually rendered to the AKBC;
- (b) The payment to a director of out-of-pocket expenses incurred in carrying out the duties of a director where the payments do not exceed an amount previously approved by the Board;
- (c) The payment to a member of the Board for any service rendered to the AKBC in a professional or technical capacity where:
 - (i) the provision of that service has the prior approval of the Board; and
 - (ii) the amount payable is approved by a resolution of the Board and is on reasonable commercial terms;
- (d) the payment to a director as an employee of the AKBC where the terms of employment have been approved by a resolution of the Board;
- (e) the payment to members of interest on any money borrowed from such members for the



purpose of the AKBC at a rate not exceeding the lowest rate paid for the time being by the AKBC's principal bank in Victoria in respect of term deposits of \$50,000.00 for six months;

- (f) the payment to members of reasonable market rent for premises leased by any member of the AKBC.

5. Liability of Members is Limited

Every member of the AKBC undertakes to contribute such amount as may be required (not exceeding \$20.00) to the assets of the AKBC if the AKBC is wound up during the time he, she or it is a member or within one year afterwards for:

- (a) payment of the debts and liabilities of the AKBC contracted before the time he, she or it ceased to be a member;
- (b) the costs, charges and expenses of winding up the AKBC; and
- (c) the adjustment of the rights of the members among themselves.

6. Definitions

In this Constitution, the following words and expressions have the meanings indicated unless the context requires otherwise:

AKBC or the AKBC means Australia-Korea Business Council Limited.

Auditor means the AKBC's auditor.

Board means the AKBC's Board of Directors assembled at a meeting of Directors in accordance with this Constitution.

Chairman means the Chair (or Convener or other title) of the Board as elected by the Board.

Chief Executive Officer means the Chief Executive Officer (or other title) of the AKBC appointed by the Board pursuant to clause 29.

Constitution means the Constitution of the AKBC as amended from time to time.

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

Director means a member of the Board appointed pursuant to clause 30.

Industry Experts means the panel of Industry Experts which may be appointed by the Board pursuant to clause 28.

Korea means the Republic of Korea.

Members mean the persons shown as members on the Register.

Membership means membership of the AKBC.

Notice includes all written communication to members. **Office**

means the AKBC's registered office.

President means the President of the Industry Experts panel as may be appointed by the Board under clause 28.1(d).



Register means the AKBC's register of members.

Registered address means the last known address of a member as noted in the Register.

Secretary means any person appointed by the Board to perform the duties of a secretary of the AKBC and includes an Honorary Secretary.

Sector means each industry sector which aligns with each Subcommittee of the AKBC, as determined from time to time by the Board in accordance with clause 40.

Subcommittees means the subcommittees appointed by the Board, referenced to each Sector, pursuant to clause 40.

Voting Members means Members who are entitled to vote at a general meeting of the AKBC.

7. Interpretation

- (a) Words importing the singular number include the plural and the converse applies.
- (b) Words importing persons include corporations, companies, associations and institutions.
- (c) A reference to any legislation or to any provision of any legislation includes any modification, amendment or re-enactment of it, any legislation substituted for it and any regulations or statutory instruments issued under it.
- (d) Unless the context otherwise requires, headings are for ease of reference only and do not affect the construction of this Constitution.
- (e) The words "writing" or "written" include any mode of representing or reproducing words, figures, drawings or symbols in a visible or communicable form.
- (f) References to clauses are to clauses of this Constitution.

8. Application of Corporations Act

Unless the contrary intention appears in this Constitution:

- (a) an expression in this Constitution has the same meaning as in that part of the *Corporations Act* which deals with the same matter as this Constitution; and
- (b) an expression which is given a general meaning by the *Corporations Act* has the same meaning in this Constitution; and
- (c) the replaceable rules set out in the *Corporations Act* do not apply.

9. Membership of the AKBC

- (a) Companies, organisations or natural persons whose activities and interests are in accordance with the objects of the AKBC, or as otherwise determined by the Board, shall be eligible for Membership.
- (b) The AKBC may have a number of tiers (or classes) of Members as determined by the Board from time to time, which may or may not be allocated by Sector as determined by the Board.



- (c) The AKBC currently has the following tiers of members:
- (i) Accelerate;
 - (ii) Immerse;
 - (iii) Advance;
 - (iv) Explore; and
 - (v) Honorary members.
- (d) Members of the Australia-Korea Business Council (AKBC) Incorporated (INC9894882) under the *Associations Incorporation Act 2009* (NSW) will automatically become Members of the AKBC pursuant to this Constitution at the time of registration of the AKBC under the Corporations Act.

10. Rights of Members

Members of the AKBC shall each have one vote at any meeting of the AKBC. A decision of the AKBC shall not be effective unless a majority of the representatives present in person or by proxy and entitled to vote, have voted in favour of the resolution. A person who attends a meeting (whether at a physical venue or by using virtual meeting technology) is taken for all purposes to be present in person at the meeting while so attending, as set out in clause 18.5.

11. Application for Membership

Any corporation wishing to become a member must complete such application forms as may be approved from time to time by the Board and provide such additional information as may be required by the Board.

12. Admission to Membership

Applicants for Membership must be approved by the Board or the Chief Executive Officer reporting to the Board.

13. Nomination of Representative

All applications for Membership must specify on the application form the name of the applicant's authorised representative, as well as an alternate (if applicable). A member may change its authorised representative (or alternate) at any time by further written notice to the Board, effective on receipt of the notice by the Board.

14. Honorary Members

14.1 Eligibility as an Honorary Member

A person is eligible to become an Honorary Member if:

- (a) he or she is a natural person;
- (b) he or she has been nominated to become an Honorary Member by the Board.



14.2 Rights of Honorary Members

An Honorary Member is:

- (a) entitled to attend and vote at general meetings of the AKBC; and
- (b) exempt from the payment of Membership fees.

14.3 Term of Appointment as Honorary Member

An Honorary Member remains an Honorary Member until:

- (a) he or she dies;
- (b) he or she resigns by written notice to the Office;
- (c) the term of his or her appointment, as set out by the Board, expires; or
- (d) the Board resolves to terminate the appointment.

whichever occurs first.

The Board may reappoint a person as an Honorary Member at any time by resolution.

15. Subscriptions, Dues and Levies

15.1 The Board Sets Fees

The Board must set the Membership fees to be paid by Members except for Honorary Members who are not required to pay fees.

15.2 Level of Fees

The Board may set Membership fees at different rates for each tier (or class) of Members and within each tier of Members. Fees within a tier of Members may be set by reference to the number of employees of the Member.

15.3 Waiver and Reduction of Fees

The Board may:

- (a) waive the payment of Membership fees by any Member; or
- (b) reduce the membership fees payable by a Member in any circumstances the Board, in its discretion, determines.

15.4 Payment

Except for a new Member who must pay the annual fee applicable to its tier of Membership at the time of its application for Membership, membership fees must be paid annually in advance.

16. Cessation of Membership

16.1 Withdrawal

A Member may cancel its Membership by notice in writing to the Board, such notice to be effective on receipt by the Board.



16.2 Automatic Cessation

A Member automatically ceases to be a Member if the Member is expelled under clause 17.

17. Expulsion of Members

17.1 Grounds for expulsion

Subject to sub-clause 17.6, the Board may by resolution expel a Member where:

- (a) the Member has wilfully refused or neglected to comply with the provisions of this Constitution;
- (b) the Member has engaged in any conduct which, in the opinion of the Board, is unbecoming of a Member or is prejudicial to the interests or reputation of the AKBC;
- (c) the Member fails to pay its Membership fees for a period of 90 days from the due date;
- (d) a liquidator or an administrator is appointed to the Member;
- (e) a resolution is passed by the shareholders or members of the Member resolving to wind up or dissolve the Member; or
- (f) an order is made by any court to wind up the Member.

17.2 Notice of Expulsion

Expulsion on the grounds in sub-clause 17.1(c) is automatic as of the 91st day after the due date for payment of Membership fees and following a Board resolution. On all other grounds, a Member must be given written notice at least one week before the meeting of the Board at which the expulsion of the Member is to be considered.

17.3 Notice

The notice referred to in sub-clause 17.2 must contain particulars of:

- (a) what is alleged against the Member; and
- (b) the intended resolution for the Member's expulsion, and will inform the Member of its rights to appear before the Board to give any explanation or defence the Member may think fit, either orally or in writing.

17.4 Appearance at meeting

A Member has the right to appear before the Board to give any explanation or defence the Member may think fit before the intended resolution for the Member's expulsion is put to the Board.

17.5 Resolution

- (a) Subject to sub-clause 17.6, a resolution to expel a Member will be carried if passed by a simple majority of the Board present and voting.
- (b) The Chief Executive Officer must inform the Member in writing within 7 days of the Board's decision.

17.6 Appeal to Members

- (a) Within 14 days after receipt of notice from the Chief Executive Officer pursuant to sub-



clause 17.5(b), the Member may notify the Board that it wishes to have the Board's resolution reviewed by the Members in general meeting, failing which the Member will be deemed to have been expelled from the date of the Board resolution.

- (b) If the Member does notify the Board that it wishes to have the resolution reviewed, at the next general meeting of the Members, the Voting Members must vote to confirm or reject the resolution. Voting is by simple majority. If the Board resolution is confirmed, the Member is expelled from the AKBC with effect from the date of the Members' resolution. If the resolution is rejected, the Member continues to be a Member unless subsequently expelled under the provisions of clause 17.

18. General Meetings – General Provisions

18.1 Annual General Meeting

An Annual General Meeting must be held once in every calendar year and no later than 5 calendar months after the previous financial year at the place the Board determines.

18.2 Extraordinary General Meetings

All general meetings other than the Annual General Meeting are extraordinary general meetings.

18.3 Convening Extraordinary General Meetings

The Board may convene an extraordinary general meeting whenever it thinks fit.

18.4 Amount of Notice

A meeting must be convened by not less than 21 days' written notice.

18.5 Virtual Meetings – technology

Meetings may be held physically, wholly virtually, or partly physical and partly virtual, using technology that gives the Members in attendance a reasonable opportunity to participate in the meeting. A meeting will not be invalidated due to a failure of the technology unless the failure arose out of conduct which was not in good faith, or which involved wilful misconduct, gross negligence, reckless behaviour or fraud. A person who attends a meeting (whether at a physical venue or by using virtual meeting technology) is taken for all purposes to be present in person at the meeting while so attending.

19. Requisitioned General Meeting

19.1 Power to Requisition

The Board must convene an extraordinary general meeting of Members upon a requisition made by not less than 5% in number of the Voting Members.

19.2 Contents of the Requisition

The requisition:

- (a) must state the objects of the meeting;



- (b) must state the names of and be signed by the requisitioning Members;
- (c) must be deposited at the Office; and
- (d) may consist of several documents in like form, each signed by one or more of the requisitioning Members.

19.3 Failure to convene

If within 21 days from the date of the deposit of the requisition the Board has not convened a meeting, the requisitioning Members or any 5 or more of them, may convene a meeting. Any meeting convened by the Members in this way must be held within 3 months after the date on which the requisition was deposited at the Office.

19.4 Convening the Meeting

A meeting convened by the requisitioning Members must be convened in the same manner as nearly as possible as that in which meetings are to be convened by the Board.

19.5 Expenses

Any reasonable expenses incurred by the requisitioning Member or Members by reason of the failure of the Board to convene a meeting must be repaid to the requisitioning Member or Members by the AKBC.

20. Notices of General Meetings

20.1 Contents of the Notice

A notice of a general meeting must specify the place, date and hour of the meeting and, except as provided by sub-clause 20.2, must state the general nature of the business to be transacted at the meeting and whether a special resolution will be proposed at the meeting.

20.2 Notice of Annual General Meeting

It is not necessary for a notice of an Annual General Meeting to state that the business to be transacted at the meeting includes the consideration of accounts and the reports of the Board and the Auditors, the election of Directors in the place of those retiring or the appointment and fixing of the remuneration of the Auditors.

20.3 Entitlement to Receive Notice

All Members are entitled to receive notice of general meetings of the AKBC.

20.4 Failure to Give Notice

Accidental failure to give notice of a meeting to 1 or more Members and non-receipt of a notice of meeting by 1 or more Members does not invalidate proceedings at any meetings.

21. Quorum for General Meetings

21.1 Requirement for Quorum

No business may be transacted at any general meeting unless a quorum of Members is present at the time when the meeting proceeds to business.



21.2 Quorum

Ten Voting Members present in person or by their representatives constitute a quorum.

21.3 Failure to Achieve a Quorum

If a quorum is not present within half an hour from the time appointed for the meeting:

- (a) the meeting is dissolved where the meeting was convened on the requisition of Members; or
- (b) in any other case:
 - (i) the meeting stands adjourned to such day, and at such time and place, as the Board determines or, if no determination is made by the Board, to the same day in the next week at the same time and place; and
 - (ii) if at the adjourned meeting a quorum is not present within half an hour from the time appointed for the meeting:
 - (A) five Voting Members present in person or by their representatives will constitute a quorum; or
 - (B) where five Voting Members are not present in person or by their representatives, the meeting is dissolved.

22. Chairman at General Meetings

22.1 Chairman

The Chairman will be chairman at general meetings.

22.2 Alternative Chairman

At a general meeting where the Chairman is not present within 15 minutes after the time appointed for the holding of the meeting, or is unwilling to act, the other Directors present must elect 1 of their number to act as chairman of the meeting.

23. Adjournment of General Meeting

23.1 Adjournment

The Chairman may, and shall if directed by resolution of the Voting Members present at the meeting, adjourn a general meeting from time to time and from place to place, as follows:

- (a) no business may be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place;
- (b) when a meeting is adjourned for 30 days or more, notice of the adjourned meeting must be given as in the case of any original meeting; and
- (c) except as provided in this sub-clause, it is not necessary to give any notice of an adjournment or of the business to be transacted at an adjourned meeting.

24. Voting at General Meetings



24.1 Resolutions by show of hands or other method unless Poll demanded

At any general meeting a resolution put to the vote of the meeting will be decided on a show of hands (or other method of forecasting or recording votes at a meeting), unless a poll is demanded (before or on the declaration of the results of the show of hands or other method) by:

- (a) the Chairman; or
- (b) at least 5 Voting Members present in person or by representative or by proxy.

24.2 Passing a Resolution

Unless a poll is so demanded, a declaration by the chairman that a resolution has been carried unanimously, or by a particular majority, or lost, on a show of hands (or other method of forecasting or recording votes at a meeting) and an entry to that effect in the minute book of the proceedings of the AKBC is conclusive evidence of the fact without proof of the number or proportion of the votes recorded in favour of or against the resolution.

24.3 Withdrawal of Demand for Poll

The demand for a poll may be withdrawn.

24.4 Time for Poll

If a poll is duly demanded, it must be taken in such manner, either at once or after an interval or adjournment or otherwise as the chairman directs. A poll demanded on the election of a chairman or on a question of adjournment must be taken forthwith.

24.5 Result of Poll

The result of the poll will be the resolution of the meeting at which the poll was demanded.

25. Voting Entitlement

25.1 Voting

At any general meeting, every Voting Member has 1 vote and on a poll Voting Members (present in person or by proxy or duly authorised representative) also have 1 vote. No other Members are entitled to vote. Voting may be on a show of hands or other method of forecasting or recording votes at the meeting.

25.2 Inability to Vote

A Voting Member is not entitled to vote at any general meeting unless all monies presently payable by the Member to the AKBC have been paid.

25.3 Objections to Vote

- (a) An objection may be raised to the qualification of a voter only at the meeting or adjourned meeting at which the vote objected to is given or tendered.
- (b) Any such objection shall be referred to the chairman of the meeting, whose decision is final.
- (c) A vote not disallowed pursuant to such an objection is valid for all purposes.



25.4 Chairman's Casting Vote

In the case of an equality of votes, whether on a show of hands (or other method) or on a poll, the chairman of the meeting at which the show of hands (or other method) takes place or at which the poll is demanded, has a casting vote.

26. Proxies

26.1 Entitlement to Appoint a Proxy

A Voting Member is entitled to appoint another Voting Member or the authorised representative of another Voting Member as that Member's proxy to attend and vote on its behalf at any general meeting.

26.2 Form of Proxy

An instrument appointing a proxy must be in the following form or in a form that is as similar to the following form as the circumstances allow:

"I, (name) of (address), being a Voting Member of the Australia-Korea Business Council Limited, hereby appoint (name) of (address) or, in his absence, (name) of (address) as my proxy to vote for me on my behalf at the annual general / extraordinary general meeting of the Australia-Korea Business Council Limited to be held on the (day) day of (month) (year) and at any adjournment of that meeting. This form is to be used in favour of / against* the resolution.*

Signed this (date) date of (month) (year) strike out whichever is not desired.*

26.3 Lodgement of Proxy

An instrument appointing a proxy is invalid unless the instrument, and the power of attorney or other authority (if any) under which the instrument is signed or a notarially certified copy of that power or authority, are deposited at the Office not less than 48 hours before the time of holding the meeting or adjourned meeting at which the person named in the instrument proposes to vote.

26.4 Proxy Containing Voting Instructions

An instrument appointing a proxy may specify the manner in which the proxy is to vote in respect of a particular resolution and, where an instrument of proxy so provides, the proxy is not entitled to vote on the resolution except as specified in the instrument.

26.5 Voting of Proxy

A vote given in accordance with the terms of an instrument of proxy or of a power of attorney is valid notwithstanding the revocation of the instrument (or of the authority under which the instrument was executed) of the power, if no written notice of its revocation has been received by the AKBC at the Office before the commencement of the meeting or adjourned meeting at which the instrument is used or the power is exercised.

26.6 Ability to Demand a Poll

An instrument appointing a proxy is deemed to confer authority to demand or join in demanding



a poll.

27. Patrons

27.1 Appointment of Patrons

The Board may appoint as Patrons of the AKBC one or more natural persons whom the Board considers are:

- (a) sympathetic to the objects and aims of the AKBC;
- (b) capable of promoting the AKBC; and
- (c) of suitable standing in the business community.

27.2 Non-member May be Patron of the AKBC

A person may be appointed a Patron even though he or she is not the representative of a Member, or a Member.

27.3 Termination of Appointment of Patrons

The Board may terminate the appointment of a person as a Patron at any time by written notice to the person.

28. Industry Experts

28.1 Industry Experts

- (a) A panel of Industry Experts may be established by the Board, to consist of existing Members, Honorary Members, former Directors and / or Patrons of the AKBC.
- (b) Industry Experts will each be appointed for a term of 3 years and be eligible for re-appointment.
- (c) The panel of Industry Experts must meet at least once every two years.
- (d) The Board may appoint a President of the AKBC to lead the panel of Industry Experts.
- (e) The role of the panel of Industry Experts is purely advisory to assist the Board and the Subcommittees, where and as appropriate as determined by the Board, in advancing the objects of the AKBC.
- (f) Directors may not be Industry Experts at the same time.

29. Chief Executive Officer

29.1 Appointment

The Board will appoint a Chief Executive Officer (or other title) on such terms and conditions as it thinks fit. The Chief Executive Officer will be paid a salary for services rendered to the AKBC provided the amount is on reasonable commercial terms and is approved by a majority of the Directors.

29.2 Other Offices of the Chief Executive Officer



While he or she remains Chief Executive Officer, the Chief Executive Officer may be appointed as a Director and/or Secretary of the AKBC but they are not required to be so appointed. The Chief Executive Officer may not be elected as Chairman or Treasurer.

30. The Board

30.1 Composition

- (a) Unless otherwise resolved by a General Meeting and subject to clause 30.1(b), the Board will consist of up to 9 natural persons. Such persons must comprise individuals who collectively have the skills, experience, perspectives or capabilities that the Board determines from time to time are important for the Board.
- (b) The Board may resolve to include such additional “ex-officio” members of the Board as representatives of any relevant Australian Government department or organisation (for example, Austrade or the Department of Foreign Affairs and Trade) on terms that if a relevant representative’s position within that relevant organisation ends for any reason, the position on the Board of the AKBC will also end.

30.2 Appointment of Directors

- (a) A Director may be appointed by a resolution of the Board or of the Members.
- (b) Where a Director is appointed by a resolution of the Board, the appointment must be ratified by the Members at the next Annual General Meeting.
- (c) Nominations must be signed by the person nominated, signifying that person’s consent for nomination as a Director.

30.3 Rotation and tenure

- (a) If a Director has served for 3 consecutive terms of 3 years each, they shall not be eligible for re-appointment to the Board but may be appointed to the panel of Industry Experts under clause 28. A Director may however serve a lesser term of appointment.
- (b) Following a term as an Industry Expert, a previous Director will again be eligible for re-election to the Board.
- (c) Officers of the Executive Committee (directors) of the Australia-Korea Business Council (AKBC) Incorporated (INC9894882) under the *Associations Incorporation Act 2009* (NSW) will, subject to each of their consent, be appointed as Directors of the AKBC pursuant to this Constitution at the time of registration of the AKBC under the Corporations Act.

30.4 Positions on the Board

The Board may elect from among their number a Chairman, up to 2 Vice Chairman, a Treasurer and/or a Company Secretary.

30.5 Termination of Appointment as Director

In addition to the circumstances in which the office of Director becomes vacant by virtue of the *Corporations Act*, the office of Director becomes vacant if the Director:

- (a) Becomes an insolvent under administration;



- (b) Becomes prohibited from being a Director by reason of an order made under the *Corporations Act*;
- (c) Becomes of unsound mind or a person whose person or estate is liable to be dealt with in any way under the law relating to mental health;
- (d) Resigns his or her office by notice in writing to the Board;
- (e) Is absent without the consent of the Board from all its meetings held during a period of 6 months, or does not otherwise meet expectations made known to the Director by the Board;
- (f) Without the consent of the AKBC in general meeting, holds any other office of profit under the AKBC;
- (g) Is directly or indirectly interested in any contract or proposed contract with the AKBC and fails to declare the nature of his or her interest as required by clause 38 and the *Corporations Act*; or
- (h) Being a representative of a Member, ceases to be that representative or if the Member for whom the person is representative ceases to be a Member.

30.6 Board Vacancies

The Board may at any time appoint a Member's representative as a Director to fill a casual vacancy.

30.7 Defect in Appointment

If it is discovered that:

- (a) there was a defect in the appointment of a person as a Director or member of a Board committee; or
- (b) a person appointed to one of those positions was disqualified;

all acts of the Board or the Board committee before the discovery was made are as valid as if the person had been duly appointed and was not disqualified.

31. Directors' Expenses

Any expenses incurred by Directors in attending Directors' meetings, committee meetings, or general meetings are at their charge and will not normally be reimbursed by the AKBC unless otherwise determined by the Board.

32. Proceedings of the Board

- (a) The Board may meet together for the dispatch of business, adjourn or otherwise regulate its meetings and proceedings as it thinks fit.
- (b)
 - (i) A Board meeting may be held by the Directors communicating with each other by any technological means by which they are able simultaneously to hear each other and to participate in discussion.
 - (ii) The Directors need not all be physically present in the same place for a Board meeting to be held.
 - (iii) A Director who participates in a meeting held in accordance with this clause is



taken to be present and entitled to vote at the meeting.

33. Chairman of Board Meetings

The Chairman must take the chair at all Board meetings. If at any meeting the Chairman is not present within 10 minutes after the time appointed for holding the meeting, the Directors present must choose one of their numbers to be chairman of the meeting.

34. Board Quorum

The quorum necessary for the transaction of the business of the Board is 5.

35. Voting at Board Meetings

Questions arising at a Board meeting are decided by a majority of the votes of the Directors present and voting. In case of an equality of votes, the Chairman of the meeting has a casting vote in addition to his or her deliberative vote.

36. Convening of Special Board Meetings

Upon the written requisition of any two Directors the Chairman or in his or her absence the Secretary, must convene a special meeting of the Board to be held within 14 days after the receipt of the requisition. The requisition must set out the purposes for which the meeting is required.

37. Board Resolutions without a Meeting

- (a) If all the Directors who are eligible to vote on a resolution have signed a document containing a statement that they are in favour of a resolution in terms set out in the document, then a resolution in those terms is taken to have been passed at a Board meeting held on the day on which the Secretary, or other officer authorised by the Board to collect such documents, received the document signed by all the Directors.
- (b) For the purposes of sub-clause 37(a):
 - (i) two or more identical documents, each of which is signed by one or more Directors, together constitute one document signed by those Directors; and
 - (ii) the reference to all the Directors excludes any Director who, at the time the statement is provided or sent, is on leave of absence formally approved by the Board.
- (c) Any document referred to in this clause may be in the form of electronic mail or facsimile transmission.
- (d) The minutes of Board meetings must record that a meeting was held in accordance with this clause.
- (e) This clause applies to meetings of Board committees as if all Members of the committee were Directors.

38. Material Personal Interest



- (a) Unless permitted by the *Corporations Act*, a Director who has a material personal interest in a matter that is to be considered at a Board meeting:
 - (i) must not vote on the matter or be present while the matter is being considered at the meeting; and
 - (ii) must not be counted in a quorum in relation to that matter.
- (b) Sub-clause 38(a) does not apply to an interest that the Director has as a Member in common with the other Members.
- (c) The quorum for consideration at a Board meeting of a matter in which one or more Directors have a material personal interest is 3 Directors who are entitled to vote on any motion that may be moved at the meeting in relation to that matter.
- (d) Each Director must disclose to the AKBC any material contract in which the Director is interested, and must provide the AKBC with the names of the parties to the contract, particulars of the contract, and the Director's interest in the contract.
- (e) A Director's failure to make disclosure under this clause does not render void or voidable a contract in which the Director has an interest.

39. Minutes

- (a) The Board must cause minutes to be made of:
 - (i) the names of the Directors present at all general meetings, Board meetings and meetings of Board committees;
 - (ii) all proceedings of general meetings, Board meetings and meetings of Board committees;
 - (iii) all appointments of officers;
 - (iv) all orders made by the Board and Board committees; and
 - (v) all disclosures of interests made pursuant to clause 38.
- (b) Minutes must be signed by the chairman of the meeting or by the chairman of the next meeting of the relevant body and if so signed are as between the members of that body conclusive evidence of the matters stated in such minutes.

40. Committees and Subcommittees

The Board may convene, and/or delegate any of its powers to, committees consisting of such person or persons as it thinks fit and may revoke such delegation. Any committee so formed must conform to any rules imposed upon it by the Board.

The Board has currently established Subcommittees of Members representing the following Sectors:

- (a) Energy;
- (b) Critical Minerals;
- (c) Food & Agriculture;



- (d) Financial Services;
- (e) Education; and
- (f) Defence.

These Subcommittees report to the Board as committees pursuant to this clause 40, and may be modified from time to time by the Board.

41. Execution of documents

- (a) The AKBC may execute documents as permitted by the *Corporations Act*.
- (b) The Board may give the Chief Executive Officer (or other title) delegated authority to execute documents and make payments on behalf of the AKBC, subject to any limitations as determined by the Board as well as the provision of reports of any such actions taken.
- (c) Where as a matter of urgency a document is required to be executed by the AKBC, the Chairman may direct the Chief Executive Officer to execute that document and at the first opportunity the Chief Executive Officer must report to the Board the action taken.

42. Indemnity

- (a) Each officer is, to the maximum extent permitted by law, indemnified out of the property of the AKBC against any liability the officer may incur to another person as such an officer, except to the extent the liability is any of the following:
 - (i) a liability owed to the AKBC or a related body corporate;
 - (ii) a liability for a pecuniary penalty order under section 1317G of the *Corporations Act* or a compensation order under sections 1317H or 1317HA of the *Corporations Act*; or
 - (iii) a liability that is owed to someone other than the AKBC or a related body corporate and did not arise out of conduct in good faith.

This clause does not apply to a liability for legal costs.

- (b) Each officer is, to the maximum extent permitted by law, indemnified out of the property of the AKBC against any liability for legal costs the officer may incur as such an officer, except to the extent the liability is a liability for legal costs incurred in defending an action for a liability incurred as such an officer and the costs are incurred:
 - (i) in defending or resisting proceedings in which the person is found to have a liability for which they could not be indemnified under the previous clause;
 - (ii) in defending or resisting criminal proceedings in which the officer is found guilty;
 - (iii) in defending or resisting proceedings brought by the Australian Securities and Investments Commission or a liquidator for a court order if the grounds for making the order are found by the court to have been established; or
 - (iv) in connection with proceedings for relief to the officer under the



Corporations Act in which the court denies the relief.

Sub-clause 42(b)(iii) does not apply to costs incurred in responding to actions taken by the Australian Securities and Investments Commission or a liquidator as part of an investigation before commencing proceedings for the court order.

- (c) For the purposes of the previous clause, the outcome of proceedings is the outcome of the proceedings and any appeal in relation to the proceedings.
- (d) Sub-clauses 42(a) and 42(b) are separate and independent indemnities and one is not to be read down by reference to the other.
- (e) The AKBC may pay a premium in respect of a contract insuring a person who is or has been an officer of the AKBC against a liability incurred by the person as an officer of the AKBC except in circumstances prohibited by the *Corporations Act*.

43. Secrecy Obligations

Every Director and other agent or officer of the AKBC must keep secret all aspects of all transactions of the AKBC, except:

- (a) to the extent necessary to enable the person to perform his or her duties to the AKBC;
- (b) as required by law;
- (c) when requested to disclose information by the Board to the AKBC's Auditor or a general meeting of the AKBC;
- (d) as otherwise permitted by the Board.

44. Accounts

44.1 Proper Accounts to be Kept

The Directors must cause proper accounting and other records to be kept and distribute copies of balance sheets as required by the *Corporations Act*.

44.2 Presentation of Accounts at Annual General Meeting

The Directors must cause to be made out and laid before the Members at each Annual General Meeting a profit and loss account and balance sheet complying in all respects with the provisions of the *Corporations Act*.

44.3 Copy of Accounts to be sent to Members

A copy of every profit and loss account and balance sheet (including every document required by the *Corporations Act* to be attached thereto) which is to be laid before the Members in general meeting accompanied by a copy of the Auditor's report must not less than 14 days before the date of the meeting be sent to all persons entitled to receive notices of general meetings.

44.4 Copy of Accounts on Request

On request and without charge, any Member, whether or not entitled to have sent to it copies of the AKBC's profit and loss accounts and balance sheets, is entitled to be furnished with a copy of the AKBC's last profit and loss account and balance sheet (including every document required



by the *Corporations Act* to be attached thereto) together with a copy of the relevant Auditor's report.

45. Audit

45.1 Annual Audit

At least once in every year, the AKBC's accounts must be audited in accordance with the provisions of the *Corporations Act*.

45.2 Appointment of Auditors

The AKBC must at each Annual General Meeting appoint an Auditor or Auditors to hold office until the next Annual General Meeting and their appointment, rights and duties will be regulated by the *Corporations Act*. The Auditors' remuneration will be set by the Board.

46. Inspection of Records

Subject to the *Corporations Act*, the Board must determine whether and to what extent, and at what time and places and under what conditions, the accounting records and other documents of the AKBC or any of them will be open to the inspection of Members other than Directors. A Member other than a Director does not have the right to inspect any document of the AKBC except as provided by law or authorised by the Directors or by the AKBC in general meeting.

47. Notices

- (a) Notices must be in writing.
- (b) A notice may be served by the AKBC on a Member by any of the following methods:
 - (i) by serving it personally on the Member;
 - (ii) by leaving it at the registered address;
 - (iii) by sending it by post in a prepaid envelope addressed to the Member at the registered address;
 - (iv) by sending it by facsimile transmission to a facsimile number nominated by the Member for the purpose of serving notices on the Member; or
 - (v) by sending it by electronic mail to an electronic mail address nominated by the Member for the purpose of serving notices on the Member.
- (c) Each Member whose registered address is not in Australia may notify the AKBC of an address in Australia which is taken to be that Member's registered address for the purpose of serving notice.
- (d) Any notice sent by post, air-mail or air courier is taken to have been served on the business day following that on which the envelope containing the notice is posted or delivered to the air courier. In proving service, it is sufficient to prove that the envelope containing the notice was properly addressed and put into the post office or other public postal receptacle or delivered to the air courier. A certificate in writing signed by any



officer of the AKBC that the envelope containing the notice was so addressed and posted is conclusive.

- (e) Any notice sent by facsimile transmission or electronic mail is taken to have been served when the transmission is sent.
- (f) The signature to any notice given by the AKBC may be written or printed or a digital image of the signature may be affixed by technological or other means.

48. Winding Up

- (a) If, on the AKBC's winding up or dissolution, there remains after satisfaction of all of its liabilities any property, such property must not be distributed among the members, but must be given to an institution or institutions which:
 - (i) have an object similar to the AKBC's objects; and
 - (ii) prohibit the distribution of income and property among its or their members to an extent at least as great as is imposed on the AKBC under clause 4; and
 - (iii) are classified by the Australian Commissioner of Taxation as income tax exempt.
- (b) Such institution or institutions are to be determined by the members of the AKBC at or before the time of dissolution and, in default, by the Chief Judge in Equity of the Supreme Court of Victoria or such other Judge of that Court or any other Court as may have or acquire jurisdiction in the matter.
- (c) If effect cannot be given to this provision, then such property must be given to some charitable object which prohibits the payment of any income or property to its members.

49. Amendments to this Constitution

This Constitution may be amended in accordance with the Corporations Act.

END OF CONSTITUTION