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# Articles of Incorporation of the Open Source Automation Development Lab (OSADL) eG

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## TABLE OF CONTENTS

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<b>I. COMPANY, HEADQUARTERS, GOAL AND PURPOSE OF THE COMPANY</b>	§§1-2
Company headquarters	§1
Goal and purpose of the Cooperative	§2
<b>II. MEMBERSHIP</b>	§§3-2
Acquiring membership	§3
Ending membership	§4
Termination	§5
Transferring business assets	§6
Death of member	§7
Dissolving a legal person or partnership	§8
Exclusion	§9
Disputes	§10
Rights of the members	§11
Duties of the members	§12
<b>III. ORGANS OF THE COOPERATIVE</b>	§§13-36
A. Board of Management	§§14-21
Managing the Cooperative	§14
Representation	§15
Tasks and duties of the Board of Management	§16
Reporting to the Supervisory Board	§17
Composition and employment status	§18
Decision-making	§19
Participation in Supervisory Board meetings	§20
Credit to the members of the Board of Management	§21

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<b>B. The Supervisory Board</b>	§§22
Tasks and duties of the Supervisory Board	§22
Joint meeting of the Board of Management and Supervisory Board, matters requiring approval	§23
Composition and elections	§24
Constitution and resolutions	§25
<b>C. Shareholders' Meeting</b>	§§26-36
Exercising the rights of membership	§26
Dates and location	§27
Convocation and agenda	§28
Chairing the meeting	§29
Subjects of resolutions	§30
Majority requirements	§31
Ratification	§32
Voting and elections	§33
Right to information	§34
Minutes	§35
Right of trade Cooperatives to participate	§36
<hr/>	
<b>IV. EQUITY AND UNCALLED LIABILITY</b>	§§37-40
Shares and business assets	§37
Statutory reserves	§38
Earned surplus	§39
Capital reserves	§39a
Liability to make additional payments	§40
<hr/>	
<b>V. ACCOUNTING SYSTEM</b>	§§41-45
Business year	§41
Financial Statements and Management Report	§42
Reimbursement	§43
Use of net income for the year	§44
Coverage of net loss for the year	§45
<hr/>	
<b>IV. LIQUIDATION</b>	§46
<hr/>	
<b>VII. PUBLIC ANNOUNCEMENTS</b>	§47
<b>VIII. LEGAL VENUE</b>	§48
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## **PREAMBLE**

The automation industry and its suppliers are profiting greatly from open-source operating systems such as Linux since they guarantee long production cycles, rapid troubleshooting and the independence of individual software manufacturers. However, this branch requires specific expansions of the operating system such as real-time capability, the compatibility with these expansions must be certifiable, and standardized software interfaces must be available. The development of these requirements is the goal of the Open Source Automation Development Lab (OSADL).

### **I. COMPANY, HEADQUARTERS, GOAL AND PURPOSE OF THE COMPANY**

#### **§1 Company headquarters**

The Cooperative runs the company Open Source Automation Development Lab (OSADL) eG. It is headquartered in Schopfloch.

#### **§2 Goal and purpose of the Cooperative**

- (1) The goal of the Cooperative is to financially promote and support its members.
- (2) The purpose of the company is:
  - a) to set up, operate and maintain test laboratories for Linux-based operating systems for the automation industry and its suppliers,
  - b) to develop an open-source operating system environment for the automation industry and its suppliers,
  - c) to render license-free services for the automation industry and its suppliers.
- (3) The Cooperative can conduct all transactions that directly or indirectly promote the goal of the company. It can establish branches and participate in companies involved in industry, trade and business.
- (4) Nonmembers may be permitted to conduct business.

### **II. MEMBERSHIP**

#### **§3 Acquiring membership**

- (1) Membership can be acquired by:
  - a) natural persons;
  - b) partnerships;
  - c) a legal person as defined by private or public law.
- (2) Only those persons can be admitted who meet the requirements for using the facilities of the Cooperative, or whose membership lies in the interests of the Cooperative.
- (3) The following is required for membership:
  - a) an unconditional statement of accession to be signed by the new member; the payment agreement of the OSADL, and
  - b) receipt of permission by the Board of Management of the OSADL;
- (4) The member will be immediately entered into the member list (§16 Para. 2 letter h) of which he or she will be immediately notified.

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**§4 Ending membership**

Membership is ended by:

- (a) termination (§5),
- (b) transfer of business assets (§6),
- (c) death (§7),
- (d) dissolution of a legal person or partnership (§8),
- (e) exclusion (§9).

**§5 Termination**

- (1) Each member can terminate his or her membership at the end of a business year after a three-month period of written notification.
- (2) If a member with several shares is not bound by the Articles of Incorporation or an agreement with the Cooperative to retain these shares, the member can give up one or more shares of his or her additional investment at the end of a business year after a three-month period of written notification.

**§6 Transferring business assets**

- (1) A member can transfer his or her business assets in a written agreement to another party at any time, including during the business year, and thereby leave the Cooperative without a dispute as long as the transferee in his or her stead is a member. If the transferee is already a member, the business assets can only be transferred as long as his or her existing business assets do not exceed the permissible overall amount of shares with which the transferee has a participating interest after the transfer of the transferor's assets.
- (2) The transfer of the business assets must be approved by the Board of Management.

**§7 Death of a member**

- (1) A member's membership is withdrawn upon death. The member's membership is transferred to the member's heirs. It terminates upon conclusion of the business year in which the inheritance occurred. The heirs may only exercise the member's rights jointly.

**§8 Dissolving a legal person or partnership**

If a legal person or partnership is dissolved or expires, its membership its membership ends at the end of the business year in which the dissolution or expiration became effective. If a universal successor exists, the membership is continued by the universal successor up to the conclusion of the business year. The termination of membership must be immediately entered in the member list; the member or universal successor must be immediately informed of this fact.

**§9 Exclusion**

- (1) A member can be excluded from the Cooperative at the end of the business year if:
  - a) the member does not fulfill his or her responsibilities to the Cooperative as defined in a Articles of Incorporation or other responsibilities despite a written request with the threat of exclusion;
  - b) the member damages or has damaged the Cooperative by not fulfilling his or her duties;
  - c) the member has become insolvent, or insolvency proceedings have been started for the member's assets;
  - d) the member's permanent residence is unknown;
  - e) the requirements for inclusion in the Cooperative were not met or no longer existed at the time of inclusion;

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- f) the member's behavior cannot be reconciled with the interests of the Cooperative.
  - (2) The Board of Directors is responsible for exclusion. The members of the Board of Directors or Supervisory Board can only be excluded by a resolution of Shareholders' Meeting.
  - (3) Before a resolution is adopted, the party being excluded will be provided with an opportunity to make a statement regarding the envisioned exclusion. The party being excluded will be notified of the essential reasons for his or her exclusion and the legal basis for exclusion or the basis found in the Articles of Incorporation.
  - (4) The resolution to exclude the member must indicate the facts on which the exclusion is based and legal basis for exclusion or the basis found in the Articles of Incorporation.
  - (5) The resolution must be immediately communicated to the excluded party by the Board of Directors in a registered letter. The member cannot participate in the Shareholders' Meeting as of the date on which the letter was sent, nor can the member use the facilities of the Cooperative or be a member of the Board of Directors or Supervisory Board. The sending of the letter is equivalent to a statutory exclusion by a resolution of the Shareholders' Meeting.
  - (6) The excluded party can submit an appeal to the Supervisory Board within one month from the date on which the letter was sent if the Shareholders' Meeting did not pass a resolution to exclude the member. The decision by the Supervisory Board pertaining to the appeal is final within the Cooperative. If the excluded party does not submit an appeal by the deadline, the decision to exclude is final.

#### **§10 Disputes**

- (1) The approved financial statements are binding for disputes between the departed member and the Cooperative. Losses carried forward shall be prorated according to shares. Disputes are excluded if the business assets have been transferred.
- (2) The credit balance upon departure due to the departed member must be paid within six months after departure. The Cooperative is entitled to deduct its claims in the dispute against the departed member from the assets to be paid. The member has no claims to reserves and other assets of the Cooperative.
- (3) The Cooperative shall hold the credit balance upon departure as security for any shortfall, especially in insolvency proceedings against the member.
- (4) Paragraphs one to three correspondingly apply to disputes arising from the redemption of individual shares.

#### **§11 Rights of the members**

Each member is entitled:

- a) to utilize the Cooperative's facilities in accordance with the regulations on use;
- b) to participate in the Shareholders' Meeting, its discussions, voting and elections, and request information on matters concerning the Cooperative if not otherwise provided by §34;
- c) to submit motions for the agenda of the Shareholders' Meeting. This requires signatures from at least 10% of the members (§28 Para. 4);
- d) participate in submitting requests to convene an extraordinary Shareholders' Meeting; such requests require the signatures of at least 10% of the members (§28 Para. 2);
- e) request a transcript of the financial statements and management report if prescribed by law in a timely manner before the financial statements are adopted by the Shareholders' Meeting, and to request the report of the Supervisory Board;
- f) view the transcripts of the Shareholders' Meeting;
- g) view the member list.

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**§12 Duties of the members**

Each member is required to support the Cooperative business that serves to maintain his or her financial independence to the best of his or her abilities. In particular, the member must:

- a) observe the provisions of the Cooperative Societies Act, the Articles of Incorporation and resolutions of the Shareholders' Meeting;
- b) maintain the applicable general terms of business, delivery and payment;
- c) if bid documents, prices and conditions, memorandums and other information of the Cooperative are identified as confidential, keep them secret from outsiders;
- d) immediately inform the Cooperative of any change in legal form and ownership of his or her business;
- e) pay an entrance fee allocated to the capital reserves (§39 a) whose amount and methods of payment are determined by the Shareholders' Meeting;
- f) observe the rights and duties of the respective open-source license when software and specifications are developed in collaboration with the OSADL;
- g) meet his or her contractual obligations assumed upon joining.

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### III ORGANS OF THE COOPERATIVE

#### §13 Organs of the Cooperative

The organs of the Cooperative are:

##### A. THE BOARD OF MANAGEMENT

##### B. THE SUPERVISORY BOARD

##### C. THE SHAREHOLDERS' MEETING

#### A. THE BOARD OF MANAGEMENT

##### §14 Managing the Cooperative

- (1) The Board of Management manages the Cooperative on its own responsibility.
- (2) The Board of Management conducts the business of the Cooperative according to the provisions of the law, especially the Cooperative Societies Act, the Articles of Incorporation and the bylaws for the Board of Management.

##### §15 Representation

- (1) The Cooperative is legally represented by two members of the Board of Management, or one member of the Board of Management together with a proxy or a manager.
- (2) It is permissible to grant proxy powers, power of attorney and other powers of legal representation. This is regulated in greater detail by the bylaws of the Board of Management. The Board of Management can empower a manager to be a sole representative to third parties.
- (3) The Board of Management represents the Cooperative both in court and out of court.

##### §16 Tasks and duties of the Board of Management

- (1) The members of the Board of Management must observe the necessary precautions of a reliable, conscientious manager of an Cooperative. They must maintain silence concerning confidential information and secrets, i.e., managerial or business secrets that they become aware of in their activities on the Board of Management.
- (2) In particular, the responsibilities of the Board of Management are as follows:
  - a) conduct business in line with the goal and purpose of the Cooperative;
  - b) plan and implement personnel and technical measures in a timely manner that are necessary to properly conduct business;
  - c) ensure the proper provision of goods and services and proper member support;
  - d) prepare bylaws with the approval of the Supervisory Board that are unanimously approved by the Board of Management and signed by all members of the Board of Management;
  - e) ensure proper accounting and a productive accounting system;
  - f) properly take inventory, prepare an inventory record at the end of the business year, and immediately present it to the Supervisory Board;
  - g) prepare the financial statements and a management report as required by law within five months after the end of business year at the latest, immediately present it to the Supervisory Board, and then presented it with the comments of the Supervisory Board the Shareholders' Meeting for the adoption of the financial statements;
  - h) decide on admission for membership and acquisition of additional shares up to a maximum of 10 shares, maintain the membership list according to the Cooperative Societies Act, and be

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- responsible for the announcements and publications stipulated by the Cooperative Societies Act;
- i) appoint a statutory auditing association, provide notification in a timely manner of the date, agenda, and motions for the Shareholders' Meeting;
  - j) rectify insufficiencies found in the report, and notify the statutory auditing association of the changes;
  - k) notify the statutory auditing association of intended changes to the Articles of Incorporation in a timely manner.

### **§17 Reporting to the Supervisory Board**

The Board of Management shall present the following to the Supervisory Board at least quarterly and at shorter intervals upon request:

- a) a review of the business trend of the Cooperative over the previous period in interim financial statements;
- b) a summary of the overall liabilities of the Cooperative including bills payable and guarantee liability;
- c) an overview of the credit granted by the Cooperative;
- d) a report on unusual events; if necessary, the Chair of the Supervisory Board must be notified immediately in advance.

### **§18 Composition and employment status**

- (1) The Board of Management consists of two to five members. Members of the Board of Management that are not full-time should be independent, active members.
- (2) The Board of Management is appointed by the Supervisory Board and hired if the board membership is not an honorary position. The Chair of the Supervisory Board will sign a written service agreement with each full-time member of the Board of Management. Oral agreements are not permissible.
- (3) Members of the Board of Management will retire from the Board of Management at the end of the calendar year in which they become 66.
- (4) The appointment of honorary members to the Board of Management is limited to three years. These members can be reappointed.
- (5) The employment status of a member of the Board of Management can be terminated after observing the contractual or legal period of notification by the Supervisor Board represented by its Chair. The shareholder meeting is responsible for the extraordinary termination of employment for cause (termination without notice). The Supervisory Board represented by the Chair is entitled to conclude agreements to terminate membership. The termination of employment results in the termination of the board position at the time of departure.
- (6) The Shareholders' Meeting can remove a member of the Board of Management at any time.
- (7) Based on its discretion, the Supervisory Board is entitled to temporarily suspend members of the Board of Management until a decision is reached by the Shareholders' Meeting which must be called immediately, and to take the necessary measures to continue business.

### **§19 Decision-making**

- (1) One-half of the members of the Board of Management constitute a quorum. Resolutions are adopted by majority vote. In the case of §16 Para. 2 letter d, unanimous consent is necessary. Motions are rejected in case of a tie.
- (2) Resolutions that extend beyond the regular course of business must be recorded for the sake of documentation. The minutes must be numbered consecutively and signed by the members of the Board of Management participating in the resolution.

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- (3) If the Board of Management discusses business matters pertaining to the Cooperative that affect the interests of a member of the Board of Management, his or her spouse, parents, children and siblings or a person that he or she represents as stipulated by law or power of attorney, the affected member of the Board of Management will refrain from discussing and voting on the matter. However, the opinion of the member of the Board of Management must be considered before adopting a resolution.

**§20 Participation in Supervisory Board meetings**

The members of the Board of Management are entitled to participate in Supervisory Board meetings. The participation can be excluded by a resolution of the Supervisory Board. In the meetings of the Supervisory Board, the Board of Management shall present the pertinent information concerning business matters.

**§21 Credit to members of the Board of Management**

The Cooperative may not provide members of the Board of Management with any credit.

**B. THE SUPERVISORY BOARD**

**§22 Tasks and duties of the Supervisory Board**

- (1) The Supervisory Board is responsible for monitoring the management by the Board of Management and becoming informed about the matters of the Cooperative for this purpose. The Supervisory Board can request a report from the Board of Management at any time and inspect the books and documents of the Cooperative through individual members that it appoints, and review the cash assets and portfolio of securities and commercial documents.
- (2) The Supervisory Board is responsible for reviewing the financial statements and managerial report as required by law, and the proposal of the Board of Management for the use of net income for the year or coverage of net loss for the year. The Supervisory Board shall provide its opinion on these matters and report to the Shareholders' Meeting before the financial statements are adopted.
- (3) The Supervisory Board shall collaborate in recording and inspecting inventory. This includes reviewing the ascertainment of inventory and signing it.
- (4) The Supervisory Board can form committees composed of its members to meet its legal responsibilities and those related to the Articles of Incorporation, and obtain the assistance of professionals at the cost of the Cooperative. When the supervisory board forms committees, it will determine whether they are consultative or are entitled to make decisions. In addition, the Supervisory Board will determine the number of committee members. A committee must consist of at least three persons. A quorum is formed in a committee when more than one-half of its members are present. §25 also applies to the adoption of resolutions.
- (5) Details on the fulfillment of a Supervisory Board's responsibilities are governed by the by-laws prepared by the Supervisory Board. An example of the bylaws will be handed out to each member of the Supervisory Board against a confirmation of receipt.
- (6) The members of the Supervisory Board shall exercise the due caution of a responsible and conscientious member of a Supervisory Board of a Cooperative when pursuing their activities. They will maintain secrecy concerning all confidential information and secrets of the Cooperative, the members and customers of which they become aware in their activities on the Supervisory Board.
- (7) The members of the Supervisory Board may not receive reimbursement tied to business results (share of profits). Instead, in addition to the reimbursement of expenses, compensation for the Supervisory Board can be granted which will be determined by the Shareholders' Meeting.

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**§23 Joint meeting of the Board of Management and Supervisory Board, matters requiring approval**

- (1) The Board of Management and the Supervisory Board will decide on the ground rules of business policy after joint consultation and a separate vote.
- (2) The following matters require the approval of the Supervisory Board:
  - a) the acquisition, development, and the sale of properties and rights equivalent to real property with the exception of the acquisition of properties and rights equivalent to real property to salvage company claims;
  - b) the acquisition and sale of long-term investments;
  - c) the conclusion of major agreements, especially agreements that establish recurrent, substantial obligations for the Cooperative;
  - d) the distribution of refunds (§43);
  - e) the use of reserves according to §§39, 39 a;
  - f) joining organizations and trade Cooperatives;
  - g) the establishment of the site for the Shareholders' Meeting;
  - h) appointing a manager
  - i) the acquisition of shared profits, the establishment of obligations and silent partnerships of lesser importance;
  - j) the drafting of a business plan that in particular outlines the required investment and capital;
  - k) the acquisition of more than 10 shares.
- (3) Joint meetings will be convened by the Chair of the Supervisory Board, or his or her representative if he or she is prevented from doing so. §25 Para. 5 correspondingly applies for the convening of meetings.
- (4) The Chair in the joint meetings will be the Chair of the Supervisory Board or his or her representative if not otherwise resolved.
- (5) The Board of Management and Supervisory Board form a quorum when more than one-half of members of a Board of Management and more than one-half of the members of the Supervisory Board including the Chair or his or her representative are present.
- (6) A motion will fail if it does not receive a majority vote in the Board of Management and Supervisory Board.
- (7) Resolutions will be recorded in joint minutes for documentation purposes. The results of the separate vote will be recorded in the minutes; §19 Para. 2 and §25 Para. 6 correspondingly apply.

**§24 Composition and elections**

- (1) The Supervisory Board consists of at least three and at most seven members that are elected by the Shareholders' Meeting. They should all be independent, active members.
- (2) §33 applies to the election of members of the Supervisory Board.
- (3) The term of office is usually three years. It starts upon the conclusion of the Shareholders' Meeting that held the election, and ends after the conclusion of the Shareholders' Meeting that falls in the third business year after the election. This includes the business year in which the Supervisory Board member was elected. One-third of the members of the Supervisory Board will retire annually. If the number is not divisible by three, the lesser portion will retire first. In the first two years, this will be decided by lot and later by the length of office. When the Supervisory Board is expanded, one third of the longest-serving members will retire from the Supervisory Board. One third of the new members will also retire by lot until a rotation results. The length in office will subsequently be the determining factor for these members as well. Members can be reelected.

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- (4) If members retire while they are in office, the Supervisory Board will only be composed of the remaining members until the next ordinary Shareholders' Meeting in which the replacement election will be held. An earlier replacement election in an extraordinary Shareholders' Meeting is only necessary when the number of members of the Supervisory Board falls below the minimum of three required by law. Replacement elections are for the remainder of the term of office of the retired member.
  - (5) Members of the Supervisory Board will retire from the Supervisory Board at age 66. The time at which they retire will be the end of the subsequent ordinary Shareholders' Meeting.
  - (6) Members who have retired from the Board of Management can only be elected to the Supervisory Board after they have been relieved of all of their duties associated with the Board of Management.

## **§25 Constitution, resolutions**

- (1) Following an election, the Supervisory Board will elect from its members a Chair, a secretary, and representatives for both. The Supervisory Board is entitled to reassign its offices at any time.
- (2) The meetings of the Supervisory Board will be convened by its Chair, or his or her representative if he or she is prevented from doing so. As long as the Chair and a representative are not elected, the meetings of the Supervisory Board will be convened by the oldest member of the Supervisory Board.
- (3) The Supervisory Board forms a quorum when more than one-half of its members including the Chair or his or her representative are present. Resolutions are adopted by majority of the valid votes that have been cast. Abstentions and invalid votes are not counted. In case of a tie, motions will be rejected. In elections, ties will be decided by lot; §33 correspondingly applies.
- (4) A resolution can be passed without convening a meeting by a written vote or by other remote communication media when the Chair of the Supervisor the Board or his or her representative propose such a resolution and no member of the Supervisory Board disagree with this method.
- (5) The meetings of the Supervisory Board should occur at least quarterly. In addition, the Chair shall convene a meeting and notify the members of the agenda as frequently as necessary to promote the interests of the Cooperative, or when the Board of Management or one-half of the members of the Supervisory Board request in writing that a meeting be convened indicating the reasons. If this request is rejected, the requesting parties can convene the Supervisory Board themselves while providing notification of the reasons.
- (6) Resolutions must be recorded for purposes of documentation. The minutes must be consecutively numbered and signed by the Chair of the Supervisory Board or his or her representative and the Secretary or his or her representative.
- (7) If business matters pertaining to the Cooperative are discussed that affect the interests of a member of the Supervisory Board, his or her spouse, parents, children and siblings or a person that he or she represents as stipulated by law or power of attorney, the affected member of the Supervisory Board will refrain from discussing and voting on the matter. However, the opinion of the member of the Supervisory Board must be considered before adopting a resolution.

## **C. THE SHAREHOLDERS' MEETING**

### **§26 Exercising the rights of membership**

- (1) The members will exercise their rights pertaining to the matters of the Cooperative in the Shareholders' Meeting. They must be personally present to vote.
- (2) Each member has at least one vote. Members with two shares have two votes. Members with three or more shares have three votes. Multiple voting rights cannot be exercised for resolutions based on §43 III sentence 6 Cooperative Societies Act. The member entitled to multiple votes has only one vote for such resolutions.

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- (3) Members who are legally incapacitated, of restricted legal capacity, and legal persons and partnerships will exercise their voting right through their legal representative or a person empowered to represent them.
  - (4) Members or their legal representative or person empowered to represent them can be represented by agents (§43 paragraph 5 Cooperative Societies Act). The several heirs of a deceased member (§7) can only vote through a joint agent. An agent cannot represent more than two members. Persons who are notified of their exclusion (§9 paragraph 5) cannot be agents.
  - (5) Legal or duly authorized representatives or agents entitled to vote must demonstrate their agency in writing upon request of the Chair of the Shareholders' Meeting.
  - (6) No one can exercise their voting rights for himself or another party when a resolution has been proposed on whether or not to relieve him or her or the represented member or free him or her from an obligation, or whether or if the Cooperative should assert a claim against him or her or the represented member. However, the party's opinion must be considered before adopting the resolution.

#### **§27 Dates and location**

- (1) The ordinary Shareholders' Meeting shall occur within the first six months after expiration of the business year.
- (2) Extraordinary Shareholders' Meetings shall be convened as needed.
- (3) The Shareholders' Meeting will be held at the Cooperative's headquarters if the Board of Management and Supervisory Board do not choose another location.

#### **§28 Convocation and agenda**

- (1) The Shareholders' Meeting will be convened by the Supervisory Board represented by its Chair. The rights of the Board of Management according to §44 paragraph 1 of the Cooperative Societies Act shall remain unaffected.
- (2) The members of the Cooperative can request an extraordinary Shareholders' Meeting in a motion that they have signed which indicates the reason why the meeting is to be convened.
- (3) The Shareholders' Meeting will be convened by directly informing all members, or by announcing the meeting in the publication provided in §47, observing a seven-day period of notification between the date of receipt (paragraph 7) or the publication of the convocation and the date of the Shareholders' Meeting. The subject matter of the resolution must be announced before a Shareholders' Meeting is convened.
- (4) The agenda will be set by the organ the convenes the Shareholders' Meeting. Members of the Cooperative can request that matters be proposed for a resolution in the Shareholders' Meeting in a motion signed by them which indicates the reasons.
- (5) No resolutions can be proposed concerning matters that are not announced in a timely manner, i.e., at least three days should pass between the receipt of the announcement (paragraph 7) and the date of the Shareholders' Meeting. Excepted from this provision are resolutions concerning the procedure of the Shareholders' Meeting, and motions to convene an extraordinary Shareholders' Meeting.
- (6) Motions and negotiations without a resolution do not need to be announced.
- (7) In the cases addressed in paragraphs 3 and 5, the corresponding announcements are held to be received when they are mailed two days before the start of the notification period.

#### **§29 Chairing the meeting**

The Chair of the Shareholders' Meeting will be the Chair of the Supervisory Board or his or her representative. If the Shareholders' Meeting was convened by the Board of Management, a member of the Board of Management will be the Chair. The Chairmanship can be transferred by a resolution to

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another member of the Cooperative or an agent of the statutory auditing association. The Chair of the Shareholders' Meeting shall appoint a secretary and the required vote counter.

### **§30 Subjects of resolutions**

In addition to the matters addressed in these Articles of Incorporation, the following matters require a resolution of the Shareholders' Meeting:

- a) amending these Articles of Incorporation;
- b) dissolution of the Cooperative;
- c) continuing the Cooperative after resolving to dissolve it;
- d) merging the Cooperative;
- e) changing the legal form;
- f) revoking the appointment of members of a Supervisory Board and members of the Board of Management;
- g) changing the amount of the earned surplus according to §39 a;
- h) changing the voting right based on the number of acquired shares or statutory payment agreement;
- i) amending the subject matter of the OSADL cited in §2;
- j) confirmation of temporary restraining order for the Board of Management according to §40 Cooperative Societies Act;
- k) approving the Board of Management and Supervisory Board;
- l) electing the members of the Supervisory Board and setting in its compensation;
- m) excluding members of the Board of Management and Supervisory Board from the Cooperative;
- n) pursuing recourse claims against members of the Board of Management and Supervisory Board who hold office;
- o) setting limits on the granting of credit according to §49 of the Cooperative Societies Act;
- p) setting entrance fees;
- q) approving the financial statements, utilizing the net income for the year or covering the net loss for the year, and the scope of announcing the audit report.

### **§31 Majority requirements**

- (1) The resolutions of the Shareholders' Meeting require a simple majority of votes if a larger majority is not otherwise stipulated by law or these Articles of Incorporation.
- (2) A majority of three-fourths of the cast votes is required for the instances cited in §30 letters b-j. A three-fourths majority of the cast votes is required to amend this paragraph.
- (3) A resolution to change the legal form (§30 letter e) requires a 9/10 majority of the cast votes. For a resolution to dissolve the Cooperative or change the legal form, two-thirds of all members must be present or represented in a Shareholders' Meeting convened for this purpose. If this number of members is not present in the Shareholders' Meeting to resolve to change the legal form of the Cooperative or dissolve it, any other Shareholders' Meeting within the same business year can resolve to change the legal form of the Cooperative or dissolve it irrespective of the number of present members.
- (4) Before passing a resolution concerning a merger, dissolution or continuation of the dissolved Cooperative or change of its legal form, the auditing association must first be heard. The Board of Management must request a report from the auditing association in a timely manner and read it to the Shareholders' Meeting.

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- (5) Paragraphs 3 and 5 can only be amended after observing the requirements cited in paragraph 3.

### **§32 Ratification**

The ratification of the Board of Management and Supervisory Board are to be voted on separately. Neither the members of the Board of Management and Supervisory Board are entitled to vote. If more than one-half of the members of the Board of Management or Supervisory Board are represented, each member can vote for the ratification of the organ in which he or she is not represented.

### **§33 Voting and elections**

- (1) Votes and elections will be held in the Shareholders' Meeting by a show of hands. Votes and elections must be carried out in secret using ballots when the Board of Management, Supervisory Board or one-fourth of the valid cast votes in a resolution demand it.
- (2) In case of a tie, a motion will be rejected. In elections, a tie will be decided by lot.
- (3) In counting the votes, only cast votes will be counted. Abstentions and invalid votes will not be counted.
- (4) If an election is held by show of hands, a special ballot is required for each mandate to be granted. Whoever receives the most votes is elected.
- (5) If an election is held in secret using ballots, each person is entitled to vote as many votes as there are mandates to be granted. The party entitled to vote shall identify on the ballot the candidate for whom he or she wishes to vote. Each candidate can only receive one vote.
- (6) The elected candidate shall immediately notify the Cooperative whether he or she accepts being elected.

### **§34 Right to information**

- (1) Upon the request of the Shareholders' Meeting, each member must provide information on matters affecting the Cooperative if the information is necessary to properly evaluate the item on the agenda. The information will be communicated by the Board of Management or the Supervisory Board.
- (2) This information may be refused if:
  - a) based on sound business judgment, communicating the information may cause the Cooperative substantial harm;
  - b) the matter refers to purchasing conditions of the Cooperative and the basis used for calculation;
  - c) the matter concerns assigned tax values;
  - d) communicating information would be punishable by law or violate a legal or contractual confidentiality requirement or one derived from these articles of incorporation;
  - e) the requested information concerns the personal or business situation of a third party;
  - f) the information concerns employment contracts with members of the Board of Management or Supervisory Board of the Cooperative.

### **§35 Minutes**

- (1) Minutes must be kept of the resolutions of the Shareholders' Meeting for documentation purposes. The minutes must be consecutively numbered. Minutes are not required for resolutions to take effect.
- (2) The minutes must be recorded within two weeks at the latest. The minutes must indicate the location and date of a Shareholders' Meeting, the name of the Chair of the meeting, the type and

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results of the votes, and the declaration of the Chair of the meeting concerning the resolutions. The minutes must be signed by the Chair of the Shareholders' Meeting, the Secretary and the members of the Board of Management who participated in the Shareholders' Meeting. The minutes are to be added to the documents convening in the meeting as an appendix.

- (3) If an amendment to the Articles of Incorporation is passed in a resolution that affects the subject matter of §16 paragraph 2-2 to 5 of the Cooperative Societies Act or if it concerns a substantial change to the purpose of the company, a list of the appeared or represented members and the members' agents must be appended to the minutes.
- (4) The minutes shall be archived with the associated appendices. Each member of the Cooperative is entitled to view the minutes.

**§36 Right of trade Cooperatives to participate**

Representatives of the auditing association can play a consulting role in the Shareholders' Meeting.

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## IV EQUITY AND UNCALLED LIABILITY

### §37 Shares and business assets

- (1) The shares are worth €1,000; in words: one-thousand euros.
- (2) The share must be paid for by the end of the first month of membership.  
With the approval of the Board of Management, a member can acquire up to 10 shares. With the approval of the Board of Management and Supervisory Board, a member can purchase more than 10 shares.
- (3) The payment for the share plus any credit memos minus amounts deducted for coverage of loss form the business assets of member.
- (4) As long as the member has not left the Cooperative, the business assets may not be used by the Cooperative for payment, may not be offset, or used as security in the business transactions of the Cooperative. A member may not be released from a payment that is due. The member cannot offset the due payment.
- (5) Business assets may not be assigned or pledged to third parties, and the assignment or pledging will not be recognized by the Cooperative. A member may not use his or her business assets to offset liabilities to the Cooperative. §10 shall apply to credit balances in case of departure.

### §38 Statutory reserves

- (1) Statutory reserves are only for covering accumulated deficits.
- (2) Statutory reserves are formed by an annual allocation of at least 10% of the net income for the year plus any unappropriated profits brought forward or minus any losses brought forward, as well as an amount that corresponds to at least 5% of the provided Cooperative reimbursement as long as the reserves do not attain 25% of the balance sheet total.

### §39 Earned surplus

In addition to statutory reserves, an earned surplus is formed from the annual allocation of net income for the year plus any unappropriated profits brought forward minus any loss brought forward. The Board of Management and Supervisory Board will decide how to use the earned surplus in a joint session (§22). The Shareholders' Meeting retains the right to use the earned surplus to cover accumulated losses (§45)

### §39 a Capital reserves

Collected entry fees are allocated to a capital reserve. The Board of Management and Supervisory Board will decide how to use the capital reserve in a joint session (§23 paragraph 2 letter e). The shareholders retains the rights to use the capital reserves to cover accumulated losses (§45).

### §40 Liability to make additional payments

The members are not liable to make additional payments.

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## V. ACCOUNTING SYSTEM

### §41 Business year

The business year corresponds to the calendar year. The first business year starts upon the registration of the Cooperative and ends on December 31 of this year.

### §42 Financial Statements and Management Report

- (1) The Board of Management shall prepare the financial statements and management report for the prior business year as required by law within five months after the end of the business year.
- (2) The Supervisory Board shall participate in the acceptance and review of the inventory. The Supervisory Board shall review and sign the ascertainment of inventory.
- (3) In accordance with §16 paragraph 2 letter g, the Board of Management shall immediately present to the Supervisory Board the financial statements and management report as required by law, and then present them with the comments of the Supervisory Board to the Shareholders' Meeting for the adoption of the financial statements.
- (4) As required by law, the financial statements, management report and report of the Supervisory Board should be presented for the members to review at least one week before the Shareholders' Meeting in the facilities of the Cooperative or at another location to be announced, or the documents should be otherwise disclosed to the members.
- (5) The report of the Supervisory Board on its review of the financial statements and management report shall be presented to the ordinary Shareholders' Meeting as required by law (§22 Para. 2).

### §43 Reimbursement

There will be no reimbursement.

### §44 Use of net income for the year

The Shareholders' Meeting will determine the use of the net income for the year taking into account legal regulations and these articles of incorporation. The net income for the year due to the members will be assigned to the business assets until the share is reached, or a net loss for the year reduced by the business assets is compensated. §39 a shall be observed.

### §45 Coverage of net loss for the year

- (1) In the Shareholders' Meeting will decide how to cover any net loss for the year.
- (2) If the net loss for the year cannot be carried forward or covered by using earned surplus, it is covered by legal reserves or capital reserves, or by depreciating the business assets of members, or by all of these measures together.
- (3) If business assets are used to cover a net loss for the year, the percentage of the net loss for the year accruing to the individual members will be calculated in relation to the accepted shares of all members, or shares to be accepted according to the Articles of Incorporation at the beginning of the business year in which the net loss for the year occurred.

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#### **IV. LIQUIDATION**

##### **§46 Liquidation**

After its dissolution, the Cooperative will be liquidated in accordance with the Cooperative Societies Act. The assets of the Cooperative will be distributed according to the provisions of the Act with the proviso that surpluses will be distributed to the members prorated according to business assets.

#### **VII. PUBLIC ANNOUNCEMENTS**

##### **§47 Public announcements**

The Cooperative's public announcements will be published under its company name in the Frankfurter Allgemeine Zeitung and on the Cooperative's website at <http://www.OSADL.org>. The names of the persons responsible for the announcement will be cited in the announcement.

#### **VIII. LEGAL VENUE**

##### **§48 Legal venue**

The legal venue for all disputes over membership between members and the Cooperative shall be the municipal court or district court with jurisdiction over the headquarters of the Cooperative.