

**By-Laws of  
Open Source Automation Development Lab (OSADL) eG  
Version of June 2, 2022  
translation of German version**

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# PREAMBLE

The industry, in particular, benefits from Open-Source software such as Linux, since it provides for independence from individual software manufacturers and cost savings through co-operation in a community. However, the availability of software under an Open Source license alone is not sufficient to market it in an industrial product with the necessary reliability and legal conformity. The development and provision of services required for this, that is the goal of the Open Source Automation Development Lab (OSADL) eG.

## I. COOPERATIVE SOCIETY, REGISTERED OFFICE, PURPOSE AND OBJECT OF THE UNDERTAKING

### § 1 Cooperative society and registered office

The name of the Cooperative Society is Open Source Automation Development Lab (OSADL) eG. The registered office of the Cooperative Society is in Heidelberg.

### § 2 Purpose and object of the Cooperative Society

- (1) The purpose of the Cooperative Society is to support its members and to promote their economic and business interests.
- (2) The object of the undertaking is
  - (a) to set up and operate test laboratories for software and hardware used by industry,
  - (b) to develop an Open-Source system environment for industry,
  - (c) to render services that are needed in order to use, copy and distribute Open Source software.
- (3) The Cooperative Society can conduct all transactions that directly or indirectly promote the object of the undertaking. The Cooperative Society can establish branches and participate in companies involved in industry, trade and business.
- (4) The Cooperative Society is allowed to extend its business operations to non-members.

## II. MEMBERSHIP

### § 3 Acquisition of membership

- (1) Membership can be acquired by:
  - (a) natural persons;
  - (b) business partnerships;
  - (c) legal persons 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 Society or whose membership lies in the interests of the Cooperative Society.

- (3) The following is required for membership:
  - (a) an unconditional declaration of membership signed by the new member and the agreement with the Cooperative Society to effect the payments on the shares and
  - (b) receipt of permission by the Board of Directors of the Cooperative Society;
- (4) The member shall be entered without delay into the list of members (§ 16 Para. 2 letter h) and notified accordingly without delay.

#### **§ 4 Termination of membership**

Membership is terminated by:

- (a) Notice to withdraw (§ 5),
- (b) Transfer of the credit balance (§ 6 Para. 1),
- (c) Death of a member (§ 7),
- (d) Dissolution of a legal person or business partnership (§ 8),
- (e) Expulsion (§ 9).

#### **§ 5 Notice to withdraw**

- (1) Each member has the right to withdraw from the Cooperative Society at the end of a financial year by giving written notice of three months.
- (2) If a member has several shares without being bound in this respect by the by-laws or an agreement with the Cooperative Society, the member shall be entitled to give written notice of three months to return one or more such additional shares at the end of a financial year.

#### **§ 6 Transfer of credit balance**

- (1) Any member may transfer his/her credit balance, including during the financial year, to another person through a written agreement, thus terminating membership without a settlement providing that the buyer joins the Cooperative Society to replace the departing member. If the buyer is already a member, the credit balance may only be transferred as long as his/her existing credit balance in addition to the newly-acquired shares does not exceed the shareholding threshold with which the buyer has a participating interest.
- (2) Any member may partly transfer his/her credit balance without leaving the Cooperative Society and therefore decreasing his/her amount of shares. Paragraph 1 applies accordingly. Absatz 1 gilt entsprechend.
- (3) The transfer of credit balance shall be subject to the approval of the Board of Directors.

#### **§ 7 Death of a member**

Membership is terminated on a member's death. The member's membership shall pass to the member's heirs. The heir's membership shall end with the end of the financial year in which the inheritance occurred. The heirs may only exercise the member's rights jointly.

## **§ 8 Dissolution of a legal person or business partnership**

If a legal person or business partnership is dissolved or terminated, membership shall end at the end of the financial year in which dissolution or termination has taken effect. In the event of universal succession, membership shall be maintained by the universal successor until the end of the financial year. Termination of membership shall be entered into the list of members without delay; the member or universal successor shall be notified immediately.

## **§ 9 Expulsion**

- (1) A member may be expelled from the Cooperative Society at the end of the financial year if:
  - (a) the member does not fulfill his/her duties to the Cooperative Society as stipulated in the by-laws or other duties despite a written request with the threat of expulsion;
  - (b) the member damages or has damaged the Cooperative Society by not fulfilling his/her duties;
  - (c) the member has become insolvent or overindebted, or he/her has received a request to open insolvency proceedings;
  - (d) the member's permanent residence is unknown;
  - (e) the requirements for admission in the Cooperative Society are not now met or were not met at the time of admission;
  - (f) the member's behavior is not consistent with the interests of the Cooperative Society.
- (2) The Board of Directors is responsible for expulsion. The members of the Board of Directors or Supervisory Board may only be expelled by resolution of the General Assembly.
- (3) Before a resolution is adopted, the party being expelled shall be provided with an opportunity to make a statement regarding the proposed expulsion. The party being expelled shall be notified of the essential reasons for his/her expulsion and the basis for expulsion found in the by-laws.
- (4) The resolution to expel the member must indicate the facts on which the expulsion is based as well as the basis found in the by-laws.
- (5) The resolution must be immediately communicated to the expelled party by the Board of Directors in a registered letter. As of the date on which the letter was sent the member shall not be entitled to participate in the General Assembly, nor shall the member be entitled to use the facilities of the Cooperative Society or to be a member of the Board of Directors or Supervisory Board. The sending of the letter is equivalent to a statutory expulsion by resolution of the General Assembly.
- (6) The expelled party shall be entitled to submit an appeal to the Supervisory Board within one month from the date on which the letter was sent if the General Assembly did not pass a resolution to expel the member. The decision by the Supervisory Board pertaining to the appeal is final within the Cooperative Society. If the expelled party does not submit an appeal by the deadline, the decision to expel shall be final.

## **§ 10 Settlement**

- (1) Settlement between the departed member and the Cooperative Society shall be based on the approved financial statements. Losses carried forward shall be prorated according to shares. Settlement is excluded if the credit balance is transferred.
- (2) The settlement balance due to the departed member must be paid to the departed member within six months after departure. The Cooperative Society shall be entitled to deduct its claims arising from the settlement from the balance payable to the departed member. The member shall not be entitled to any parts of the reserves or other assets of the Cooperative Society.
- (3) The member's settlement balance shall be held by the Cooperative Society as liable security for any shortfall, including but not limited to the event of insolvency proceedings against the member.
- (4) Paragraphs one to three correspondingly apply to settlement arising from the redemption of individual shares.

## **§ 11 Members' rights**

Each member is entitled

- (a) to utilize the Cooperative Society's facilities in accordance with the regulations on use;
- (b) to participate in the General Assembly, its discussions, voting and elections, and to request information on matters concerning the Cooperative Society unless otherwise stipulated in § 34;
- (c) to submit motions for the agenda of the General Assembly according to § 28 Para. 4;
- (d) to participate in submitting requests to convene an extraordinary General Assembly according to § 28 Para. 2;
- (e) to 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 General Assembly, and to request the report of the Supervisory Board;
- (f) to inspect the transcripts of the General Assembly;
- (g) to inspect the list of members;
- (h) to inspect the summary of the result of the audit report.

## **§ 11a Members' extraordinary right of withdrawal**

- (1) Members' extraordinary right of withdrawal, as per § 67a of the Cooperative Societies Act in conjunction with § 16 of the Cooperative Societies Act owing to
  - (a) an increase in the shares or a substantial modification of the object of the undertaking,
  - (b) introduction or extension of compulsory purchase of more than one share,
  - (c) introduction or extension of the obligation of members to make additional contributions,

- (d) extension of the period of notice to a longer period than two years,
- (e) introduction or increase in the minimum capital,
- (f) limitation of a member's entitlement to pay the settlement credit (Auseinandersetzungsguthaben) in accordance with § 73 Para. 2, second sentence, and § 73 Para. 4 of the Cooperative Societies Act,
- (g) introduction of possibility to accept investing members in accordance with § 8 Para. 2, first and second sentence of the Cooperative Societies Act
- (h) duty of a member to use the facilities of the Cooperative Society or to pay current contributions

shall not be prejudiced by these by-laws.

- (2) A member shall also be entitled to exercise the extraordinary right of withdrawal under § 11 a Para. 1 letter d under the same preconditions stipulated in § 67a of the Cooperative Societies Act if a period of notice of longer than two years has been decided.
- (3) If a member exercises his/her extraordinary right of withdrawal the change in the by-laws shall neither be to the benefit nor the detriment of the member.

## **§ 12 Members' duties**

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

- (a) observe the provisions of the Cooperative Societies Act, the by-laws and resolutions of the General Assembly;
- (b) comply with the applicable general terms of business, delivery and payment;
- (c) keep secret from outsiders any bid documents, prices and conditions, memorandums and other information of the Cooperative Society marked as confidential;
- (d) pay an admission for membership fee allocated to the capital reserves (§ 39a) whose amount and methods of payment are determined by the General Assembly;
- (e) observe the rights and duties of the respective open-source license when software and specifications are developed in collaboration with the Cooperative Society;
- (f) meet his/her contractual obligations assumed upon joining;
- (g) notify the Cooperative Society without delay of any change in legal form and ownership of their company.

## **III. CONSTITUTIONAL BODIES OF THE COOPERATIVE SOCIETY**

### **§ 13 Constitutional bodies of the Cooperative Society**

The constitutional bodies of the Cooperative Society are:

- A. THE BOARD OF DIRECTORS**
- B. THE SUPERVISORY BOARD**
- C. THE GENERAL ASSEMBLY**

## **A. THE BOARD OF DIRECTORS**

### **§ 14 Management of the Cooperative Society**

- (1) The Board of Directors manages the Cooperative Society on its own responsibility.
- (2) The Board of Directors conducts the business of the Cooperative Society according to the provisions of the law, including but not limited to the Cooperative Societies Act, the by-laws and the standing rules of the Board of Directors.

### **§ 15 Representation**

- (1) The Cooperative Society is legally represented by one member of the Board of Directors.
- (2) Proxy powers, power of attorney and other powers of legal representation may be granted. This is regulated in greater detail by the standing rules of the Board of Directors.
- (3) The Board of Directors represents the Cooperative Society both in court and out of court.

### **§ 16 Tasks and duties of the Board of Directors**

- (1) In conducting their business, the members of the Board of Directors shall exercise the due diligence of a conscientious management of a cooperative society. They shall observe secrecy concerning confidential information and secrets, i.e., managerial or business secrets that they become aware of in their activities on the Board of Directors.
- (2) In particular, the responsibilities of the Board of Directors are as follows:
  - (a) to conduct business in line with the purpose and object of the Cooperative Society;
  - (b) to plan and implement personnel and technical measures in a timely manner that are necessary for the proper conduct of business;
  - (c) to ensure proper provision of goods and services and proper support for members;
  - (d) to prepare standing rules with the approval of the Supervisory Board that are unanimously approved by the Board of Directors and signed by all members of the Board of Directors;
  - (e) to ensure proper accounting and a productive accounting system;
  - (f) to take proper inventories, prepare an inventory record at the end of the financial year, and immediately present it to the Supervisory Board;
  - (g) to prepare the financial statements and a management report as required by law within five months of the end of financial year at the latest, immediately present it to the Supervisory Board, and then present it with the comments of the Supervisory Board to the General Assembly for the adoption of the financial statements;
  - (h) to decide on admission for membership and acquisition of additional shares up to a maximum of 10 shares, maintain the list of members according to the Cooperative Societies Act, and to be responsible for the announcements and publications stipulated by the Cooperative Societies Act;
  - (i) to notify the statutory auditing federation in good time of the convening, date, agenda and motions for the General Assembly;



- (j) to rectify insufficiencies found in the audit report and to notify the statutory auditing federation of the changes;
- (k) to notify the statutory auditing federation of intended changes to the by-laws in a timely manner.

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

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

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

- (1) The Board of Directors comprises two to five members who are appointed and dismissed by the Supervisory Board. The Supervisory Board may also appoint persons to the Board of Directors who are stipulated in § 9 Para. 2 sentence 2 Cooperative Society Act.
- (2) The Board of Directors is hired if the board membership is not an honorary position. The chairperson of the Supervisory Board shall sign a written service agreement with each full-time member of the Board of Directors. Oral agreements are not permissible.
- (3) The appointment of honorary members to the Board of Directors is limited to three years. These members may be reappointed. After the expiry of his/her term of office, an honorary member stays in office until his/her dismissal or until the appointment of his/her successor.
- (4) The function of a member of the Board of Directors appointed by the Supervisory Board according to § 9 Para. 2 sentence 2 Cooperative Societies Act ends immediately if it is based on the fact that the member of the Board of Directors is member of a Cooperative Society and this membership has been terminated. Accordingly this also applies for persons who have been authorized to represent other legal persons or entities in case their power of representation has been terminated. If the effectiveness of such termination of membership of an other cooperative society or the power of representation are disputed, then a written declaration of the other cooperative society or other legal person or entity decides that the membership or power of representation has been terminated.
- (5) The employment status of a member of the Board of Directors may be terminated after observing the contractual or legal period of notification by the Supervisory Board represented by its chairperson. The General Assembly is responsible for the extraordinary termination of employment for cause (termination without notice). The Supervisory Board represented by the chairperson shall be 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 Supervisory Board is responsible for the conclusion, amendment and termination of service contracts with members of the Board of Directors. The statements of the Supervisory Board are made by its Chairman or, if s/he is unavailable, by her/his deputy. The termination of the employment relationship shall result in the termination of the position on the Board at the time of resignation.

## **§ 19 Decision-making**

- (1) A quorum shall be constituted if more than one half of the members of the Board of Directors are present. Resolutions are adopted by a majority of votes cast. In the case of § 16 Para. 2 letter d, unanimous consent is necessary. Motions are rejected in case of a tie.
- (2) A resolution may be adopted without convening a meeting by means of a written vote or by other means of remote communication technologies, provided that no member of the Board of Directors objects to this procedure.
- (3) 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 Directors participating in the resolution.
- (4) If the Board of Directors discusses business matters pertaining to the Cooperative Society that affect the interests of a member of the Board of Directors, his/her spouse, parents, children and siblings or a person that s/he represents as stipulated by law or power of attorney, the affected member of the Board of Directors will refrain from discussing and voting on the matter. However, the opinion of the member of the Board of Directors must be considered before adopting a resolution.

## **§ 20 Participation in Supervisory Board meetings**

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

## **§ 21 Credit granted to members of the Board of Directors**

The Cooperative Society may not grant members of the Board of Directors 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 Directors and, for this purpose, for informing itself about matters concerning the Cooperative Society. The Supervisory Board may request a report from the Board of Directors at any time and review and inspect the books and documents of the Cooperative Society itself or through individual members appointed by it as well as the cash assets and portfolio of securities and goods. A single member of the Supervisory Board may also request information, however, only from the Supervisory Board itself.

- (2) The Supervisory Board is responsible for reviewing the financial statements and management report as required by law, and the proposal of the Board of Directors for the appropriation 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 General Assembly before the financial statements are adopted. Each member of the Supervisory Board must take notice of the content of the audit report.
- (3) The Supervisory Board shall represent the Cooperative Society against members of the Board of Directors in court and out-of-court.
- (4) The Supervisory Board may form committees composed of its members to meet its legal responsibilities and those related to the by-laws, and may obtain the assistance of professionals for this purpose at the cost of the Cooperative. If the Supervisory Board forms committees, it shall determine whether such committees shall be consultative or entitled to make decisions. In addition, the Supervisory Board shall 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. The adoption of resolutions shall also be subject to § 25.
- (5) Details on the fulfillment of a Supervisory Board's responsibilities are governed by the standing rules prepared by the Supervisory Board. A copy of the standing rules shall be handed out to each member of the Supervisory Board against a confirmation of receipt.
- (6) In conducting their business, the members of the Supervisory Board shall exercise the due diligence of a conscientious supervisory board of a cooperative society. They shall observe secrecy concerning confidential information and secrets concerning the Cooperative Society, its members and customers of which they become aware in their activities on the Supervisory Board.
- (7) The members of the Supervisory Board shall not receive any remuneration based on the business results (for instance bonus). Instead, in addition to the reimbursement of expenses, compensation for the Supervisory Board may be granted which shall be determined by the General Assembly.
- (8) The resolutions of the Supervisory Board are executed by the Chairperson of the Supervisory Board, in his absence, by his deputy.

**§ 23 Joint meetings of the Board of Directors and Supervisory Board, Matters requiring approval**

- (1) The Board of Directors and the Supervisory Board shall decide on the principles 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 Society;
  - (d) the distribution of refunds (§ 43);
  - (e) the use of reserves according to §§ 39, 39a;

- (f) membership of and withdrawal from organizations and federations;
  - (g) specification of the location at which the General Assembly shall be held; the holding of the General Assembly without the physical presence of the members (§ 36a Para. 1), the possibility for members to attend the General Assembly by means of telecommunication technology (§ 36a Para. 5), the possibility of participation in the resolution at an in-person General Assembly (§ 36b) and broadcast of the General Assembly in video and audio (§ 36c);
  - (h) appointment of a manager;
  - (i) the acquisition of profit participation capital, the establishment of subordinate liabilities and silent partnerships;
  - (j) the drafting of a business plan that outlines required investment and capital in particular;
  - (k) the acquisition of more than 10 shares.
- (3) Joint meetings shall be convened by the chairperson of the Supervisory Board, or his/her representative if s/he is prevented from doing so. § 25 Para. 5 correspondingly applies to the convening of meetings.
  - (4) The chairperson of joint meetings shall be the chairperson of the Supervisory Board or his/her representative unless otherwise resolved.
  - (5) The Board of Directors and Supervisory Board shall form a quorum if more than one half of members of the Board of Directors and more than one half of the members of the Supervisory Board, including the chairperson or his/her representative, are present.
  - (6) A motion shall fail if it does not receive a majority of votes cast in the Board of Directors and Supervisory Board.
  - (7) Resolutions will be recorded in joint minutes for documentation purposes. The results of the separate vote shall be recorded in the minutes; § 19 Para. 2 and § 25 Para. 6 apply accordingly.

## **§ 24 Composition and election**

- (1) The Supervisory Board comprises at least three and at most seven members that are elected by the General Assembly. The persons stipulated in § 9 Para. 2 sentence 2 Cooperative Societies Act may also be elected to the Supervisory Board by the General Assembly.
- (2) § 33 applies to the election of members of the Supervisory Board.
- (3) The term of office is three years. The term of office shall start upon conclusion of the General Assembly that held the election, and ends after the conclusion of the General Assembly held in the third financial year after the election. This includes the financial year in which the Supervisory Board member was elected. The General Assembly may determine a shorter term of office for all or individual members of the Supervisory Board. Members may be re-elected.
- (4) The function of a member of the Supervisory Board elected by the General Assembly according to § 9 Para. 2 sentence 2 Cooperative Societies Act ends immediately if it is based on the fact that the member of the Supervisory Board is member of a Cooperative Society and this membership has been terminated. Accordingly this also applies for persons who have been authorized to represent other legal persons or entities in case their

power of representation has been terminated. If the effectiveness of such termination of membership of an other cooperative society or the power of representation are disputed, then a written declaration of the other cooperative society or other legal person or entity decides that the membership or power of representation has been terminated.

- (5) If members retire while they are in office, the Supervisory Board shall only be composed of the remaining members until the next ordinary General Assembly at which the replacement election will be held. An earlier replacement election at an extraordinary General Assembly is only necessary if the number of members of the Supervisory Board falls below the minimum of three required by law.
- (6) Members who have retired from the Board of Directors may only be elected to the Supervisory Board after they have been relieved of all of their duties associated with the Board of Directors.

## **§ 25 Constitution and resolutions**

- (1) Following an election, the Supervisory Board shall elect from its members a chairperson, a secretary, and representatives for both. The Supervisory Board shall be entitled to reassign its offices at any time.
- (2) The meetings of the Supervisory Board shall be convened by its chairperson, or his/her representative if s/he is prevented from doing so. As long as the chairperson and a representative are not elected, the meetings of the Supervisory Board shall be convened by the oldest member of the Supervisory Board.
- (3) The Supervisory Board shall form a quorum if more than one half of its members are present. Resolutions are adopted by majority of the valid votes that have been cast. Absentions and invalid votes are not counted. In case of a tie, motions shall be rejected. In elections, ties shall be decided by lot; § 33 applies accordingly.
- (4) A resolution may be passed without convening a meeting by a written vote or by other remote communication media if the chairperson of the Supervisory Board or his/her representative proposes such a resolution and no member of the Supervisory Board disagrees with this method.
- (5) Meetings of the Supervisory Board shall be held at least quarterly. The chairperson shall also convene a meeting and notify the members of the agenda as frequently as necessary to promote the interests of the Cooperative Society, or if the Board of Directors 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 may 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 chairperson of the Supervisory Board or his/her representative and the Secretary or his/her representative.
- (7) If business matters pertaining to the Cooperative Society are discussed which affect the interests of a member of the Supervisory Board, his/her spouse, parents, children and siblings or a person that s/he represents as stipulated by law or power of attorney, the affected member of the Supervisory Board shall 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 GENERAL ASSEMBLY**

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

- (1) The members shall exercise their rights in cooperative matters in the General Assembly. They shall personally exercise their rights.
- (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 may not be exercised for resolutions based on § 43 Para. 3 sentence 3 no. 1 Cooperative Societies Act. The member entitled to multiple votes shall only have one vote for such resolutions.
- (3) Members who are legally incapacitated, of restricted legal capacity, and legal persons and business partnerships shall exercise their voting right through their legal representative or a person empowered to represent them.
- (4) Members or their legal representatives or persons empowered to represent them may be represented by proxy (§ 43 Para. 5 Cooperative Societies Act). The several heirs of a deceased member (§ 7) may only vote through a joint proxy. A proxy cannot represent more than two members. Persons who are notified of their expulsion (§ 9 Para. 5) as well as persons offering to exercise the voting right commercially cannot be proxies.
- (5) Legal or duly authorized representatives or proxies entitled to vote must demonstrate their agency in writing upon request of the chairperson of the General Assembly. The provision in § 36a Para. 4 shall remain unaffected.
- (6) No person can exercise the right to vote for him/herself or another person when a decision is being made on whether s/he or the member s/he represents shall be granted discharge or be relieved from his/her liability, or on whether the Cooperative Society is to assert a claim against him/her or the member represented. However, the person's opinion must be considered before adopting the resolution.

### **§ 27 Deadline and location**

- (1) The ordinary General Assembly shall be held within the first six months of the end of the financial year.
- (2) Extraordinary General Assemblies shall be convened as needed.
- (3) Unless an alternative location or holding in writing and/or by means of telecommunication technology is specified by the Board of Directors and the Supervisory Board the General Assembly shall be held at the Cooperative Society's registered office.

### **§ 28 Convening the General Assembly and the agenda**

- (1) The General Assembly shall be convened by the Supervisory Board represented by its chairperson. The rights of the Board of Directors under § 44 Para. 1 of the Cooperative Societies Act shall remain unaffected.
- (2) An extraordinary General Assembly has to be convened if at least the tenth part of the members requests this in a motion which indicates in text form the purpose and the reasons why such meeting should be convened.

- (3) The General Assembly shall be convened by directly informing all members in text form, observing a two weeks period of notification between the date of receipt (Para. 7) or the publication of the convocation and the date of the General Assembly. The agenda must be announced when the General Assembly is being called for. The provisions in §§ 36a to 36c shall remain unaffected.
- (4) The agenda shall be set by the constitutional body which has convened the General Assembly. Matters be proposed for a resolution if at least the tenth part of the members requests this in a motion which indicates the purpose and the reasons in text form.
- (5) No resolutions may be proposed concerning matters that are not announced in a timely manner, i.e., at least one week should pass between the receipt of the announcement (Para. 7) and the date of the General Assembly. This provision shall not apply to resolutions concerning the procedure of the General Assembly and to motions to convene an extraordinary General Assembly.
- (6) Motions and negotiations not subject to resolutions do not need to be announced.
- (7) In the cases addressed in paragraphs 3 and 5, the corresponding announcements shall be held to be received if they are sent two days before the start of the notification period.

## **§ 29 Chairperson of the General Assembly**

The chairperson of the General Assembly shall be the chairperson of the Supervisory Board or his/her representative. A member of the Board of Directors shall chair the General Assembly if the General Assembly has been convened by the Board of Directors. The chair may be transferred by a resolution to another member of the Cooperative Society or to an agent of the statutory auditing federation. The chairperson of the General Assembly shall appoint a secretary and the required vote counters.

## **§ 30 Issues on which the General Assembly can make decisions**

In addition to the others matters addressed in these by-laws, the following matters are also subject to resolutions reached by the General Assembly:

- (a) Amendments to the by-laws;
- (b) Dissolution of the Cooperative Society;
- (c) Continuation of the Cooperative after a resolution to dissolve it;
- (d) Merger and division of the Cooperative Society according to the regulations of the German Transformation Act (UmwG);
- (e) Change in legal form (Formwechsel) according to the regulations of the German Transformation Act (UmwG);
- (f) Revocation of the appointment of members of the Supervisory Board;
- (g) Change in the amount of the earned surplus under §§ 38, 39;
- (h) Change in voting rights based on the number of acquired shares or contractual payment agreement;
- (i) Amendment to the object of the Cooperative Society cited in § 2;
- (j) Confirmation of suspension of members of the Board of Directors under § 40 Cooperative Societies Act; Genossenschaftsgesetz;

- (k) Approval of the Board of Directors and Supervisory Board;
- (l) Election of members of the Supervisory Board and rules on its remuneration;
- (m) Expulsion of members of the Board of Directors and Supervisory Board from the Cooperative Society;
- (n) Pursuit of recourse claims against current and former members of the Board of Directors and Supervisory Board;
- (o) Determination of credit restrictions under § 49 of the Cooperative Societies Act;
- (p) Determination of admission for membership fees;
- (q) Approval of the financial statements, utilization of the net income for the year or cover for the net loss for the year, and the extent to which the audit report is publicized.

### **§ 31 Majority requirements**

- (1) Resolutions passed by the General Assembly shall require a simple majority of votes unless a larger majority is otherwise stipulated by law or these by-laws.
- (2) A majority of three fourths of the votes cast is required for the instances cited in § 30 letters a - d, f - j and m. A three-fourths majority of the cast votes is also required to amend this paragraph.
- (3) A resolution to change the legal form (§ 30 letter e) requires a 9/10 majority of the votes cast. For a resolution to dissolve the Cooperative Society or change the legal form, two-thirds of all members must be present or represented at a General Assembly convened for this purpose. If this number of members is not present at the General Assembly to resolve to change the legal form of the Cooperative Society or dissolve it, any other General Assembly within the same financial year may resolve to change the legal form of the Cooperative Society or to dissolve it irrespective of the number of present members.
- (4) Before passing a resolution concerning a merger, dissolution or continuation of the dissolved Cooperative Society or change of its legal form, the auditing federation must first be heard. The Board of Directors must request a report from the auditing federation in a timely manner and read it to the General Assembly.
- (5) Paragraphs 3 and 5 can only be amended after observing the requirements cited in paragraph 3.

### **§ 32 Discharge**

The discharge of the Board of Directors and Supervisory Board is subject to separate vote in which neither the members of the Board of Directors nor the Supervisory Board are entitled to vote. If more than one half of the members of the Board of Directors or Supervisory Board are represented, each member can vote for the discharge of the constitutional body in which s/he is not represented.

### **§ 33 Voting and elections**

- (1) Votes and elections shall be held openly in the General Assembly. Votes and elections must be carried out by secret ballot if demanded by the Board of Directors, Supervisory Board or one fourth of the valid votes cast in a resolution.



- (2) In case of a tie, a motion shall be rejected. In elections, a tie shall be decided by lot.
- (3) In counting the votes, only votes cast shall be counted. Abstentions and invalid votes shall not be counted.
- (4) If an election is held openly, a special ballot is required for each mandate to be granted. Whoever receives the most votes shall be elected. In case there are no more candidates suggested than mandates are available the election of the candidates can be carried out en bloc provided this is not objected.
- (5) If an election is held by secret ballot, each person shall be entitled to as many votes as there are posts to be filled. The party entitled to vote shall identify the candidate for whom s/he wishes to vote on the ballot; giving a maximum of one vote for one candidate. The candidates who receive the most votes are elected.
- (6) The elected candidate shall immediately notify the Cooperative Society after the election at the latest whether s/he accepts her/his election.

### **§ 34 Right to information**

- (1) Upon the request of the General Assembly, each member must provide information on matters affecting the Cooperative Society if the information is necessary to properly evaluate the item on the agenda. The information shall be communicated by the Board of Directors or the Supervisory Board.
- (2) This information may be refused if:
  - (a) based on sound business judgment, communicating the information may cause the Cooperative Society substantial harm;
  - (b) the matter refers to purchasing conditions of the Cooperative Society 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 by-laws;
  - (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 Directors or Supervisory Board of the Cooperative Society.

### **§ 35 Minutes of the meeting**

- (1) Minutes must be kept of the resolutions of the General Assembly 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 after the General Assembly ended at the latest. The minutes must indicate the location and date or period of time of the Assembly, the name of the chairperson of the meeting, the type and results of the votes, and the declaration of the chairperson of the meeting concerning the resolutions. The minutes must be signed by the chairperson of the General Assembly, the Secretary and at least one member of the Board of Directors who participated at the General Assembly. The minutes shall be added to the documentation on the convening of the meeting as an appendix.

- (3) A list of the members or represented members and the members' representatives must be appended to the minutes in the cases stipulated in § 47 Para. 3 Cooperative Societies Act.
- (4) The minutes shall be archived with the associated appendices. Each member of the Cooperative Society shall be entitled to inspect the minutes.
- (5) A list of the members who contributed to the resolution must be appended in addition to the minutes in the cases stipulated in §§ 36a, 36b of the Cooperative Societies Act.

### **§ 36 Right of federations to participate**

Representatives of the auditing federation can play a consulting role in the General Assembly.

#### **§ 36a General Assembly held in writing or by means of telecommunication technology (virtual General Assembly), attendance in an in-person General Assembly via telecommunication technology**

- (1) The General Assembly may also be held without the physical presence of the members (virtual General Assembly). In this case, the members must be provided with all the information required for unrestricted participation in the General Assembly upon convocation. This particularly includes information on potential access data and in addition on how to exercise the right to speak, the right to submit applications, the right to access information and the right to vote, plus on how and by when the written or electronic vote must take place.
- (2) Participation in the virtual General Assembly can take place in such a manner that the technical design enables two-way communication between members and constitutional bodies and among each other in the General Assembly.
- (3) Participation in the virtual General Assembly can also take place in such a manner that the technical design enables two-way communication between members and constitutional bodies and among each other in a discussion phase preceding the voting process. In this case, the period between the start of the discussion phase and the conclusion of the voting phase shall constitute the General Assembly. If a time period is to be calculated, the beginning of the discussion phase with regard to the day of the General Assembly and the conclusion of the voting phase with regard to the end of the General Assembly shall be considered.
- (4) The exercise of proxies (§ 26 Para. 4) in a virtual General Assembly is permissible if the proxy is submitted in writing to the Board of Directors at least one week prior to the date of the General Assembly.
- (5) Members may also attend the General Assembly without being present at the in-person assembly and exercise their rights by means of telecommunication technology (attendance in an in-person General Assembly via telecommunication technology) if the Board of Directors determines so with the consent of the Supervisory Board. In addition, the provisions of the preceding paragraphs shall apply.

### **§ 36b Participation in the resolution of an in-person General Assembly in writing or via communication technology**

- (1) In cases where participation in the resolution of an in-person General Assembly in writing or via communication technology is permissible, information must be provided at the time of the convocation of the General Assembly on how and by when the vote is to be cast in writing or via communication technology.
- (2) § 36a Para. 4 applies accordingly.

### **§ 36c Broadcast of the General Assembly in video and audio**

The broadcast of the General Assembly in video and audio is permissible. The decision as to whether and how the General Assembly is to be broadcast in video and audio is to be made by the Board of Directors with the consent of the Supervisory Board. The manner of broadcasting is to be announced upon convocation.

## **IV. CAPITAL**

### **§ 37 Shares and credit balances**

- (1) A share is 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 Directors, a member can acquire up to 10 shares. With the approval of the Board of Directors and Supervisory Board, a member can purchase more than 10 shares.
- (3) A member's credit balance is the sum of the payment made for the share plus any credit memos minus amounts deducted for coverage of loss.
- (4) As long as the member has not left the Cooperative Society, the credit balance may not be used by the Cooperative Society for payment, may not be offset, or used as security in the business transactions of the Cooperative Society. A member may not be released from a payment that is due. The member cannot offset the due payment.
- (5) Credit balances may not be assigned or pledged to third parties, and the assignment or pledging will not be recognized by the Cooperative Society. A member may not use his/her credit balance to offset liabilities to the Cooperative Society. § 10 shall apply to credit balances in case of departure.

### **§ 38 Statutory reserves**

- (1) Statutory reserves are only intended to cover 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 Other earned surplus reserve**

In addition to statutory reserves, an earned surplus reserve 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 Directors and Supervisory Board shall decide how to use the earned surplus in a joint meeting (§ 23). The General Assembly retains the right to use the earned surplus to cover accumulated losses (§ 45)

### **§ 39a Capital reserves**

Collected admission for membership fees shall be allocated to a capital reserve. The Board of Directors and Supervisory Board shall decide how to use the capital reserve in a joint meeting (§ 23 Para. 2 letter e). The General Assembly retains the right to use the earned surplus to cover accumulated losses (§ 45).

### **§ 40 Obligation to make additional contributions**

Obligation of members to make additional contributions does not exist. The liability of the Cooperative Society with regard to its creditors is limited to the assets of the Cooperative Society.

## **V. ACCOUNTING SYSTEM**

### **§ 41 Financial year**

The financial year shall be the calendar year.

### **§ 42 Financial statements and management report**

- (1) The Board of Directors shall prepare the financial statements and management report for the prior financial year as required by law within five months after the end of the financial year.
- (2) In accordance with § 16 Para. 2 letter g, the Board of Directors 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 General Assembly for the adoption of the financial statements.
- (3) 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 date of the General Assembly in the facilities of the Cooperative Society, in the non-public member's area on the Internet site of the Cooperative Society or at another location to be announced, or the documents should be otherwise disclosed to the members.
- (4) The report of the Supervisory Board on its review of the financial statements and management report shall be presented to the ordinary General Assembly as required by law (§ 22 Para.2).

### **§ 43 Reimbursement**

There will be no reimbursement.

### **§ 44 Appropriation of net income for the year**

The General Assembly shall determine the appropriation of the net income for the year taking into account legal regulations and these by-laws. The net income for the year due to the members shall be assigned to the credit balance until the share is reached, or a net loss for the year reduced by the credit balance is compensated.

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

- (1) The General Assembly shall 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 shall be covered by legal reserves or capital reserves, or by depreciating the credit balance of members, or by all of these measures together.
- (3) If the credit balances are used to cover a net loss for the year, the percentage of the net loss for the year accruing to the individual members shall be calculated in relation to the accepted shares of all members, or shares to be accepted according to the by-laws at the beginning of the financial year in which the net loss for the year occurred.

## **VI. LIQUIDATION**

### **§ 46 Liquidation**

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

## **VII. ANNOUNCEMENTS**

### **§ 47 Announcements**

The Cooperative Society's public announcements shall be published on the Cooperative Society's publicly accessible Internet site unless otherwise stipulated by law or in the by-laws. The financial statements and other documents that are to be disclosed in this relation must be announced under the company's name in the Federal Gazette ("Bundesanzeiger") as far as required by law.

## VIII. LEGAL VENUE

### § 48 Legal venue

The legal venue for all disputes over membership between members and the Cooperative Society shall be the local court or regional court with jurisdiction for the registered office of the Cooperative Society.