



Articles of Association Landgard eG

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Articles of Association for Landgard eG

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Articles of Association

for
Landgard eG

I.

Name, registered office, purpose and object of the cooperative

§ 1 Name, registered office, purpose and object of the cooperative

(1)

The cooperative's full name is:

Landgard eG

(2)

Its registered office is located at

47638 Straelen

(3)

The purpose of the cooperative is to promote and support the commercial interests of the members by means of collaborative business operations. This purpose may also be fulfilled through the acquisition and holding of interests in other companies.

(4)

The object of the company is the acquisition and holding of interests in marketing companies according to the provisions of § 1 (2) of the German Cooperatives Act (GenG) as well upholding cooperative ideals. To this end, the cooperative may run information sessions and provide members with information in writing. The cooperative shall advise its members on gardening, agricultural and floristic matters as well as with respect to flowers, plants and fruit and vegetables.

(5)

The cooperative is authorised to build all required facilities and take all measures which are necessary for achieving their economic aims.

(6)

Business operations with non-members through the cooperative or its holding companies is permitted. Holding companies within the meaning of these Articles of Association are legal entities and partnerships in which the cooperation has a direct or indirect interest and which

the cooperative uses to fulfil its mandate.

II.

Acquisition and termination of membership

§ 2 Conditions for acquiring membership

(1)

Membership may be acquired by

- a) natural persons
- b) partnerships
- c) legal entities under private or public law and their legal representatives,

who actively work in a commercial capacity as

- Growers
- Wholesales/retailers
- Service providers

in the field of gardening, agricultural and floristic products.

(2)

The Management Board may permit persons who do not fulfil these conditions as members in exceptional cases.

(3)

The conditions of (1) shall not apply for members of the Management Board of the cooperative and legal representatives of members, as well as for the Kreisvereinigung der Gemüse-, Obst- und Gartenbauer e.V. Straelen.

§ 3 Acquiring membership

(1)

Membership shall be acquired by

- a) a declaration of membership to be signed by the joining party, which must satisfy the requirements of the Cooperatives Act, and
- b) approval from the cooperative.

(2)

The applicant must be immediately informed if the cooperative refuses the membership,

without giving the reasons for this, and his membership declaration must be returned.

§ 4 Leaving the cooperative

A member may leave by

- Termination (§ 5)
- Death (§ 6 (1))
- Dissolution or forfeiture of a partnership or legal entity (§ 6 (2))
- Exclusion (§§ 7-9)
- Transfer of the credit balance (§ 11).

§ 5 Ordinary termination of membership

(1)

Each member shall have the right to terminate his membership at the close of a financial year.

(2)

Termination must be given in writing and must have reached the cooperative at least 12 months before the close of the financial year.

(3)

If a member has a holding composed of several company shares, without being obligated to do so by the Articles of Association or an agreement with the cooperative, he may terminate an additional holding of one or several further company shares. Clauses (1) and (2) shall apply accordingly.

§ 6 Death of a member, dissolution or forfeiture of a partnership or legal entity as a member

(1)

The membership shall end upon death. The membership shall transfer to an heir.

(2)

If a partnership or a legal entity is dissolved or forfeits, the membership shall end with the conclusion of the financial year in which the dissolution or forfeiture becomes effective. In the event of universal succession, the membership shall be continued by the universal successor at the close of the financial year.

§ 7 Grounds for excluding a member

A member may be excluded if one of the following exclusion grounds is present:

1. in the event of a loss of civil rights;
2. if payments are stopped or in the event of supervision or the opening of insolvency proceedings;
3. if the cooperative takes legal action against the member due to an uncontested claim;
4. if the member does not sufficiently fulfil the obligations in these Articles of Association or the supply contract and the terms and conditions of payment and delivery contained therein from the operating company of the cooperative which is responsible for him, despite a written request under threat of exclusion;
5. if the conditions for accession to the cooperative (§ 2) were not present or cease to apply;
6. if the member moves his business operation to a location which is outside of the market of the operating company of the cooperative which is responsible for him;
7. if the turnover for the calendar year, which the member has generated as a supplier himself and through spouses, parents, children or siblings with the operating company of the cooperative which is responsible for him, falls below €5,000 (excluding VAT); the above regulation shall not apply for a member who was already a member at the time of these Articles of Association becoming effective or who becomes a member through a merger with his existing cooperative;
8. if the member acts contrary to the interests of the cooperative to a significant extent.

§ 8 Declaration of the exclusion, consequences

(1)

The exclusion shall be implemented by the Management Board at the close of the financial year. Prior to this, the member must be given the opportunity to comment on the intended exclusion.

The exclusion must be reported to the member immediately by way of a registered letter, giving the circumstances under which the exclusion is taking place as well as the statutory basis for the decision or the basis according to these Articles of Association.

Members of the Management Board and the Supervisory Board may only be excluded by way of a resolution from the Representatives' Meeting.

(2)

From the time at which the letter is sent (§ 8 (1) (3)) the excluded party may no longer serve as a member of the Management Board, the Supervisory Board or the Election Committee, or as a representative or a replacement representative. He is also no longer able to participate in the Representatives' Meetings, members' meetings or elections to Representatives' Meeting

and he is no longer permitted to use the cooperative's facilities. The acceptance of products from the member and deliveries to the member, whether directly through the operating company of the cooperative which is responsible for him or through another supplier for the account of him, shall be stopped at the same time. However, products/goods which had already been received, purchased or ordered by the member before his exclusion must be delivered to and accepted by the operating company of the cooperative which is responsible for him on request.

(3)

From the date of the exclusion, the excluded member shall lose his authorisation to use the logo of the operating company of the cooperative which is responsible for him and to affix a label with such a logo. He must see to the removal of the logos and labels and must release both the advertising and labelling materials in his possession as well as the technical manufacturing equipment impressed with such logos.

§ 9 Appeals against the exclusion

(1)

Appeals against the exclusion decided by the Management Board are permitted. The Supervisory Board shall decide on this.

(2)

The appeal must be submitted to the Management Board by way of a registered letter within a month of the exclusion notification being sent.

(3)

The appeal decision of the Supervisory Board is final. The excluded party is free to take recourse to legal action against the exclusion. The recourse to legal action is excluded, however, if the member has not used the appeal possibility.

(4)

If the Representatives' Meeting has decided on the exclusion, the possibility of appeal shall not exist.

§ 10 Settlement with the departing member

(1)

The departing member's settlement with the cooperative shall take place on the basis of the latter's balance sheet. Any accumulated losses/losses carried forward must be considered in proportion to the obligatory shares (§§ 16 (1) and (2), 61 (2) and (3)). The departing member's

credit balance must be paid out within 6 months of his departure unless the minimum capital of the cooperative (§ 15 (5)) is not sufficient for this. The departing member shall have no claim to the reserves and other assets of the cooperative. The cooperative is authorised to offset against any settlement credit when settling the outstanding claims against the departing member to which it is entitled. The member's settlement credit shall be guaranteed to the cooperative as a deposit for any loss, in particular in the event of insolvency proceedings on the member's assets.

(2)

If the cooperative's assets, including the reserves and all credit balances, are not sufficient for covering the debts, the departing member shall be obligated to pay a portion of the deficit to the cooperative to be calculated according to the proportion of the company shares; this shall not be higher than the liability amount.

(3)

Clauses (1) to (2) shall apply accordingly to the settlement in the event of the termination of individual company shares.

§ 11 Transfer of the credit balance

(1)

A member may transfer his credit balance to another person and thereby exit the cooperative without a settlement at any time - even during the course of the financial year - by way of a written agreement, if the purchaser becomes a member in his place. If the purchaser is already a member, the transfer of the credit balance is only permitted if his existing credit balance does not exceed the total sum of the company shares with which the purchaser has or is acquiring a holding following the allocation of the seller's credit balance.

(2)

The transfer of the credit balance requires the approval of the cooperative.

III.

Rights and obligations of members

§ 12 Rights of members

(1)

The legal relationship of the cooperative and the member is based on the provisions of these Articles of Association and the regulations in the Cooperatives Act.

(2)

The members of the cooperative shall have the right:

- a) to participate in the Representatives' Meeting and apply for representative office as part of the provisions of these Articles of Association;
- b) to request information on the affairs of the cooperative as a representative in the Representatives' Meeting;
- c) to request in writing, giving the purpose and grounds, that proposed resolutions to be undertaken at a Representatives' Meeting are announced; this requires a motion from at least a tenth of the representatives or the cooperative members; members who are able to request the announcement of the proposed resolutions shall have the right to participate in this Representatives' Meeting in this respect; the right to speak and submit motions with respect to these items shall be exercised by a member to be determined by the participating members;
- d) to request in writing, giving the purpose and grounds, that an extraordinary Representatives' Meeting be convened; this requires a motion from at least a tenth of the representatives or the cooperative members; members who are able to request that a Representatives' Meeting be convened shall have the right to participate in this Representatives' Meeting; the right to speak and submit motions shall be exercised by a member to be determined by the participating members;
- e) to participate in the annual profit according the applicable provisions and resolutions;
- f) to promptly request a copy of the annual financial statement, the statutory management report and the report of the Supervisory Board at their own cost before the approval of the annual financial statement by the Representatives' Meeting;
- g) to request a copy of the minutes of the Representatives' Meeting;
- h) to view the list of members;
- i) to view at any time a list of the names and addresses of the elected representatives and replacement representatives and/or have a copy of the list made.

§ 13 Obligations of members

The members are obligated to:

- a) comply with the provisions of these Articles of Association and the resolutions of the Representatives' Meeting adopted according to the law and these Articles of Association;
- b) to pay contributions on the company share(s) according to the provisions of § 16 (4) and (5) of the Articles of Association or an agreement made with the cooperative;

- c)
to assume the number of obligatory shares specified in the Articles of Association (§ 16 (1) and (2));
- d)
to immediately disclose any change in address, legal form or the ownership structure;
- e)
to contribute to the efficient running of operations in the operating company of the cooperative responsible for him, in particular complying with the applicable terms and conditions of delivery and payment;
- f)
to pay an admission fee upon entry if such a fee is set by the Representatives' Meeting.

§ 14 Place of performance, jurisdiction

- (1)
The place of fulfilment for the members' obligations is the registered office of the cooperative.
- (2)
The courts which are authoritative for the registered office of the cooperative shall be competent for the disputes between the member and the cooperative.

IV.

Equity and liability amount

§ 15 Amount of the company share, inadmissibility of assignment or pledging the credit balance to third parties, minimum capital

- (1)
The company share amounts to €2,000 (in words: two thousand euros).
- (2)
The contributions on the company shares plus any other credit, and less the sums written off for loss cover, shall form the credit balance of a member.
- (3)
The credit balance must not be paid out by the cooperative or pledged as part of business operations until the member has departed; any contributions owing must not be waived. The member may not offset against any owed contribution.

(4)

The assignment or pledging of the credit balance to third parties is not permitted and is not effective for the cooperative. § 10 shall apply for the settlement credit.

(5)

The minimum credit of the cooperative shall amount to 70% of the total credit at the end of the previous financial year. This must not be undercut by the payment of settlement credit to members who have left or who have terminated individual company shares. The payment of the settlement credit shall be partially or wholly suspended with regard to all settlement claims for as long as the minimum capital is undercut by this payment; claims from previous years affected by a suspension shall also be dealt with in order of priority.

§ 16 Obligatory shareholding by members, voluntary company shares, contributions

(1)

Each member shall have a holding of one company share.

(2)

Members are obligated to expand their holding with an additional company share for each €25,000 (in words: twenty-five thousand euros) of supply turnover - excluding VAT - but at the most with 75 company shares (obligatory shares). The member's supply turnover with the cooperative or a company associated with the cooperative in the most recent financial year preceding the request to acquire additional company shares shall be decisive. The same shall apply for new members. If a member has not generated any supply turnover in the previous financial year, the planned supply turnover for the current financial year which the member plans to generate with the cooperative or a company associated with the cooperative according to a written notification to be provided to the cooperative by the member, shall be decisive. Any voluntarily assumed shares shall be offset from the obligatory shares which must be assumed.

(3)

A member may have a holding of additional company shares going beyond the obligatory shares in (2) (voluntary shares). The holding of voluntary company shares must not be permitted until all company shares of the member - up to the most recently acquired shares - have been fully paid up. A member cannot have a holding in the cooperative of more than 150 shares.

(4)

An obligatory share must be paid up in full, namely with €200 (in words: two hundred euros) immediately following the registration in the list of members; the Representatives' Meeting shall determine the amount and time period of additional contributions to be paid on the obligatory share (§ 50 GenG). Voluntary shares must be paid up with €200 (in words: two hundred euros)

immediately following registration in the list of members. Until full payment of the company share, the remunerations and dividends awarded to the member by the cooperative shall be credited to the credit balance account. The premature payment of shares in full is permitted.

(5)

Instead of cash, owed contributions on the company share may also be fulfilled in full through an assignment of the member's claims from deliveries or loans against associated companies of the cooperative.

(6)

If the credit balances are decreased by loss write-offs (§ 61 (2) and (3)), they shall be re-supplemented with the allocation of later profits and interest until the full payment of the shares.

(7)

The credit balances on voluntary shares be subject to interest with an interest rate of at least 2 percent p.a. Following a mutual proposal from the Management Board and the Supervisory Board, the Representatives' Meeting may decide on a higher interest rate. The interest shall be calculated according to the status of the credit balances for voluntary company shares on 31/12 of the preceding financial year. The interest must be paid at the latest six months following the close of the financial year, but not before the approval of the annual financial statement. The interest shall be credited to the credit balance for obligatory shares and voluntary company shares until the full payment of the company shares. If in the annual financial statement of the cooperative for a financial year there is an annual net loss or a loss carried forward which is not wholly or partially covered by the revenue reserves, an annual net profit or a profit carried forward, the interest in the amount of the sums which are not covered must not be paid.

§ 17 Limited reserve liability

The reserve liability of the members is limited to the liability amount. For the first company share, there is a liability amount of €2,000 (in words: two thousand euros). No liability amount is attached to the additional company shares.

§ 18 Statutory reserve

(1)

The statutory reserve serves to cover accumulated losses.

(2)

It is formed through an annual allocation of at least 10% of the annual net profit plus a possible

profit carried forward and/or less a possible loss carried forward, if a reserve fails to reach 20% of the balance sheet total.

(3)

The Representatives' Meeting shall decide on the use of the statutory reserve.

(4)

Members departing before the dissolution of the cooperative shall have no claim to the statutory reserve.

§ 19 Other revenue reserves, capital reserve

(1)

In addition to the statutory reserve, other revenue reserves have been formed to which each year at least 10% of the annual net profit is allocated, plus a possible profit carried forward and less a possible loss carried forward. Additional revenue reserves may be formed. The Management Board shall decide on their use.

(2)

If admission fees, penalties or comparable sums are charged, they must be assigned to a capital reserve to be formed. The Management Board shall decide on their use.

(3)

Members departing before the dissolution of the cooperative shall have no claim to the other revenue reserves and the capital reserve.

V.

Internal bodies of the cooperative

§ 20 Internal bodies of the cooperative

The internal bodies of the cooperative are:

1. the Management Board
2. the Supervisory Board
3. the Representatives' Meeting

1. The Management Board

§ 21 Composition, appointment, dismissal, service

(1)

The Management Board consists of two full-time board members - hereinafter referred to as the Management Board Members. The Management Board Members must be members of the cooperative.

(2)

The Management Board Members shall be appointed and dismissed by the Supervisory Board; it can also appoint a chairperson or speaker of the Management Board.

(3)

The Supervisory Board shall also be responsible for negotiating, amending and terminating contracts of service with Management Board Members and for concluding termination agreements. The declarations of the Supervisory Board shall be issued by its chairperson, or his deputy if this is not possible.

(4)

The termination of the service contract of a Management Board Member shall result in the revocation of his position on the body.

(5)

The members of the Management Board shall leave the Management Board at the latest at the end of the calendar year in which they have reached the age of 67.

(6)

If Management Board Members leave, they must not be elected to the Supervisory Board before a discharge resolution has been issued.

§ 22 Management of the cooperative

(1)

The Management Board shall be responsible for independently managing the cooperative. The Management Board shall manage the business activities of the cooperative in line with the provisions of the law, in particular the Cooperatives Act, the Articles of Association and the Rules of Procedure for the Management Board.

(2)

The members of the Management Board are appointed to collectively manage the cooperative.

§ 23 Decision-making

(1)

Decisions of the Management Board require the adoption of a resolution. The details of this shall be regulated by the Rules of Procedure of the Management Board.

(2)

The Management Board constitutes a quorum if more than half of its members take part in the resolution adoption, unless mandatory statutory provisions state anything to the contrary. The Rules of Procedure for the Management Board may also prescribe that the resolution adoption require the participation of certain Management Board Members or a unanimous vote.

Resolutions of the Management Board shall be adopted by a simple majority; in the event of an equal division of votes, the motion shall be refused. Management Board Members who abstain from voting or who may not participate in the vote according to (4) shall be considered as absent when calculating the majority; the quorum shall not be affected by this provision, however.

(3)

Resolutions of the Management Board on matters going beyond the regular course of business must be recorded for evidentiary purposes and the record must be signed by the Management Board Members taking part in the resolution adoption. Board resolutions adopted by means of a circular in urgent cases shall only be binding if no Board Member requests discussing the matter in a Board meeting. A record of these must be made at the latest in the next Board meeting.

(4)

If advice is given on the business affairs of the cooperative, a Board Member shall neither participate in the advice nor in the resolution adoption if these affairs concern either the interests of the Board Member or a person or company closely associated with him or a person or company represented by a Board Member on the basis of the law or a power of attorney. The Board Member must be allowed to speak before the resolution adoption, however.

(5)

Each Board Member shall have the right to request the organisation of a meeting.

§ 24 Representation of the cooperative

(1)

The Management Board shall represent the cooperative in both judicial and extra-judicial

proceedings. Two Management Board Members shall be authorised to sign on behalf of the cooperative and issue declarations. The cooperative shall also be legally represented by one Management Board Member together with one authorised signatory. The Management Board Members are authorised to simultaneously represent the cooperative and third parties in legal transactions between each other (partial release from § 181 of the German Civil Code (BGB)).

(2)

The provisions on granting the power of attorney shall not be affected. The details on legal representation shall be governed by the Rules of Procedure for the Management Board to be issued according to these Articles of Association.

§ 25 Duties and obligations of the Management Board

The Management Board is obligated:

1. to properly conduct the affairs of the cooperative according to the cooperative aims;
2. to draw up Rules of Procedure in conjunction with the Supervisory Board, which require a unanimous resolution from the Management Board and which must be signed by all Management Board Members;
3. to promptly plan and implement the personnel, organisational and procedural measures which are necessary for the proper management of the business affairs;
4. to ensure that proper bookkeeping and appropriate accounting takes place;
5. to decide on the approval of membership applications and holdings of additional company shares, to manage the list of members according to the Cooperatives Act and to take care of the registrations and notifications which are its responsibility according to the Cooperatives Act;
6. to draft the annual financial statement and the management report at the latest within five months of the end of the financial year - if this is legally required - and to immediately submit these to the Supervisory Board. These documents along with the report from the Supervisory Board must then be submitted to the Representatives' Meeting for the approval of the annual financial statement;
7. to promptly notify the statutory auditing association of the convening, date, agenda and motions to be discussed by the Representatives' Meeting;
8. to correct any errors discovered in the audit report and immediately inform the statutory auditing association of this;
9. to inform the Supervisory Board each quarter, on request or immediately where there is good cause, of the business developments and planning of the cooperative and its holding companies, in particular with respect to any risks;

§ 26 Duty of care and responsibility

(1)

The Management Board Members must apply the due care of a prudent and conscientious cooperative manager when conducting their management duties. They must maintain confidentiality regarding confidential operational and business secrets of which they become aware through their activities for the Management Board.

(2)

Management Board Members who breach their duties shall be jointly and severally liable to pay compensation to the cooperative for the resulting damages.

§ 27 Participation in meetings of the Supervisory Board

(1)

The members of the Management Board shall be authorised to take part in meetings of the Supervisory Board unless the chairperson of the Supervisory Board determines otherwise. The Management Board must provide the necessary information on business affairs in the meetings of the Supervisory Board.

(2)

The members of the Management Board shall have no voting rights in the resolution adoption proceedings of the Supervisory Board.

§ 28 Resignation from office

The Management Board Members may only resign from office within the appointment period for good cause. Sufficient notice must be given so that the cooperative can make other arrangements to suit their operational needs. A Management Board Member breaching this provision shall be liable to the cooperative for the resulting damages.

§ 29 Deputy members of the Management Board

(1)

In the event of a departure or the long-term incapacity of a Management Board Member, or an incapacity which due to its nature is not temporary, the Supervisory Board shall immediately elect a deputy Management Board Member from its ranks for a period of time to be specified if the departure or incapacitation means that the minimum number of two Management Board Members is no longer achieved. The deputy Management Board Member shall enter into the rights and obligations of a Management Board Member until the Supervisory Board appoints a new Management Board Member; this should take place immediately.

(2)

The registration of the deputy Management Board Member must take place immediately with the registration court which is competent for the cooperative.

§ 30 Approval of loans

Loans to members of the Management Board or persons or companies within the meaning of § 23 (4) require the approval of the Supervisory Board.

2. The Supervisory Board

§ 31 Composition and election of the Supervisory Board

(1)

The Supervisory Board shall consist of 12 members, namely six members who are elected by the Representatives' Meeting and six members who are elected in accordance with the Co-Determination Act. The Supervisory Board members elected by the Representatives' Meeting must not include more than a third of members who do not fulfil the conditions of admission into the cooperative according to § 2 (1).

(2)

Persons belonging to the Management Board or who are close to a Management Board member either personally or commercially, in particular spouses, parents, children or siblings of Management Board Members cannot be elected to the Supervisory Board. Persons having reached the age of 65 are also unelectable.

(3)

When appointing a member of the Supervisory Board, at least one replacement member, but at the most six, may also be appointed at the same time for promotion to the Supervisory Board if a member of the Supervisory Board resigns before the end of his term of office. The shareholders should elect the replacement members in such a way that replacement members are elected in the same Representatives' Meeting to replace a departing member for his remaining term of office according to the number of achieved votes, in ranking order.

§ 32 Term of office

(1)

The election of the Supervisory Board members shall take place for 3 years. The term of office shall begin at the end of the Representatives' Meeting which implemented the election and shall end with the conclusion of the Representatives' Meeting taking place for the 3rd financial year following the election. The financial year in which the Supervisory Board member is

elected is included in this. Each year, one third of the Supervisory Board members elected by the Representatives' Meeting shall leave; for a number which is not divisible by three, this shall be the smaller proportion. This shall take place via a draw in the first two years, and then according to the term of office. In the event of an enlargement of the Supervisory Board, the third of existing Supervisory Board members having served the longest terms in office shall leave; a third of the new members shall be chosen by a draw to leave until a regular cycle arises; then the term of office shall also apply for these members.

(2)

These terms of office shall be renewable. Attention must be paid to § 31.

(3)

Supervisory Board members for whom the conditions of § 31 (2) (1) apply following their successful election are obligated to immediately resign.

§ 33 Election of replacements

(1) (deleted)

(2) (deleted)

(3)

Supervisory Board members may only resign from office within the term for good cause. Sufficient notice must be given so that the cooperative can make other arrangements to suit their operational needs. A Supervisory Board member breaching this provision shall be liable to the cooperative for the resulting damages.

§ 34 Honorary positions, reimbursement of expenses

(1)

The Supervisory Board members shall perform their duties on an honorary basis. They must not receive any remuneration calculated according to the operating result (variable bonus).

(2)

Expenses (e.g. attendance fees, travel costs and other expenses) of the Supervisory Board members may be reimbursed. The Representatives' Meeting shall decide on a lump-sum reimbursement of these expenses. Any additional remunerations require a resolution from the Representatives' Meeting.

§ 35 Election of the chairperson and deputy

(1)

The Supervisory Board shall elect a chairperson, a deputy and an additional deputy from its ranks according to the provisions of § 27 of the Co-Determination Act. The election shall be held immediately following the Representatives' Meeting at which the members of the Supervisory Board have been elected; this meeting does not need to be specially convened. The term of office of the chairperson and his deputies shall last until the next Representatives' Meeting in which the Supervisory Board members are elected by the shareholders unless the Supervisory Board decides anything to the contrary according to (3) below.

(2)

A deputy of the chairperson shall have the same rights as the chairperson in all cases in which he acts as deputy in the chairperson's absence, with the exception of the second vote allocated to the chairperson according to the Co-Determination Act.

(3)

A removal of the chairperson or his deputies is only permitted for good cause. Good cause shall apply if the chairperson or a deputy is permanently prevented from performing his duties. The conditions of the specific election shall apply accordingly for the removal of the chairperson and the deputy appointed according to the Co-Determination Act. If the chairperson or a deputy leaves office before the end of his term in office, the Supervisory Board shall conduct a new election without delay for the remaining term in office.

§ 36 Convening meetings

(1)

The chairperson of the Supervisory Board, or his deputy in his absence, may convene meetings and should provide information on the topics of discussion. If a chairperson and a deputy have not been elected, the Supervisory Board meetings shall be convened by the Supervisory Board member who has been in office the longest. In the event of a re-election of the whole Supervisory Board, the convening of the first meeting of the Supervisory Board shall be undertaken by the Management Board.

(2)

The meetings of the Supervisory Board should take place at least quarterly. Furthermore, meetings may be called - providing information on the topics of discussion - as often as this appears necessary in the interests of the cooperative, or if the Management Board or half of the Supervisory Board members request this in writing, giving the purpose and grounds for this. If this request is not complied with, the applicants may convene a meeting of the Supervisory Board themselves, upon providing notification of the facts.

§ 37 Adopting resolutions

(1)

The Supervisory Board only has a quorum when at least half of the total number of members comprising the Supervisory Board are present to vote. § 108 (2) (4) of the Stock Corporation Act must be applied accordingly.

(2)

A resolution may be adopted in urgent cases without convening a meeting by way of a written agreement or through an appropriate telecommunications medium if the chairperson of the Supervisory Board, or his deputy in his absence, requests such a resolution adoption and no member of the Supervisory Board objects to this procedure.

(3)

Resolutions of the Supervisory Board shall be adopted by majority vote. In the event of an equal number of votes, each member of the Supervisory Board shall have the right to request a second vote on the same topic. If there is an equal number of votes once again, the chairperson of the Supervisory Board shall be entitled to two votes.

(4)

The resolutions of the Supervisory Board and the results of its reviews must be recorded for evidentiary purposes and the record must be signed by the participating Supervisory Board members.

(5)

If advice is given on the business affairs of the cooperative, a Supervisory Board member shall neither participate in the advice nor in the resolution adoption if these affairs concern either the interests of the Supervisory Board member or a person or company closely associated with him or a person or company represented by a Supervisory Board member on the basis of the law or a power of attorney. The Supervisory Board member must be allowed to speak before the resolution adoption, however.

(6)

Resolutions from the Supervisory Board shall be implemented by the chairperson, or his deputy in his absence.

§ 38 Approval of loans

Loans to members of the Supervisory Board or persons or companies within the meaning of § 37 (5) require the approval of the Management Board and the majority of the Supervisory Board.

§ 39 Duties of the Supervisory Board, Rules of Procedure

(1)

The Supervisory Board shall monitor the Management Board with respect to its management of the cooperative and shall keep up to date with all affairs of the cooperative to this end. It may request a report from the Management Board and may inspect the books and records of the cooperative along with the cash balance, other stocks and other assets and liabilities of the cooperative, or it may have this performed by individual members to be specified by it. An individual Supervisory Board member may also request information, but only from the full Supervisory Board.

(2)

Supervisory Board members cannot have their duties carried out by other persons.

(3)

Specific details on the fulfilment of the obligations incumbent on the Supervisory Board are regulated in the Rules of Procedure. These are to be drawn up by the Supervisory Board after having consulted the Management Board. The Rules or Procedure must be sent to the members of the Supervisory Board against an acknowledgement of receipt.

§ 40 Forming committees

The Supervisory Board may form committees from its ranks in order to fulfil its statutory obligations and its obligations according to these Articles of Association with a simple majority, and it may seek the assistance of experts at the cost of the cooperative. If the Supervisory Board forms committees, it shall specify whether these have advisory or decision-making permissions; it shall also specify the number of committee members. The election of committee members shall be regulated by the Rules of Procedure of the Supervisory Board. § 31 (3) of the Co-Determination Act remains unaffected. The Supervisory Board shall establish a Staff Committee and an Audit Committee. The chairperson of the Supervisory Board should not occupy the position of chairperson of the Audit Committee. The chairperson of the Audit Committee should have particular expertise and experience in the application of accounting principles and internal control procedures.

A committee with decision-making permissions must consist of at least three persons. A committee shall have a quorum if more than half of its members are present; this shall be no less than three for resolutions on loans to internal bodies. §§ 35 to 37 shall also apply for the resolution adoption.

§ 41 Other obligations on the Supervisory Board

The Supervisory Board is obliged,

1. to represent the cooperative with respect to the Management Board Members in judicial and extra-judicial proceedings;
2. to appoint and dismiss Management Board Members; to recruit and terminate Management Board Members;
3. to specify the voting behaviour of the cooperative in their holding companies with respect to nominations, elections, appointments and dismissals of the Supervisory Board members in these companies, who must be members of the cooperative.
4. to appoint and dismiss persons in advisory boards of holding companies of the cooperative if the Articles of Associations of the holding companies prescribe this;
5. to audit the annual financial statement, the management report - if this is legally required - and the proposals of the Management Board for the appropriation of an annual net profit or to cover an annual net loss, to express an opinion on this and draw up a report on this for the Representatives' Meeting before the approval of the annual financial statement;
6. to be present at final meetings following the audit, to immediately discuss the written audit report with the Management Board after receiving it and to explain the significant findings and complaints from the audit in the next Representatives' Meeting. The summary of the audit results contained in the audit report along with those sections of the audit report which the auditing association has stated must be read aloud word-for-word are to be read aloud in the Representatives' Meeting;
7. to ensure that the deficiencies identified in the audit report are remedied by the Management Board;
8. to decide on loans to a Management Board or Supervisory Board member as well as a person or company close associated to him or a person or company represented by him by virtue of the law or a power of attorney;
9. to decide on the appeal of an excluded member against his exclusion, unless the Representatives' Meeting is responsible for the exclusion.
10. To determine the date and location of the Representatives' Meeting.

§ 42 Particular duties and rights of the chairperson of the Supervisor Board and his deputy

The chairperson of the Supervisory Board, or his deputy in the event of his absence, is authorised and obligated

1. to convene and conduct meetings of the Supervisory Board, joint meetings of the Management Board, the Supervisory Board and the Representatives' Meeting of the cooperative;
2. to be present for the statutory audit where necessary;
3. to issue declarations of the Supervisory Board according to the provisions of § 21 (3).
4. To implement resolutions of the Supervisory Board.

§ 43 Duty of care and responsibility

(1)

The Supervisory Board members must apply the due care of a prudent and conscientious cooperative Supervisory Board member when conducting their duties in application of § 26 (1) (1). They must maintain confidentiality regarding confidential operational and business secrets of which they become aware through their activities for the Supervisory Board.

(2)

Supervisory Board members who breach their duties shall be jointly and severally liable to pay compensation to the cooperative for the resulting damages.

§ 44 Removal from office

A Supervisory Board member elected by the Representatives' Meeting may be removed from office before the expiration of his term in office by way of a resolution from the Representatives' Meeting; this resolution requires a majority of three quarters of the votes cast in the Representatives' Meeting, however.

§ 45 (deleted)

3. The Representatives' Meeting

§ 46 Exercising membership rights

The members shall exercise their rights in the affairs of the cooperative in the Representatives'

Meeting if the number of members exceeds 1,500. The General Meeting shall be immediately convened for adopting resolutions on the abolition of the Representatives' Meeting if this is requested in writing by at least a tenth of members.

§ 46 a Eligibility

(1)

Representatives can only be natural, legally competent persons who are members of the cooperative and do not belong to the Management Board or the Supervisory Board. If a member of the cooperative is a legal entity or a partnership, natural persons who are authorised as their legal representatives may be elected to represent them.

(2)

A member who has been excluded from the cooperative (§ 8 (2)) cannot be elected as a representative. If a legal entity or partnership is excluded, the natural persons authorised to represent them cannot be elected as representatives.

§ 46 b Cycle of elections and number of representatives

(1)

Elections to the Representatives' Meeting shall take place every 4 years. One representative shall be elected for each 25 members according to the provisions of the election regulations to be drafted according to § 46 d (2). The number of members in the cooperative at the end of the previous financial year shall be authoritative. In addition, at least 5 replacement representatives must be elected, having established the order in which they shall be called on; the Election Committee shall determine the concrete number of replacement representatives.

(2)

A premature re-election of the Representatives' Meeting shall take place if the number of representatives falls below the minimum statutory number of 50, in consideration of the replacement representatives who have been called on.

§ 46 c Active voting right

(1)

All members registered in the members' list when notification of the election is given shall be authorised to vote. Excluded members shall have no voting rights (§ 8 (2)).

(2)

Each member shall have one vote.

(3)

Legally incompetent persons - or those with limited legal capacity - and legal entities shall exercise their voting right through the legal representatives; partnerships shall do this through the shareholders empowered to represent them.

(4)

Members, their legal representatives or shareholders empowered to represent them may be represented by authorised representatives. Several heirs of a deceased member (§ 6 (1)) may only exercise the voting right through one joint authorised representative. An authorised representative cannot represent more than 2 members. Authorised representatives can only be members of the cooperative or spouses, parents, children or siblings of members, or they must be a principal in a partnership agreement or an employment contract. Persons who have received notification of an exclusion (§ 8 (2)) cannot be authorised as representatives.

(5)

Legal or authorised representatives who are authorised to vote must prove their representation authority in writing and on request to the Election Committee.

§ 46 d Election procedure

(1)

The representatives and the replacement representatives shall be elected by a universal, direct, equal and confidential vote.

(2)

The election regulations shall specify further details on the election procedure, including determining the result of the vote. The election regulations shall be issued by the Management Board and the Supervisory Board on the basis of joint resolutions. The election regulations require the approval of the General Meeting/Representatives' Meeting.

(3)

If a representative leaves before the end of his term in office, a replacement representative shall take his place whose term in office shall end at the latest with the expiration of the original representative's term in office.

(4)

A list of the names and addresses, telephone numbers or e-mail addresses of the elected representatives and substitute representatives shall be displayed for inspection by the members at the cooperative's premises for at least two weeks or made available in the non-public area of the cooperative's website until the end of the term of office of the representatives. The interpretation or accessibility on the Internet shall be published in a public bulletin. The period for interpretation or making available shall commence with the publication. Any member may at any time request a copy of the list of representatives and substitute representatives; this shall be indicated in the notice.

§ 46 e Term of office, beginning and end of the representative office

(1)

The representatives shall be elected according to the provision in (2) for 4 years. These terms of office shall be renewable.

(2)

The representative's term in office shall begin with the acceptance of the election; at the earliest at the time at which at least 50 representatives have accepted the election. There is no obligation to accept the election as a representative. The elected person must, however, make an immediate decision on accepting the election. Unless he declines the election within a period of 2 weeks to be set upon the notification of the election, this shall be considered as accepted by him.

(3)

The representative's term in office shall end if after a re-election at least 50 representatives have accepted the election, at the latest at the end of the Representatives' Meeting deciding on the discharge of the Management Board and the Supervisory Board for the 4th financial year, whereby the financial year in which the representative was elected is not counted. The representative's term of office shall end prematurely if the representative leaves the cooperative or is excluded, if he accepts an election to the Management Board or the

Supervisory Board, if he resigns from office, if he dies or if he becomes legally incompetent or has limited legal capacity.

(4)

The representative's term of office shall also end when this is based on the representative being authorised to legally represent a member in the legal form of a legal entity or a partnership and this representation authorisation has expired or with the exclusion of this legal entity or partnership from the cooperative. If there is a dispute regarding the expiration of a representation authorisation, the written declaration of the legal entity or partnership stating that the representation authorisation has expired shall be authoritative.

(5)

In order to prove the representation permission, each representative shall receive an ID card following the acceptance of the election which shall expire at the end of the term of office.

§ 47 Deadline and venue

(1)

The ordinary Representatives' Meeting shall usually take place within 6 months of the close of the financial year.

(2)

Extraordinary Representatives' Meetings may be convened at any time where necessary. They must be convened if this is requested by the Supervisory Board or the Management Board or if according to § 12 (2) (d) at least a tenth of the members or representatives have requested this.

(3)

The Representatives' Meeting shall take place at the registered office of the cooperative unless the Supervisory Board specifies another location.

§ 48 Convening and agenda

(1)

The Representatives' Meeting shall be convened by the Supervisory Board. The rights of the Management Board according to § 44 (1) shall remain unaffected.

(2)

The invitation to the Representatives' Meeting must include the name and registered office of

the cooperative, as well as the time and location of the meeting. This shall take place by way of an immediate notification in writing to all representatives or through a one-off publication in the cooperative's publication of record (§ 63) in adherence to a notice period of at least 14 days, which must take place between the day of accessing and/or publishing the invitation and the day of the Representatives' Meeting.

(3)

The invitation must include the agenda. This shall be set by the convenor. The agenda must be disclosed to all members through publication in the cooperative's publication of record (§ 63) or on the internet through the cooperative's internet address or through a direct written notification.

(4)

The members or representatives may request in writing to be informed of proposed resolutions to be undertaken at the Representatives' Meeting, giving the purpose and grounds for this. This requires a motion from at least a tenth of the members or representatives. Members who are able to request a disclosure of the proposed resolutions shall have the right to participate in this meeting in this respect; the right to speak and submit motions with respect to these proposals shall be exercised by a member to be determined by the participating members. The Management Board and/or the Supervisory Board are authorised to name topics of discussion for the agenda and submit motions.

(5)

For proposals which were not disclosed in good time, i.e. with a week between accessing the notification (8) and the day of the Representatives' Meeting, resolutions cannot be adopted; however, resolutions on the conclusion of the meeting as well as motions to convene an extraordinary Representatives' Meeting are exceptions to this. Motions regarding the agenda, which according to (4) may only be received following the convening of the Representatives' Meeting, must be disclosed to the members in writing, they must be received at least 7 days before the date of the Representatives' Meeting, which is not counted in the calculation. No resolutions can be made on negotiation items which are not disclosed in good time, except for a motion to convene an extraordinary Representatives' Meeting.

(6)

No notification shall be required for motions and negotiations which are only be discussed, and not voted on.

(7)

Motions relating to procedures of the Representatives' Meeting may be submitted by any representative present in the Representatives' Meeting; the Representatives' Meeting shall

decide on this with a simple majority of votes.

(8)

In the cases of (2) and (5) the corresponding notifications shall be deemed as received if they have been posted two days before the beginning of the notice period.

§ 49 Chairing the meeting

(1)

The chairperson of the Supervisory Board or one of his deputies shall chair the Representatives' Meeting.

(2)

The chairmanship may be transferred to another member of the Supervisory Board, the Management Board, a member of the Representatives' Meeting or a representative of the auditing association through a resolution of the Representatives' Meeting.

(3)

The chair of the meeting shall name a recording clerk and if necessary a vote counter.

§ 50 Voting right

(1)

Each representative shall have one vote. He cannot be represented by an authorised representative.

(2)

The representatives are not bound by the instructions of those who have elected them.

(3)

No-one may exercise a voting right if a decision is being made as to whether he should be discharged or relieved of a liability, or if the cooperative is asserting a claim against him. The person must be allowed to speak before the resolution adoption, however.

(4)

The members of the Management Board and the Supervisory Board shall participate in the Representatives' Meeting without any voting rights. They may rise to speak and submit motions.

§ 51 Information right

(1)

Each representative shall upon request be provided with information at the Representatives' Meeting by the Board of Management or the Supervisory Board regarding the cooperative's affairs, to the extent that such information is necessary to permit an objective assessment of the relevant agenda item.

(2)

The information provided shall comply with the principles of conscientious and accurate accounting.

(3)

The information may be refused if

- a) providing such information would be, according to sound business judgment, likely to cause a substantial disadvantage to the cooperative;
- b) the questions concern tax valuations or the levels of individual taxes
;
- c) providing the information would be a criminal offence or a statutory or contractual confidentiality obligation, or such an obligation according to these Articles of Association, would be breached;
- d) the information request concerns the personal or business relationships of a third party;
- e) this involves employment-related agreements with Management Board Members or employees of the cooperative;
- f) reading out the documents would lead to an unreasonable prolongation of the Representatives' Meeting;
- g) if the question refers to the terms of purchase and/or sale of the cooperative and their calculation bases.

§ 52 Voting and elections

(1)

Voting and elections shall take place in the Representatives' Meeting by way of a show of hands. Voting or elections must take place confidentially through a ballot if the Management Board, the Supervisory Board or representatives request this with at least a quarter of the valid votes cast on this.

(2)

Resolutions of the Representatives' Meeting shall be determined with a simple majority of the votes cast, unless the law or these Articles of Association stipulate a larger majority. In the

event of an equal division of votes the motion shall be refused, subject to (4).

(3)

When counting the votes, only valid votes which have been cast shall be counted; abstentions and invalid votes shall not be considered. In the event of an equal division of votes the motion shall be refused; in the case of elections this shall be decided by a draw.

(4)

A separate election shall take place for each Supervisory Board mandate to be awarded. The person gaining more than half of the votes cast shall be elected. When no nominee obtains the required number of votes on the first ballot, there shall be a second ballot confined to the two candidates obtaining the largest number of votes. In this case, the nominee who has received the most votes shall be elected; in the event of an equal division of votes, this shall be decided by a draw conducted by the chair of the meeting.

(5)

The elected person must immediately declare to the cooperative whether he accepts the election.

§ 53 Discharging

(1)

A representative who is to be discharged by a resolution or freed from an obligation, or with whom a legal transaction shall be concluded, shall have no voting rights in this respect. The amendment or cancellation of a legal transaction shall be equivalent to the conclusion of a legal transaction.

(2)

The Management Board and the Supervisory Board must vote separately on the discharge.

§ 54 Meeting records

(1)

A record must be made of the resolutions of the Representatives' Meeting and this must be signed by the chair of the meeting, the recording clerk and the Management Board Members who have participated in the Representatives' Meeting.

(2)

The record, which must be drafted at the latest within 2 weeks, should contain the location and day of the meeting, the name of the chair of the meeting and the nature and result of the votes and the findings of the chair of the meeting regarding the resolution adoption. The documents

relating to the convening of the meeting must be attached as annexes.

(3)

A list of the present representatives must be attached to the record in the cases according to § 47 (3) of the Cooperatives Act.

(4)

The record must be stored with the accompanying annexes. All members of the cooperative shall be permitted to view these.

§ 55 Participation of the auditing association

Representatives of the auditing association are authorised to participate in any Representatives' Meeting and may rise to speak.

§ 56 Resolution proposals

Besides the matters noted in the Cooperatives Act and in these Articles of Association, the Representatives' Meeting shall decide in particular on

- a) Amending and expanding the Articles of Association;
- b) Beginning, outsourcing or discontinuing an operation which affects the core sector of the cooperative;
- c) Scope of disclosure of the audit report from the auditing association;
- d) Approving the annual financial statement, appropriating annual net profit or covering an annual net loss in consideration of the conditions of the formation of reserves (§§ 18, 19);
- e) Discharging the Management Board and the Supervisory Board;
- f) Electing members of the Supervisory Board as well as determining remuneration within the meaning of § 34 (2) (3);
- g) Cancelling the appointment of members of the Supervisory Board;
- h) Excluding members of the Management Board and the Supervisory Board from the cooperative;
- i) Taking legal action against Supervisory Board members in office ~~and~~ those who have left due to their position on this body;
- j) Electing an authorised representative according to § 39 (3) GenG to take legal action against Supervisory Board members in office and those who have left due to their position on this body
- k) Establishing limitations when awarding loans according to § 49 of the Cooperatives Act;
- l) Merging the cooperative;

- m) Dissolving the cooperative and a continuation following a resolution to dissolve it;
- n) Changing the legal form;
- o) Determining admission fees;
- p) Elections to the Election Committee and agreeing election regulations for the election to the Representatives' Meeting;
- q) Determining contributions on the company share if the obligatory contribution is not specified in the Articles of Association in terms of an amount and a time period (§ 50 GenG).

§ 57 Majority requirements

(1)

A majority of three quarters of the valid votes which have been cast is necessary in particular in the following cases:

- a) Amending and expanding the Articles of Association;
- b) Liquidating the cooperative;
- c) Continuing the cooperative once a resolution to dissolve it has been adopted;
- d) Merging the cooperative;
- e) Cancelling the appointment of members of the Supervisory Board
- f) Excluding members of the Management Board and the Supervisory Board;
- g) Splitting the company shares;
- h) Changing the object of the cooperative;
- i) Introducing an obligatory holding of several company shares;
- j) Extending the termination notice period to longer than a year;
- k) Increasing or decreasing the company share and the liability amount.

(2)

A resolution on the dissolution of the cooperative or a change in legal form requires a majority of nine tenths of the valid votes which have been cast. In the event of such a resolution, the presence of two thirds of all representatives is necessary in a Representatives' Meeting convened only for this purpose, which goes beyond the statutory provisions. If this number of members deciding on the dissolution of the cooperative or the change in legal form is not achieved, each additional meeting within the same calendar year may decide on the dissolution of the cooperative or the change in legal form without consideration of the number of representatives present.

(3)

The auditing association must be allowed to voice their opinion before the resolution on the merger, the continuation of the dissolved cooperation or the change in legal form. A report from the auditing association to be requested by the Management Board in good time must be read out in the Representatives' Meeting.

(4)

A majority of nine tenths of the valid votes which have been cast is necessary for an amendment of the Articles of Association through which an obligation of the members to use facilities or other services of the cooperative or to pay for items or services is introduced or expanded, as well as for an amendment of § 57 (2) of the Articles of Association.

VI. Accounting

§ 58 Financial year

The financial year of the cooperative is the calendar year.

§ 59 Annual financial statement and management report

(1)

The Management Board must draw up the annual financial statement and management report - if this is legally required - for the previous financial year within 5 months of the close of this year.

(2)

The Management Board must submit the annual financial statement and the management report - if this is legally required - according to § 25 (6) to the Supervisory Board. These documents and a report from the Supervisory Board must then be submitted to the Representatives' Meeting.

(3)

The annual financial statements and the management report - if this is legally required - should be put on display for inspection by the members or otherwise brought to their attention at least one week before the Representatives' Meeting on the premises of the cooperative or another place to be disclosed.

(4)

The report from the Supervisory Board regarding the review of the annual financial statement and the management report (§ 41 (6)) - if this is legally required - must be presented to the ordinary Representatives' Meeting.

§ 60 Appropriation of annual net profit

(1)

The Representatives' Meeting shall decide on the appropriation of the annual net profit.

(2)

This may be allocated to the members in proportion to their credit balance at the close of the previous financial year unless they are provided with the statutory (§ 18) or other revenue reserves (§ 19). Contributions made during the financial year shall not be considered.

(3)

The profit attributable to the individual member shall be allocated to the credit balance so long as the company shares have been obtained or a credit balance decreased by a loss has been re-supplemented. When calculating the profit share, the credit balance of each member shall be treated as if amounting to full euros.

§ 61 Covering an annual net loss

(1)

The Representatives' Meeting shall decide on covering an annual net loss.

(2)

If an annual net loss is not carried forward to new account or covered by drawing on the other revenue reserves (§ 19), this must be covered by the statutory reserve (§ 18) or by a write-off of the credit balances of the members or through both at the same time.

(3)

If the credit balances are drawn on to cover the loss, there shall be a calculation of the share of losses allocated to the individual member according to the proportion of the obligatory shares assumed by the members or the obligatory shares to be assumed according to the Articles of Association in the financial year in which the loss occurs.

VII. Liquidation of the cooperative

§ 62 Liquidation

(1)

Liquidation of the cooperative shall take place following the dissolution.

(2)

The liquidation shall take place according to the law.

(3)

The law shall be applied for the distribution of the cooperative's assets on the condition that surpluses with respect to the credit balances are distributed amongst the members. Assets which cannot be divided shall fall to the Landgard-Stiftung for use according to the Articles of Association.

VIII. Publications of the cooperative

§ 63 Publications

(1)

Unless otherwise required by law or the articles of association, the announcements of the cooperative are published on the publicly accessible website of the cooperative; the annual financial statements and the statutory management report as well as the documents specified in § 325 HGB (German Commercial Code) are only published in the Bundesanzeiger (Federal Gazette).

(2)

Publications must include the names of the persons issuing the publication.