



Wohnungsbaugenossenschaft Wilhelmsruh eG  
Regulations

Convenience translation

The German version is legally binding.



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## I. Name and registered office of the Cooperative

### Clause 1 Name and registered office

The Cooperative is run by  
Wohnungsbaugenossenschaft Wilhelmsruh eG.  
Its official office is located in Berlin, Germany.

## II. Purpose of the Cooperative

### Clause 2 Purpose

- (1) The purpose of the Cooperative is primarily to supply members of the (non-profit-making) cooperative with good, safe and socially responsible apartments.
- (2) The Cooperative can run, build, purchase and look after buildings based on all legal structures and types of use. The Cooperative can engage in any activities linked with the housing and real-estate sector, urban development and infrastructure. Such aspects include communal and associated amenities, shops, spaces for commercial enterprises, social, economic and cultural facilities and services. Holdings are permitted.
- (3) The Cooperative conducts its business based on non-profit principles and these Regulations.
- (4) The Cooperative was acknowledged on 31 December 1989 as a non-profit housing association.
- (5) The Cooperative's business operations are based in the federal states of Berlin and Brandenburg.
- (6) Business operations can be extended to include non-members. As specified in clause 28, the management board and supervisory board will decide the conditions for such action.

## III. Membership

### Clause 3 Members

The following parties can become members:

- a) Individuals
- b) Partnerships under commercial law, as well as legal entities under private and public law.

### Clause 4 Acquisition of membership

- (1) To acquire membership, the person concerned needs to sign a declaration which must comply with the requirements of the German Cooperative Act [*Genossenschaftsgesetz*]. The management board will decide on whether the member is accepted.
- (2) Once the Cooperative has given its consent, the member can join.
- (3) Before handing in membership applications, potential members must be issued with a copy of the current regulations.

### Clause 5 Membership fee

- (1) Members owe a membership of 60 euros once they have been accepted.
- (2) No membership fee is owed by the following people:
  - a) the member's spouse or civil partner and
  - b) members' children who are under 18.
- (3) On request, the membership fee can be waived if members already belong to another cooperative.

### Clause 6 Cessation of membership

Membership ceases in the following cases:

- a) when membership is cancelled;

- b) when the credit balance is transferred;
- c) when a member dies;
- d) when a legal entity or partnership is dissolved or ceases operations;
- e) If the member is barred from the Cooperative.

#### Clause 7 Cancellation of membership

- (1) Members can leave the Cooperative by cancelling membership with six months' notice to the end of the business year.
- (2) Members must cancel membership in writing by the end of the first half of the business year. The cancellation must have reached the Cooperative by the last day of the first half of the business year in which such cancellation was announced at the latest.
- (3) Pursuant to article 67 a GenG [*German Cooperatives Act*], members have an extraordinary right, limited to one month, to cancel membership if the representatives' assembly passes the following resolutions:
  - a) to make a major amendment to the purpose of the Cooperative;
  - b) to increase the shares required;
  - c) to increase by several shares the number of compulsory shares required;
  - d) to introduce or increase members' obligations to make extra payments;
  - e) to extend the notice period for cancellations to more than two years;
  - f) to introduce or increase obligations to use facilities or other services belonging to the Cooperative or to provide non-cash contributions or services;
- (4) Members are permitted to leave the Cooperative at the end of the business year in which they have submitted their membership cancellation.

#### Clause 8 Transferring credit balances

- (1) Members can, by written agreement, transfer their shares at any time to another person and therefore leave the Cooperative without the Cooperative settling up with them. Transferring just some of the shares is not permitted. Transferral of shares requires the consent of the management board. The date members have left the Cooperative is considered to be the day the Cooperative has given its consent to the above-mentioned transferral.
- (2) If applicants are not members of the Cooperative they must become members. If applicants are already members, the credit balance belonging to the persons who have left must be credited to such applicants. If in such process, the credit balance resulting from the shares previously accepted is exceeded, the person concerned must take over one or several shares to tally with the total credit balance.

#### Clause 9 Cessation of membership upon death

- (1) If members die, membership is transferred to their heirs. The heirs' membership ceases at the end of the business year. Heirs must notify the Cooperative of their right to inherit membership within three months. Where several heirs exist, the right to vote at meetings of the representatives' assembly can only be exercised by one person representing all the heirs.
- (2) Whether the right to use the Cooperative apartment applies depends on articles 563 and 563 b BGB [*German Civil Code*].

#### Clause 10 Cessation of membership due to dissolution or cessation of operations of a legal entity or partnership under commercial law

If a legal entity or a partnership under commercial law is dissolved or ceases operations, membership ceases at the end of the business year in which such dissolution or cessation of operations takes effect. If the dissolution or cessation of operations produces a legal

successor for all relevant parties, such legal successor continues membership until the end of the business year.

#### Clause 11 Barring a member

- (1) At the end of the business year, members can be barred from the Cooperative for the following reasons:
- a) if they are no longer capable of taking on public offices, or taking part in or being voted via public elections, or if as non-German nationals their residence permits are withdrawn. Such specifications apply to bodies appointed to represent legal entities before the law, or to shareholders authorised to represent partnerships under commercial law;
  - b) if despite two written requests threatening to bar members, such members do not within three months fulfil obligations required by law or specified by the Cooperative's Regulations or contracts. Such stipulation applies in particular if as a result significant harm is done to the image of the Cooperative, its ability to function or the concerns of its members;
  - c) if members culpably exercise conduct which breaches the Cooperative's principles and damage or attempt to damage the image or the financial interests of the Cooperative or its members in a way that is unacceptable;
  - d) if insolvency proceedings or legal proceedings are instigated to reach an out-of-court settlement over the members' assets in a way that does harm to the apartment;
  - e) if members move without leaving a forwarding address, or whether their current place of residence is not known for longer than one year;
- (2) The management board decides whether to bar a member. Members who are to be barred must be given the opportunity to comment beforehand.
- (3) The management board must immediately inform any members they are barring by registered letter.
- (4) Members who have been barred have the right to appeal against within one month after they have received written notification of the decision to bar them by sending a registered letter addressed to the management board. The supervisory board rules on the appeal.
- (5) The parties involved must be heard during the proceedings with the supervisory board. Minutes must be taken of both the proceedings and the decision. The supervisory board makes a decision by majority vote. Reasons must be given for the decision. The minutes and the decision must be signed by the chairperson and at least two members of the supervisory board. The parties involved must be notified of the ruling as specified in section 3.
- (6) A member of the management board or the supervisory board cannot be barred until a meeting of the representatives' assembly has taken a decision on appeals against appointments or dismissals (clause 34, j).

#### Clause 12 Settling balances

- (1) The Cooperative must settle up with the person who has left. The decisive factor is the balance sheet that has been adopted for the business year at the end of which the member leaves (clause 34, d).
- (2) Persons leaving may only demand any credit balance due to them, but not proportions of the capital reserves and other assets owned by the Cooperative. The credit balance owing is based on the members' balance (clause 17, section 10). In the process, the Cooperative is entitled to offset the amount owed by the member who has left the Cooperative against the member's credit balance. The credit balance is owed to the Cooperative in the case of any default, particularly when insolvency proceedings are instigated against the member.
- (3) Any assignments and pledges of the credit balance to third parties are prohibited and therefore invalid. Members are not permitted to offset liabilities owing to the Cooperative against their credit balances.
- (4) The credit balance must be paid out to persons leaving the Cooperative within six months after the end of the business year in which they departed. The credit balance is to be paid

out two weeks after the balance sheet has been adopted (section 1), as determined by the Cooperative.. Persons leaving the Cooperative may not however request payment of the credit balance before six months have expired since their departure and not before the balance sheet has been adopted. If the balance sheet is not adopted until six months after members' departures, interest of 4 % must be paid on the credit balance from the start of the seventh month onwards. The statute of limitations for an entitlement to payment of the credit balance is three years.

(5) If when deciding the credit balance the underlying balance sheet shows a loss which exceeds the credit balance and the statutory capital reserves, persons leaving the Cooperative must pay the proportion owed by them to the Cooperative. This proportion is calculated based on the liability cap of the person departing with regard to the total liability cap of all members including that of the person leaving at the end of the same business year. Such proportion is limited to the total liability cap of the person departing (clause 19). The person leaving must then be requested to cover losses if the loss is carried forward to the next year. Such receivable demanded by the Cooperative is due two weeks after the meeting of the representatives' assembly which adopted the balance sheet.

#### **IV. Rights and obligations of the members**

##### Clause 13 Members' rights

(1) All members have the same rights. In all matters associated with the Cooperative they exercise their rights as members by electing people to the representatives' assembly and, insofar as they are elected as representatives, jointly in the assembly of representatives by taking decisions. As a result, they ensure that the Cooperative can meet its responsibilities.

(2) The responsibilities of the Cooperative give each member in particular the following rights:

- a) to live in accommodation by using a Cooperative apartment,
- b) to use services and facilities provided by the Cooperative based on the relevant regulations, as well as the right to benefit from advantages that the Cooperative grants to its members based on the relevant principles in clause 28.

(3) Membership above all entitles members to the following:

- a) to acquire more shares (clause 17);
- b) to elect representatives to the representatives' assembly;
- c) in a written motion submitted by one tenth of the members to appoint a representatives' assembly, or to suggest matters for the adoption of a resolution in a representatives' assembly that has already been appointed, insofar as the representatives' assembly has such powers (clause 32, section 4);
- d) to take part in a representatives' assembly in accordance with clause 32, section 4 and in such assembly to exercise their right to submit motions and to speak via an authorised person, insofar as members are allowed to exercise such right, when the representatives' assembly has been convened at such representatives' request;
- e) to demand complete abolishment of the representatives' assembly submitted in writing in the form of a motion and signed by at least one tenth of members and to convene an extraordinary general meeting for such purpose;
- f) to appoint or to dismiss from office official receivers in the form of a motion submitted to the court and signed by one tenth of the members (clause 44, section 2);
- g) to demand a copy of the list of elected representatives and their elected deputies;
- h) to receive a share in the Cooperative's profit (clause 40);
- i) to transfer credit balances by written agreement to another party (clause 8);
- j) to cancel membership in the Cooperative (clause 7);
- k) to cancel shares accepted voluntarily, as specified in clause 18;
- l) to demand payment of the credit balance as stated in clause 12;
- m) to look at minutes of decisions made by the representatives' assembly and at the members' own cost to demand copies of such minutes and the annual financial statement,

management report and the supervisory board's notes kept at the Cooperative's office (see clauses 33 section 6, 38 section 1);  
n) to look at the summary of the audit report.

#### Clause 14 Right to accommodation

- (1) Members of the Cooperative have the right to use a Cooperative apartment and the right to draw on support services.
- (2) The Cooperative must price the usage of its apartments appropriately, i.e. to allow for expenditure, appropriate interest for the equity capital and to create sufficient capital reserves while taking into account the overall profitability of the Cooperative. However, this cannot be construed to mean that individual members have an entitlement thereto.

#### Clause 15 Providing and allocating apartments

- (1) When a Cooperative apartment is provided, the member has a permanent right to use it.
- (2) The right to use a Cooperative apartment can only be withdrawn during the term of membership under the conditions specified in the usage agreement.

#### Clause 16 Members' duties

- (1) All members have the same duties.
- (2) Membership entails the duty to provide capital required by the Cooperative to meet its responsibilities where such capital is furnished in the following way:
  - a) by acquiring shares, as specified in clause 17, that reflect the level of Cooperative services members draw on, and to pay for such shares in due time;
  - b) by sharing any losses (clause 41);
  - c) by paying a share of the shortfall when they leave the Cooperative (clause 12, section 5);
  - d) by making further payments based on rulings by the representatives' assembly following the dissolution of the Cooperative (clause 19, section 2);
  - e) by making additional payments should the Cooperative become insolvent (clause 19 section 1 sentence 2);
  - f) by paying a membership fee (clause 5).
- (3) For the construction and maintenance of property belonging to the Cooperative, members undertake to provide assistance based on guidelines decided by the representatives' assembly.
- (4) To draw on services provided by the Cooperatives, members must pay fees specified by the management board and based on sound management principles, fulfil the agreements made and pay specified financial contributions.
- (5) In fulfilling duties and exercising rights specified in contracts, as part of the duty of loyalty to the Cooperative the interests of all members must be taken into account appropriately.

### **V. Shares, credit balance and liability cap**

#### Clause 17 Shares and credit balance

- (1) Members are stakeholders in the Cooperative once they have submitted an unconditional, written membership declaration and acquired shares. The price of a share is 35 euros.
- (2) Each member must acquire at least 10 shares.
- (3) Each member who is to be provided with an apartment or business space, must make an appropriate personal contribution by acquiring further shares based on the shares specified in these Regulations as follows:
  - 1-room apartment 30 more shares (compulsory shares)
  - 2-room apartment 36 more shares (compulsory shares)
  - 3-room apartment 55 more shares (compulsory shares)
  - 4-room apartment 66 more shares (compulsory shares)
  - 5-room apartment 86 more shares (compulsory shares)

(4) A member of the Cooperative who has or will be given an apartment or office space, must also purchase further compulsory shares above and beyond those mentioned above. The usage agreement specifies that one compulsory share must be acquired for each full or partial square meter of habitable floor space.

The minimum compulsory shares stated in article 17, section 2, will not be included in the calculation model stated in section 3.

(5) Each compulsory share must have been paid for within three years. The first 10 compulsory shares are to be paid in monthly instalments of 50 euros. The first payment must be paid onto the Cooperative's account one month after the management board has decided to accept the member.

The remaining compulsory shares are to be paid in monthly instalments of at least 50 euros. The shares can however be paid for in full immediately, or in bigger instalments.

(6) The compulsory shares to be acquired as specified in sections 2, 3 and 4 must have been paid for by the time the apartment is provided to the member. On request, the management board may allow instalments, but the first 10 compulsory shares must be paid for immediately and the remaining compulsory shares are to be paid in monthly instalments of at least 50 euros. (Clause 17, section 5, sentence 1 applies accordingly).

If members are undergoing vocational training, on request the management board can approve deferral of the remaining compulsory shares until the end of the training period, but by the members' 27<sup>th</sup> birthdays at the latest; the first 10 compulsory shares must be paid for immediately. Once the deferral period has expired, clause 17, section 6, sentence 2 applies accordingly.

(7) Above and beyond the compulsory shares, members can acquire further shares if the previous shares, but not the ones which are to be newly acquired, are fully paid for and the management board has approved the acquisition of such further shares. The shares can however be paid for in full immediately, or in bigger instalments.

(8) If a share has not been fully paid for, the dividend is to be credited to the credit balance.

(9) Twice the number of compulsory shares is the maximum number of shares a member can have.

(10) A member's credit balance is composed of payments for the share or shares, plus profits accredited and minus any losses attributed.

#### Clause 18 Cancelling shares accepted voluntarily

(1) Members can cancel in writing one or more of their further shares as stated in clause 17, section 7 to take effect at the end of the business year, as long as they are not obliged to hold several shares based on an agreement with the Cooperative, or holding several shares is a condition for a Cooperative service that members draw on. Clause 7, section 2 applies accordingly.

(2) Members who have cancelled individual shares, can only demand the proportion of the credit balance which exceeds the payments made on the remaining shares, plus any dividends allocated and minus any losses attributed. Clause 12 applies when identifying the proportion of the credit balance to be paid. If a remaining share has not yet been paid for in full (clause 17, sections 5 - 9) the proportion of the credit balance which can be paid out will be offset accordingly.

#### Clause 19 Obligation to make further capital contributions

(1) By acquiring shares members accept liability for the Cooperative. They must make further capital contributions to a bankruptcy estate which are restricted to the liability cap. The liability cap is 350 euros. If further shares are acquired, the liability cap is not increased.

(2) After the Cooperative has been dissolved, the representatives' assembly can resolve that the members, insofar as necessary and in order to cover a shortfall, as specified in:

article 87 a section 1 GenG, must make more payments for the share, insofar as such payments have not been made in full;

article 87 a Abs. 2 GenG must make further payments depending on their ratio of shares.

Pursuant to article 87 a, section 2 GenG, the maximum amount members must pay is the total sum their shares are worth.

## **VI. Cooperative's bodies**

### Clause 20 Bodies

(1) The Cooperative's bodies are as follows:

The management board

The supervisory board

The representatives' assembly, if the number of members exceeds 1,500.

(2) The Cooperative's bodies must manage its running costs efficiently based on the principles of proper management.

(3) With regard to affairs of the Cooperative, members of the management board and the supervisory board may only undertake in activities profitable to them if the management board and supervisory board have resolved that they may do so and if the representatives' assembly has also given its consent thereto.

(4) Pursuant to clause 2 of the Regulations, members of the management board and supervisory board may only conduct business or legal transactions if the supervisory board has consented thereto. The independence of the Cooperative from members of the construction and real-estate industries and banks is to be maintained by such members not forming the majority in the Cooperative's bodies.

### Clause 21 The management board

(1) The management board consists of at least two people. They must be members of the Cooperative and natural persons. If legal entities or partnerships belong to the Cooperative, persons authorised as representatives can be appointed to the management board.

(2) Members of the management board cannot be the spouses and civil partners, or other close relatives of a management board or supervisory board member.

(3) Former supervisory board members must wait two years after quitting their office before they can be appointed to the management board from the point at which they have been officially discharged. Clause 24 section 6 of the regulations is without prejudice.

(4) Full-time management board members are appointed by the supervisory board for a period of five years, part-time management board members are appointed for two years. They may be reappointed. Their term of office ends when they reach the statutory retirement age, or if they are unable to carry out their duties. Appointments can only be revoked at an earlier juncture by the representatives' assembly (clause 34, j).

(5) Until a decision is reached by the representatives' assembly, the supervisory board can temporarily suspend members of the management board from office. Such decision requires a three-quarter majority of all members of the supervisory board. A meeting of the representatives' assembly must be convened immediately. The members of the management board who have been suspended must be heard by the representatives' assembly.

(6) Employment contracts for full-time and part-time management board members are to be concluded for the period of the appointment. The chairperson of the supervisory board will sign employment contracts with members of the management board on behalf of the Cooperative. The supervisory board, represented by its chairperson, is responsible for terminating employment contracts of members of the management board by adhering to the notice period stated in the contract, or the statutory notice period, and for concluding agreements to end employment. The representatives' assembly is responsible for terminating employment contracts for good cause (immediate dismissal).

(7) In the case of part-time members of the management board the contract ceases when their appointment expires or is revoked. They can receive appropriate remuneration which is decided on by the supervisory board.

## Clause 22 Management and representation of the Cooperative

- (1) The management board manages the Cooperative under its own responsibility. The board must only respect restrictions placed on it by law and by the Regulations.
- (2) The Cooperative is represented by a management board member in conjunction with another management board member or a person who is an authorised signatory [*Prokurist as defined in German law*].
- (3) Management board members may sign for the Cooperative, by adding their signature to the Cooperative as a business or to the management board. The person with power of signature may sign documents for the Cooperative in such a way that he/she signs his/her name with an additional comment that indicates he/she is an authorised signatory.
- (4) If a declaration of intent is to be submitted to the Cooperative, such submission may be given to a management board member or an authorised signatory.
- (5) Members of the management board who have overall powers of representation can authorise individual members of the board to engage in certain business or types of business transactions. This also applies to management board members who represent the Cooperative in conjunction with another authorised signatory.
- (6) The management board manages the Cooperative's business based on resolutions which must be approved by majority vote. Minutes and rulings must be signed by two management board members. Minutes must always be complete and available.
- (7) The management board provides rules of procedure which must be signed by each member of the management board.
- (8) The members of the management board are entitled to take part in meetings of the supervisory board if participation has not been ruled out by a special resolution of the supervisory board. In meetings of the supervisory board, the management board must provide the required information on business matters. Members of the management board have no right to vote on resolutions by the supervisory board.
- (9) The management board must present to the representatives' assembly the annual financial statement (balance sheet, profit and loss statement and notes) and a management report with the notes from the supervisory board and the latter's report.

## Clause 23 Responsibilities and duties of the management board

- (1) In managing the Cooperative, members of the management board must exercise the level of diligence expected from such managers. Members must treat confidentially any details and secrets on the part of the Cooperative, in other words business practices or secrets, disclosed to them as part of their involvement with the management board.
- (2) In particular the management board is obligated as follows:
  - a) to conduct business based on cooperative goals;
  - b) to plan for and carry out measures in terms of ensuring adequate personnel, equipment and proper organisation in order to run the business properly;
  - c) to ensure proper accounting as specified in section 32 et seq. of the Regulations;
  - d) to decide on approving the purchase of a membership and the acquisition of more shares;
  - e) to manage the list of members based on stipulations in the German Cooperatives' Act;
  - f) to put right any faults identified in the auditor's report and to report to the association of auditors accordingly.
- (3) The management board must report to the supervisory board on intended business policy and other key issues of business planning (in particularly financial, investment and personnel planning). The management board must present the annual financial statement and the management report as soon as these have been drawn up to the supervisory board.
- (4) Members of the management board who breach their duties must make good any losses incurred to the Cooperative as joint debtors. They must prove that they have exercised the diligence expected of managers of a cooperative.
- (5) There is no obligation to pay compensation to the Cooperative if the action concerned is a result of a resolution made by the representatives' assembly. The duty to pay compensation

is not on the other hand ruled out because the supervisory board has approved the action in question.

#### Clause 24 Supervisory board

- (1) The supervisory board consists of at least three members. The representatives' assembly can specify a higher number. The members of the supervisory board must personally be members of the Cooperative and natural persons. If legal entities or partnerships belong to the Cooperative, persons authorised as deputies can be elected to the supervisory board. Persons may only be elected or re-elected before they reach the end of their 75<sup>th</sup> year.
- (2) Supervisory board members cannot be management board members or permanent representatives of members of the management board at the same time. They may also not be employees who have a contract of employment with the Cooperative. Members of the supervisory board may not be the spouses or civil partners, or any other close relatives of a member of the management board or the supervisory board, or an employee with an employment contract with the Cooperative.
- (3) Former supervisory board members must wait two years after quitting their office before they can be appointed to the management board from the point at which they have been officially discharged.
- (4) The supervisory board members are elected by the representatives' assembly for three years. Their period of office ceases at the end of the term of office of the representatives' assembly which decides on discharge of members for the second business year after election. In this case the business year in which the supervisory board is elected is not counted. Re-election is permitted. If supervisory board members are consistently not present they must be removed from office by the representatives' assembly and replaced by other parties by holding elections.
- (5) If members leave during their period of office, the supervisory board only consists of the remaining members until the next regular meeting of the representatives' assembly in which elections to replace the members who have left are held. Earlier elections in the form of an extraordinary meeting of the representatives' assembly are only required if the number of supervisory board members drops below three or less than half of its members elected by the representatives' assembly remain. Elections are held for the remaining term of office of the supervisory board members who have left.
- (6) The supervisory board can only appoint individual members in advance for a limited period to deputise for management board members who are absent. During this period and until they have been discharged in terms of their activities on behalf of the management board, they may not act as supervisory board members.
- (7) The supervisory board elects from its midst a chairperson, a secretary and deputies for these positions. This also applies as long as the composition of the supervisory board has not changed due to elections. The supervisory board should convene once every quarter of the calendar year and must convene once in each half of the calendar year.
- (8) The supervisory board issues itself with rules of procedure. It is entitled to claim for appropriate expenses, also in the form of lump sums, which the supervisory board and the management board establish annually in a joint meeting. The representatives' assembly can approve remuneration.

#### Clause 25 Responsibilities of the supervisory board

- (1) The supervisory board must support, advise and monitor the management board's management of the business. The rights and duties of the supervisory board are restricted by law and the Regulations.
- (2) The supervisory board represents the Cooperative in and out of court regarding dealings with members of the management board. The representatives' assembly resolves whether legal action is taken.
- (3) The supervisory board can ask the management board for information about the Cooperative's affairs at any time. An individual supervisory board member can only request

information on behalf of the whole supervisory board. Each supervisory board member has the right and duty to look at documents presented by the management board.

(4) A member of the supervisory board must read the auditor's report.

(5) The supervisory board must check the annual financial statement, the management report and proposals by the management board for appropriating any profit, or covering any losses. It must also report to the representatives' assembly about such matters before adopting the annual financial statement.

(6) The supervisory board must report on its activities to the representatives' assembly.

(7) The supervisory board can from its midst set up committees, in particular to prepare any negotiations and resolutions or to monitor the execution thereof.

(8) The members of the supervisory board and its committees cannot confer their duties on other persons. To meet its supervisory duty, the supervisory board may draw on the assistance of third parties.

#### Clause 26 Due diligence by the supervisory board

In carrying out their duties, the members of the supervisory board must exercise the due diligence required of a proper and conscientious supervisory board member of a housing cooperative. They must maintain strict confidentiality regarding the secrets of the Cooperative, as well as of the members and third parties which have been disclosed to them as part of their roles on the supervisory board. Furthermore, article 41 GenG applies in the case of due diligence and article 34 GenG regarding the responsibilities of the supervisory board members.

#### Clause 27 Meetings of the supervisory board

(1) The supervisory board convenes meetings as required. The meetings are convened and chaired by the supervisory board's chairperson. More detailed regulations are regulated by the rules of procedure.

(2) Usually the supervisory board is to invite the management board to its meetings. The management board takes part in such meetings but has no right to vote.

(3) The chairperson of the supervisory board must summon the supervisory board to a meeting immediately if one third of the members of the supervisory board, or the management board make such a request, stating the purpose and the reasons therefor.

(4) The supervisory board has a quorum if more than half of its members elected by the representatives' assembly take part in the meeting. Resolutions are decided by majority vote. In the case of a tied vote the resolution is considered not passed.

(5) Written resolutions by the supervisory board are only permitted if no member objects to such a procedure.

(6) Minutes must be made of the resolutions which are to be signed by the chairperson and the secretary. Minutes must always be complete and available.

(7) Resolutions made by the supervisory board are carried out at the responsibility of the chairperson.

#### Clause 28 Subjects of joint consultations by the management board and the supervisory board

Except with regard to matters stated in clauses 11, section 2 and 20, section 3, after joint consultations, the management board and the supervisory board make resolutions by voting separately regarding:

- a) a construction programme and the period in which it is to be carried out;
- b) the principles involved in allocating Cooperative apartments and for using Cooperative facilities;
- c) the principles involved in self-help;
- d) the principles for selling other apartments and undeveloped plots, as well as establishing and transferring leaseholds;

- e) the principles under which bonds are issued and loans can be granted based on clause 34, l;
- f) the principles of residential management;
- g) holdings/investments;
- h) issuing power of signatory [*Prokura as defined under German law*] and on employment contracts with persons with power of signatory;
- i) the report on the statutory audit and the resulting measures to be taken;
- j) transferrals to and withdrawals from the capital reserves when preparing the annual financial statement, as well as the proposal for appropriating profits or covering losses (clause 32, section 2);
- k) preparation of all documents for the representatives' assembly;
- l) stipulations on the procedure when electing representatives to the representatives' assembly;
- m) paying out refunds from the Cooperative.

#### Clause 29 Joint meetings of the management board and the supervisory board

(1) Joint meetings of the management board and the supervisory board should be carried out regularly, but each quarter at least. At the suggestion of the management board, the meetings are usually convened and chaired by the chairperson of the supervisory board. A joint meeting of the management board and the supervisory board is to be convened at the request of the auditing association.

(2) A quorum for the joint meetings is given if each body itself has a quorum. Each body makes separate resolutions. Motions which are not accepted according to the rules of proper procedure by both bodies are considered rejected. Resolutions taken on creating and amending regulations for electing the representatives' assembly must be carried by the management board unanimously.

(3) The secretary of the supervisory board must take minutes of the resolutions of the joint meetings and such minutes must be signed by the chairperson, the secretary and one member of the management board. Minutes must always be complete and available.

#### Clause 30 Composition of the representatives' assembly and electing the representatives

(1) The representatives' assembly consists of at least 50 of the representatives elected by the Cooperative members. The representatives must be personal members of the Cooperative. They may not be members of the management board or the supervisory board and authorised persons may not deputise for them.

(2) Only natural persons with full legal capacity may be elected as representatives or deputy representatives. If a member of the Cooperative is a legal entity, or a partnership, natural persons authorised to be the legal representatives of such entity or partnership, may be elected as representatives.

(3) When electing a representative, each member has one vote. Members or their legal representatives can issue written authorisation to vote on their behalf. A proxy cannot represent more than two members. Proxies can only be members of the Cooperative, or the member's spouses, civil partners, parents and children who are over 18. Persons cannot be authorised who act as part of a business arrangement as proxies.

(4) The representatives are elected by free, secret, equal, direct and universal ballot. One representative is to be elected for every 50 members. The rest of the members have one further representative. Deputy representatives must also be elected. Postal votes are permitted. More detailed regulations on electing the representatives and deputy representatives, including determining the outcome of the election are established in the election regulations.

(5) The representatives' terms of office commence at the moment they accept the office, but not before the previous representatives' terms of office have expired. Deputy representatives'

terms of office commence when a representative no longer performs his or her duties. Representatives' and deputy representatives' terms of office cease with the representatives' assembly which resolves the discharge of the members of the management board and the supervisory board for the third business year following the start of the term of office. The business year in which the period of office commences is not counted.

(6) New representatives and deputy representatives must at the latest be elected by the representatives' assembly which resolves the discharge of the members of the management board and the supervisory board for the third business year following the start of the term of office of the previous representatives.

If a proper new election of the representatives' assembly has not taken place, the previous representatives' assembly remains in office for the maximum period permitted under law (article 43 a, section 4 GenG) until new elections have been held.

(7) The representative's term in office expires at an earlier juncture if the representative resigns from office, no longer has full legal capacity or leaves the Cooperative. Should representatives leave their office at an earlier juncture, they will be replaced by their deputy representatives. The election regulations can specify that deputies are also required if elected representatives can no longer perform their duties before they have officially accepted office.

(8) Notwithstanding section 6, a new representatives' assembly must be elected immediately if the number of representatives, taking into account deputies taking over from representatives who are no longer carrying out their duties, drops below the statutory minimum number (section 1, sentence 1).

(9) A list of the representatives' and deputies' names and addresses must be displayed for at least two weeks in the Cooperative's offices for members to look at. As stated in clause 42 of the Regulations the fact that such list has been displayed must be announced in a public gazette in Germany. On request, each member must be given a copy of the list; such option must be pointed out in the announcement that the list has been displayed.

#### Clause 31 Representatives' assembly

(1) The ordinary meeting of the representatives' assembly must take place by June 30 of a given year at the latest.

(2) The management board must present to the ordinary meeting of the representatives' assembly the annual financial statement (balance sheet, profit and loss statement and notes) and a management report with the notes from the supervisory board. The supervisory board must report on its activities to the representatives' assembly.

(3) Except in cases stipulated in the German Cooperatives' Act or cases explicitly stated in the Regulations, extraordinary meetings of the representatives' assembly must be convened if these are required because they are in the interests of the Cooperative. This is especially the case if the auditors' association considers it necessary to convene meetings to discuss results of the audit or to explain the position of the Cooperative.

(4) Members of the management board and the supervisory board take part in the meeting of the representatives' assembly but have no rights to vote.

#### Clause 32 Convening a meeting of the representatives' assembly

(1) Meetings of the representatives' assembly are usually convened by the chairperson of the supervisory board. The legal right of a management board to convene a meeting of the representatives' assembly is without prejudice.

(2) Written invitations with agendas are sent to representatives to attend meetings of the representatives' assembly. Invitations are issued by the chairperson of the supervisory board or of the management board if the latter convenes a meeting of the representatives' assembly. A period of at least two weeks must have passed between the day of the meeting of the representatives' assembly and the day the invitation was sent. The day the invitation was sent and the day the meeting of the representatives' assembly takes place are not counted.

(3) The agenda is announced to all members by publishing it online under the Cooperative's address.

(4) Meetings of the representatives' assembly must be convened immediately at the request of one tenth of the members or one third of representatives made in motions signed by them and stating the purpose and the reasons. If one tenth of the members, or one third of the representatives demands in time and in the same way that decisions are taken on certain matters that fall within the powers of the representatives' assembly, such matters must be placed on the agenda.

(5) Members at whose request the meeting of the representatives' assembly is convened, can take part in such meeting. They choose a representative from their midst to exercise their right to speak or table motions.

(6) Resolutions can only be taken on items specified on the agenda. Proposals for resolutions can be accepted subsequently, insofar as such resolutions are within the powers of the representatives' assembly and if such proposals have been announced a week before the meeting of the representatives' assembly in the manner established in section 2 a week beforehand at the latest. The same applies to motions put forward by the management board or the supervisory board. The motion in meetings of the representatives' assembly to convene an extraordinary meeting of the representatives' assembly does not need to be announced.

#### Clause 33 Chairing the representatives' assembly and passing resolutions

(1) The meeting of the representatives' assembly is to be chaired by the chairperson of the supervisory board or the chairperson's deputy should the chairperson be unable to take part. If both cannot take part, a member of the management board must chair the meeting. The person chairing the meeting must appoint a secretary and people to count the votes.

(2) Voting is carried out at the discretion of the chairperson of the meeting by persons raising their hands or standing up. On request, the representatives' assembly can resolve by simple majority to hold a secret ballot. Votes regarding clause 34, i, j, m, n, q, r and u of the Regulations must be carried out by secret ballot if requested by a representative and such decision is agreed to by one tenth of the votes submitted.

(3) Each representative of the representatives' assembly has one vote which is not transferrable. Any person who is to be discharged through the vote, or be exempted from a liability, may not participate in the vote. The same applies to votes on whether the Cooperative is to bring action against such person.

(4) To ascertain whether a resolution has been passed, only the votes actually cast are counted. Abstentions are not taken into account. The same applies when in secret ballots, ballot papers are handed in which have not been written on or ballot papers are submitted that do not comply with the voting proposals.

In the case of a tied vote, subject to the special regulation that applies to votes, the motion is considered rejected.

(5) Persons are elected to the supervisory board based on proposals which are to be made by the representatives' assembly. Only individuals may be proposed; lists of people are not permitted. If elections are held using ballot papers, persons are elected who have received more than half of all votes cast. Each eligible voter has as many votes as there are supervisory board members to be elected. If this majority is not achieved in a single ballot, persons not elected who have received votes stand for election again in the order of the number of votes that they received in the first ballot. In the case of this election, the proposal for nominations must be at least twice the number of the persons still to be elected. If this figure is not achieved from the previous ballot, the proposal for nominations must be increased appropriately by the representatives' assembly. In each further ballot too, persons elected are only those who have received more than half of all votes cast.

If elections are held without ballot papers, each person concerned must be voted for individually. Persons can only be elected if they have received more than half of all votes

cast. The same applies to a re-election. Persons elected must declare that they accept the office concerned.

(6) Minutes must be taken on resolutions by the representatives' assembly. The minutes are to state the place and day of the meeting, the name of the chairperson and the type and outcome of the vote and the chairperson's statement regarding the resolution. In the case of elections, names of the persons put forward and the numbers of votes cast for them must be stated. Ballot papers do not have to be kept. Minutes must be signed by the chairperson and the members of the management board who are present. Documents on the calling of the election are to be enclosed as attachments. Each member is to be permitted to look at the minutes. The minutes must be in the Cooperative's safekeeping.

(7) If a resolution to amend the Regulations is taken which concerns as follows:

- a) an increase in the number of compulsory shares and several shares are involved;
  - b) an introduction or increase in members' obligations to provide extra payments;
  - d) an extension of the term for cancelling membership to a period longer than two years or
  - e) a major amendment to the purpose of the Cooperative;
- a list of the representatives who appeared with a comment on the number of votes must be enclosed with the minutes.

#### Clause 34 Powers of the representatives' assembly

(1) The powers of the representatives' assembly involve taking resolutions on the following matters:

- a) the management board's report;
- b) the supervisory board's report;
- c) the report on the audit required by article 59 GenG;
- d) the adoption of the annual statement of account (balance sheet, profit and loss statement and notes);
- e) the appropriation of profits;
- f) meeting losses shown on the balance sheet;
- g) appropriation of the statutory capital reserves to cover losses;
- h) discharging the management board and the supervisory board;
- i) electing members of the supervisory board, as well as stipulating remuneration;
- j) dismissing supervisory board members, revoking the appointment of and terminating without notice the employment contracts of management board members, as well as barring management board members and supervisory board members from the Cooperative.
- k) approving guidelines for services provided to the community;
- l) establishing restrictions to be adhered to when granting a loan to the same debtor and on the issue of bonds;
- m) taking legal action against members of the management board and the supervisory board;
- n) electing authorised parties to represent the Cooperative in court actions against supervisory board members, insofar as such actions result from such members' capacity as supervisory board members;
- o) amending the Regulations;
- p) requesting members to make further payments to cover losses, as specified in clause 19, section 2;
- q) reorganising the Cooperative by merger, division, transferral of assets or amendment to the legal form;
- r) dissolving the Cooperative and rejecting liquidators;
- s) other purposes for which resolutions on the part of the representatives' assembly are required by law;
- t) consenting to election regulations to elect representatives to the representatives' assembly and amendments thereto (article 43, section 4, sentence 7 GenG);
- u) electing members (to be stipulated by the representatives' assembly) to the election committee;

v) pursuing entitlements to recourse from management board members and supervisory board members due to their positions in the bodies concerned.

(2) If the number of members drops below 1,501, members jointly exercise their rights in affairs of the Cooperative in the members' assembly. The members' assembly replaces the representatives' assembly. Regulations governing the representatives' assembly also apply to the members' assembly. If in order to exercise rights, the participation of a specified number of representatives is required, or in order to take resolutions, the presence of a specified number of representatives is stipulated, members act instead of the representatives.

#### Clause 35 Quorum requirements

(1) Resolutions by the representatives' assembly are taken by majority vote, insofar as legal requirements or the Regulations do not stipulate a larger majority or other regulations.

(2) Resolutions by the representatives' assembly on the following matters:

a) revocation of the appointment of management board members or dismissal of supervisory board members;

b) amendment of the Regulations;

c) pursuant to clause 19, section 2;

d) dissolution of the Cooperative;

require a three-quarter majority of the votes cast to take effect.

(3) The resolutions on dissolution or merger of the Cooperative, as well as the transferral of the Cooperative's assets, can only be taken if at least half of all representatives are present at the meeting of the representatives' assembly. Should this not be the case, a further meeting of the representatives' assembly must be convened a minimum of two and a maximum of four weeks afterwards. Such meeting of the representatives' assembly can, regardless of the number of representatives present, make the appropriate resolutions with a majority of three quarters of the votes cast. This fact must be made clear in the invitation.

(4) Resolutions which are introduced or extended due to the fact that members are obligated to make use of facilities or other services provided by the Cooperative, or to make non-cash contributions or provide other services, require a majority of at least nine tenths of the votes cast.

(5) Resolutions taken in the annual general meeting on dispensing with the representatives' assembly can only be taken if at least three tenths of all members are present or represented and require a majority of at least three quarters of the votes cast to take effect.

#### Clause 36 Right to information

(1) On request during the meeting of the representatives' assembly, each representative is entitled to information from the management board on matters relating to the Cooperative, insofar as such information is required to make a proper assessment of the relevant point on the agenda. The information must be prepared with due care and must give a true representation of the situation.

(2) The management board is entitled to refuse to provide the information in the following cases:

a) if based on prudent commercial assessment the information could put the Cooperative at a significant disadvantage;

b) if by providing the information the management board would make themselves liable to prosecution, or issuing such information would infringe a duty of confidentiality specified by law, the Regulations or contract;

c) if the request for information concerns the personal or business relationships of a third party;

d) if such information concerns employment contracts with management board members or members of the Cooperative;

e) if reading documents aloud would prolong the meeting of the representatives' assembly to an unreasonable extent.

(3) If representatives are denied information, they may request that their questions and the reason why the information was denied are included in the minutes.

## **VII. Accounting**

### **Clause 37 Business year and preparing the annual statement of account**

(1) The business year runs from 1 January and 31 December.

The first business year runs from the date the Cooperative was officially entered to 31 December.

(2) The management board must ensure that the accounts department and the management fulfil the responsibilities of the Cooperative.

(3) After a business year has expired, the management board must prepare an annual statement of account (balance sheet, profit and loss statement and notes). The annual statement of account must comply with statutory regulations on assessment and the statutory regulations on the structure of the balance sheet and the profit and loss statement. The required forms must be used.

(4) In conjunction with the annual statement of account, the management report must draw up a report, insofar as such action is required by the Handelsgesetzbuch [*German Commercial Code*]. In the management report, business performance and the position of the Cooperative must be presented in such a way that actual circumstances are reflected; the opportunities and risk of developments in the future must also be stated.

(5) The annual statement of account and the management report and the proposal for appropriating profits or covering losses, must be sent immediately after they have been prepared to the supervisory board for scrutiny and are then to be forwarded with the comments made by the supervisory board to the representatives' assembly.

### **Clause 38 Preparing the resolution on the annual statement of account and appropriation of profits**

(1) The annual statement of account (balance sheet, profit and loss statement and notes) checked by the supervisory board and the report by the management board with the comments of the supervisory board, must be presented for members to inspect in the Cooperative's offices or the members must be given access thereto by other means, two weeks before the meeting of the representatives' assembly at the latest.

(2) The annual statement of account and the management report, with the comments by the supervisory board and the proposal for appropriating profits or covering losses, as well as the report by the supervisory board, must be sent to the representatives' assembly in order for such assembly to take resolutions accordingly.

## **VIII. Capital reserves, appropriation of profits and covering losses**

### **Clause 39 Capital reserves**

(1) As specified by law, capital reserves must be created. The exclusive purpose of such reserves is to cover a loss shown in the balance sheet.

(2) At least 10 % of the annual profit minus any loss carried forward must be placed in the statutory capital reserves until the capital reserves have reached 50% of the total amount of liabilities shown on the annual balance sheet. The statutory reserves must be created when drawing up the balance sheet.

(3) Furthermore, when drawing up the annual statement of account other reserves can also be made.

### **Clause 40 Appropriation of profits**

(1) Profits can be distributed among members as dividends, or can be used to create other revenue reserves, or to be carried forward to a new year.

(2) The dividend is not to exceed 4% of the credit balance. Other shares in assets which are not seen as appropriate considerations for special cash-equivalent services may not be given to members.

(3) Profits are appropriated in accordance with the ratio of the credit balance at the beginning of the business year for which the annual statement of account has been prepared. The dividends are due 14 days after the meeting of the representatives' assembly.

(4) Dividends due are paid out in the offices of the Cooperative, or onto the member's account. Entitlement to payment of dividends reaches the statute of limitations if not collected within two years after the due date.

(5) If a share has not yet been fully attained, the dividend is not paid out but added to the credit balance. Such stipulation also applies if the balance to cover a loss has been diminished.

#### Clause 41 Covering losses

If a loss is shown on the balance sheet, the representatives' assembly must decide on how to cover such loss, in particular to what extent the loss is to be covered by decreasing the balance or using the statutory capital reserves. If the balance is used to cover losses, the proportion taken is not based on the existing credit balance, but on the ratio of compulsory payments required by the Regulations at the beginning of the business year which the annual statement of account was prepared for, even if such payments are in arrears.

### IX. Announcements

#### Clause 42 Announcements

(1) Announcements are published under the Cooperative's company name; pursuant to clause 22, sections 2 and 3 they must be signed by two members of the management board. Announcements by the supervisory board are signed by the chairperson, stating the name of the supervisory board, or by a deputy if the chairperson is unable to sign.

(2) With the exception of the invitation to the meeting of the representatives' assembly (clause 32, section 2) and announcements that concern the election of the representatives' assembly, announcements are published in *Amtsblatt Berlin [Berlin Gazette]* and in the previous form by displaying them at the entrance to each residential property. Accounting documents which are subject to mandatory disclosure are published in the electronic *Bundesanzeiger [Federal German Gazette]*.

### X. Auditing of the Cooperative, auditing association

#### Clause 43 Audit

(1) To establish the status of the financial affairs and proper management of the Cooperative, its facilities, asset position and the maintenance of a list of members must be audited each business year. When auditing the management report, checks must be carried out to ensure that the opportunities and risks of future developments are reflected appropriately.

(2) If the Cooperative is subject to auditing based on the *Makler- and Bauträgerverordnung [German Real Estate Agent and Commercial Construction Industry Ordinance]*, such audit must also be carried out.

(3) The Cooperative is a member of *Verband Berlin-Brandenburgischer Wohnungsunternehmen e.V.* The Cooperative is audited by such auditing association.

(4) The Cooperative's management board must prepare the audit diligently. The board must give the auditors all documents and information requested which are necessary to carry out the audit.

(5) The Cooperative's management board must give the auditing association the annual statement of account adopted by the representatives' assembly and the management report, as well as the notes from the supervisory board and the latter's report immediately.

(6) In a joint meeting, the management board and the supervisory board must discuss the results of the audit immediately after the audit report has been received. The auditing

association is entitled to take part in the meeting. The Cooperative's bodies must address any weaknesses reported and comply with requirements made by the auditing association.  
(7) The auditing association is entitled to take part in the meetings of the Cooperative's representatives' assembly and to speak in the meetings at any time. Therefore, the association must be invited to all meetings of the representative's assembly in time.

## **XI. Dissolving and winding up the Cooperative**

### Clause 44 Dissolution

- (1) The Cooperative will be dissolved in the following cases:
- a) by resolution on the part of the representatives' assembly;
  - b) when insolvency proceedings are instigated;
  - c) by ruling of the court when the number of members of the Cooperative is less than three;
  - d) due to other situations specified in the German Cooperatives Act.
- (2) When winding up the Cooperative, the regulations in the German Cooperatives Act apply.

These Regulations were revised by the representatives' assembly of WBG Wilhelmsruh eG on 24 June 2008.

The registry number at the Amtsgericht [*local court*] of Charlottenburg is: 488 B