

## **STATUTES OF TECHNISCHER ÜBERWACHUNGS- VEREIN RHEINLAND BERLIN BRANDENBURG PFALZ E.V.**

### **ART.1 NAME AND HEAD OFFICE**

1. The organization bears the name Technischer Überwachungs-Verein Rheinland Berlin Brandenburg Pfalz e.V., (abbreviated to „TÜV Rheinland Berlin Brandenburg Pfalz“).

2. TÜV Rheinland Berlin Brandenburg Pfalz has its head office in Cologne, Fed. Rep. of Germany, and has been entered in the Register of Associations of the Local Court (Amtsgericht) Cologne in accordance with Art. 55 of the Federal Civil Code (Bürgerliches Gesetzbuch).

### **ART. 2 OBJECTIVE**

1. The objective of TÜV Rheinland Berlin Brandenburg Pfalz as an independent and unbiased organization is to develop and assure safety and quality in all industrial and other areas of life and to carry out certification and to provide training and instruction or to take other action designed to achieve this objective. In doing so, the organization avails itself of own or outside personnel as well as own or outside facilities and initiates appropriate action. In case TÜV Rheinland Berlin Brandenburg Pfalz avails itself of outside personnel or facilities, the limitations resulting from the relevant statutory provisions are to be taken into consideration.

2. TÜV Rheinland Berlin Brandenburg Pfalz is

a) recognized as a technical inspection organization according to Art. 21 (2) et seq. of the German Equipment and Product Safety Act (Geräte- und Produktsicherheitsgesetz) and

b) authorized to maintain technical test centres for motor vehicles according to the Law governing the Qualification of Motor Vehicle Experts (Kraftfahrersachverständigengesetz) and recognized as an inspection organization in the context of the Road Licensing Regulations (StVZO).

3. The recognitions and authorizations set out in Paragraph 2 cover the following areas:

a) the whole of the State of North Rhine-Westphalia as an inspection organization as set out in Paragraph 2b) above; limited to the administrative district of Cologne the administrative district of Düsseldorf (with the exception of the cities of Duisburg, Essen, Mülheim a.d. Ruhr and Oberhausen which are administrative districts in their own right and the districts of Kleve and Wesel) as a technical inspection organization as set out in Paragraph 2a) above and technical test centre as set out in Paragraph 2b);

b) the State of Rhineland-Palatinate;

c) the State of Brandenburg (only as an inspection organization as set out in Paragraphs 2a) and 2b) above and

d) the State of Berlin.

4. If not executed by TÜV Rheinland Berlin Brandenburg Pfalz directly, any tasks, except for activities assigned to it by the federal government, it has undertaken to fulfil according to its Statutes will be performed by subsidiary and affiliated companies and third parties called in for that particular purpose. Real estate and participations required for running the business may be acquired. It may also establish foundations.

5. TÜV Rheinland Berlin Brandenburg Pfalz does not operate on a profit-making basis.

### **ART. 3 MEMBERSHIP**

1. Membership of TÜV Rheinland Berlin Brandenburg Pfalz is open to any natural or juristic person who declares to be willing to encourage and promote especially the achievement of the organization's objectives as defined in the Statutes.

2. Membership of TÜV Rheinland Berlin Brandenburg Pfalz is also open to associations of natural or juristic persons.

3. Persons who are in an employment or service, freelance-working or pension relationship with TÜV Rheinland Berlin Brandenburg Pfalz or its subsidiaries or affiliated companies as well as associations of such persons may not become members. The Presiding Board may decide to depart from this provision.

4. The Executive Body decides upon admittance to TÜV Rheinland Berlin Brandenburg Pfalz. Applications for admittance are to be made in writing. Appeals against refusal may be made to the Board of Directors whose decision is final. A member's rights and duties commence on the day of admittance. Members will be notified of their admittance by registered letter with acknowledgement of receipt.

5. Membership terminates when

- a) notice of resignation is given or
- b) the member has been expelled according to Art. 4 (4).

Notice of resignation must be given in writing and be received by TÜV Rheinland Berlin Brandenburg Pfalz on or before 30th September. In that case membership terminates at the end of the current financial year.

6. The Board of Directors may decide that groups of members should be formed along regional lines for reasons of expediency.

## **ART. 4 MEMBERS' RIGHTS AND DUTIES**

1. Each member can retain the services offered by TÜV Rheinland Berlin Brandenburg Pfalz to its members. Members are invited to retain, as and when required, the services provided by TÜV Rheinland Berlin Brandenburg Pfalz and its subsidiaries. On request, each member will receive a current report on TÜV Rheinland Berlin Brandenburg Pfalz's activities as well as the information published annually by TÜV Rheinland Berlin Brandenburg Pfalz in writing or electronically.

2. Each member has a seat and vote in the General Meeting. The right to vote is graded according to the amount of the annual membership fee. A member cannot have more than 20 votes. Further details are laid down in the subscription ordinance.

3. Each member is bound to remit the fixed membership fees at the beginning of the financial year.

4. A member who does not fulfil his duties or who has jeopardized the interests of TÜV Rheinland Berlin Brandenburg Pfalz or whose conduct may be detrimental to the interests of TÜV Rheinland Berlin Brandenburg Pfalz may be expelled by the Executive Body after having been given the opportunity to express his opinion. Reasons for his expulsion shall be given in writing. Any appeal against expulsion shall be submitted to the Board of Directors within two weeks of receipt of the decision; the decision of the Board of Directors is final. Recourse to the courts of law is permitted.

5. During his membership of TÜV Rheinland Berlin Brandenburg Pfalz or after his resignation no member has a claim to the assets of TÜV Rheinland Berlin Brandenburg Pfalz or to refund of any kind of membership fees, deposits or fees paid.

A member's financial obligations towards TÜV Rheinland Berlin Brandenburg Pfalz will not be invalidated by his membership being terminated.

## **ART. 5 BODIES**

The bodies of TÜV Rheinland Berlin Brandenburg Pfalz are:

1. the General Meeting (Art. 6),
2. the Board of Directors (Arts. 7,8) and
3. the Executive Body (Art. 9).

## **ART. 6 GENERAL MEETING**

1. The Chairman of the Board of Directors of TÜV Rheinland Berlin Brandenburg Pfalz convenes a General Meeting in the cases provided for in the Statutes and in particular whenever it is in the interest of the organization to do so. An ordinary General Meeting should be held once a year. The invitation to the General Meeting

including the agenda shall be communicated to the members in writing or electronically at least two weeks beforehand.

The period is counted from the day on which the invitation is mailed.

## 2. The General Meeting

a) appoints the members of the Board of Directors and decides upon their discharge and

b) decides on all matters allocated to it by virtue of law or the Statutes.

3. A General Meeting shall be convened within two months if at least ten per cent of the members of the organization, the Board of Directors or the Executive Body demand so, stating the subject for consultation in writing. If the request is not complied with, the Executive Body may convene a General Meeting with reference to the situation and state the subject for consultation.

4. The Chairman of the General Meeting shall be the Chairman of the Board of Directors or his Deputy. If both are unable to attend the General Meeting, the Chairman of the Board of Directors will designate the Chairman of the Meeting. In case no person has been designated, the General Meeting will elect, at the proposal of the Chairman of the Executive Body, a member of the Board of Directors to act as Chairman. He has the right to review the authorization of those present to participate; he may admit nonauthorized persons to attend as observers.

5. The General Meeting shall constitute a quorum irrespective of the number of members appearing, unless the General Meeting is convened for the purpose of dissolving TÜV Rheinland Berlin Brandenburg Pfalz (Art. 14). With the exception of resolutions for amending the Statutes (Art. 13) or for dissolving the organization (Art. 14), the resolutions shall be passed with a simple majority of the votes of the members present and represented. No resolution shall be passed with parity of votes. Voting shall be by show of hands if the General Meeting does not decide upon secret ballot in individual cases.

Resolutions of the General Meeting in accordance with the above Paragraph may be passed by postal balloting if the Board of Directors is of the opinion that it will not be necessary to convene a Meeting to resolve on the matter in question.

6. A member has the right to have himself represented at the General Meeting with the number of his votes by another member authorized to this end in writing. Representation of votes to another member shall be limited to twenty votes.

7. Groups of members as defined by Art. 3 (6) may hold partial General Meetings with the consent of the Board of Directors. The partial General Meetings have to be convened prior to the annual General Meeting. The agenda of the partial General Meeting shall also include the agenda of the ensuing annual General Meeting for briefing and discussion. Paragraph 1, Sentences 2 and 3 and Paragraphs 3 to 6 shall apply to partial General Meetings on the following condition: The Chairman of the Board of Directors may assign his rights and duties to a member of the Board of Directors, preferably from the corresponding group of members. The voting results of the partial General Meetings shall be added to the voting results of the annual General Meeting to determine the total voting result. Each member is allowed to cast his vote once only. If a member has cast his vote in a partial General Meeting, he is not allowed to vote again.

8. A written record of the results of each General Meeting and partial General Meeting shall be taken, signed by the Chairman of the Meeting and the Chairman of the Executive Body and sent to the members of the Board of Directors.

9. The General Meeting refrains from exerting its influence in order to preserve the independence of the inspection and advisory services of the organization or its subsidiary or affiliated companies.

10. As long as the conditions referred to in Art. 2 (2) apply, the competent supervisory authorities of the States of North Rhine-Westphalia, Rhineland-Palatinate, Berlin and Brandenburg as specified in Art. 2 (2) shall be informed of each General Meeting being summoned with the agenda being appended. The invitation must be received two weeks beforehand. The supervisory authorities may send representatives to the General Meetings. A written record of the results of each General Meeting shall be taken and sent to the supervisory authorities.

## **ART. 7 TASKS OF THE BOARD OF DIRECTORS**

1. Unless otherwise stipulated in the Statutes, the Board of Directors decides upon matters of the organization. It decides in particular upon the following matters, i.e. it

- a) determines the directives for the organization's mode of working for achieving the objectives of the organization;
- b) specifies the date and agenda of General Meetings;
- c) appoints and dismisses the Chairman and the other members of the Executive Body;
- d) passes a resolution on the subscription ordinance and fixes the membership fees;
- e) approves the budget for the coming financial year;
- f) appoints, at the proposal of the Presiding Board of the Board of Directors, the certified auditor for auditing the annual financial statements for the coming financial year;
- g) approves the annual financial statements and decides upon the discharge of the Executive Body, the Special Representatives and the Presiding Board;
- h) approves, when required, an investment and budget plan covering several years;
- i) decides upon establishing, selling or liquidating subsidiary companies as well as acquiring and selling participations or shareholdings in cases where the amount of the transfer or liquidation exceeds € 10 million or the share capital of the subsidiary to be established exceeds € 1 million;
- j) decides on the establishment or dissolution of State Board of Directors and defines the tasks to be assigned to these bodies;
- k) establishes, when required, rules of procedure for the Board of Directors and the Executive Body of the organization;
- l) makes amendments to the wording of the Statutes as far as these amendments are merely of an editorial nature.

2. The Board of Directors refrains from exerting its influence in order to preserve the independence of the inspection and advisory services of the organization or its subsidiary or affiliated companies.

## **ART. 8 COMPOSITION AND MEETING OF THE BOARD OF DIRECTORS**

1. The Board of Directors is composed of not less than seven and not more than fifteen natural persons who are elected by the General Meeting for a period of four years from among the individual members or, where the members are juristic persons, from among the authorized representatives of these members.

When selecting the members of the Board of Directors, professional and geographic aspects shall be taken into account. Reelection is permissible.

The Chairman of the Executive Body of TÜV Rheinland Berlin Brandenburg Pfalz is the Managing Director of the Board of Directors.

2. Furthermore, at the suggestion of the Executive Body, personalities from public life, industry, administration and academia may also be nominated to the Board of Directors, making a total of up to one quarter of the members of the Board of Directors coming from among its members. At the suggestion of the Board of Directors, they shall be elected by the General Meeting for a period of four years. Re-election is permissible.

The term of office of persons who are members of the Board of Directors in accordance with Paragraph 1 as authorized representatives of a juristic person or who are members of the Board of Directors in accordance with Paragraph 2 Sub-Paragraph 1 terminates at the end of the year in which the authorization or public function ends. Otherwise the term of office terminates at the end of the year in which the membership underlying the appointment ends. The Board of Directors may prolong their term of office to last until expiry of the election period.

3. Furthermore, ex officio member of the Board of Directors is the Chairman of the Works Council of the TÜV Rheinland Berlin Brandenburg Pfalz Group as long as TÜV Rheinland Berlin Brandenburg Pfalz is the majority shareholder.

4. In case the Board of Directors has decided to establish a State Board of Directors, the members of the State Board of Directors shall be elected from among the members of the respective State. The State Board of Directors of a group of members shall consist of not less than three and not more than six members from this group, who shall be elected for a period of four years. Re-election is permissible; otherwise Art. 8 (1, 2) shall apply where appropriate.

5. The Board of Directors elects the Chairman and Deputy Chairman of the Board of Directors from among its members for a period of four years in accordance with Paragraph 1. After expiry of the period for which they were elected the Chairman

and his Deputy remain in office until their successors have been elected. Re-election is permissible.

The preceding arrangement applies mutatis mutandis to the State Boards of Directors provided one Chairman is elected from among the members. If the Board of Directors so decides, the Chairmen of the State Boards of Directors may be appointed members of the Board of Directors in addition to the number stated in Paragraph 1.

6. The Board of Directors elects a Presiding Board from its members, comprising the Chairman of the Board of Directors, his Deputy, the Chairman of the Executive Body and further - with a maximum of three - members from the Board of Directors in accordance with Paragraphs 1 and 5, Sub-Paragraph 2, last Sentence.

With the exception of decisions referred to in Art. 4 (4), the day-to-day business of the Board of Directors and the tasks assigned to it by virtue of these Statutes may be delegated to the Presiding Board, presided over by the Chairman of the Board of Directors. Following consultation with the Presiding Board, the Chairman of the Board of Directors concludes the service agreements with the members of the Executive Body and represents the organization vis-à-vis the members of the Executive Body in these matters.

7. The Board of Directors shall meet when required, however, at least once a year. The Chairman shall invite members to a meeting of the Board of Directors at not less than two weeks notice, informing them of the agenda and sending them the documents for consultation. The period is counted from the day on which the invitation is mailed. On the motion of four members of the Board of Directors, the Chairman shall have to convene a meeting of the Board of Directors within four weeks. Members of the Executive Body shall participate in meetings of the Board of Directors.

8. The Board of Directors shall constitute a quorum with more than half of its members or with at least three members and, in addition to these, half of the members of the Presiding Board present. It shall pass its resolutions with the majority of the votes cast. The Chairman of the Board of Directors shall have the casting vote with equality of votes. Resolutions of the Board of Directors may also be passed after voting by written ballot, should convening of a meeting not be possible due to lack of time or should the proposed resolution not justify convening of a meeting.

9. A written record of results of each meeting of the Board of Directors shall be taken, be signed by the chairman of the meeting and the Chairman of the Executive Body and be sent to the members of the Board of Directors.

10. The tasks of the State Boards of Directors shall be performed with the consent of the Chairman of the Board of Directors. The provisions of Art. 8 (7 to 9) shall apply where appropriate.

11. Membership of the Board of Directors and the State Boards of Directors is honorary. The Presiding Board may decide to depart from this provision. Remuneration, to be fixed by the Presiding Board, for attendance will be paid and particular expenses be reimbursed against supporting documents.

12. As long as the conditions referred to in Art. 2 (2) apply, the competent supervisory authorities of the States of North Rhine-Westphalia, Rhineland-Palatinate, Berlin and Brandenburg are invited to the meetings of the Board of Directors and may send representatives to these meetings. These representatives, however, do not have the right to vote. A written record of the results of the meetings of the Board of Directors shall be taken and sent to the supervisory authorities.

## **ART. 9 EXECUTIVE BODY**

1. The Executive Body is composed of the Chairman and usually another member who is to be appointed by the Board of Directors. If there is a particular need to do so, the Board of Directors may appoint further members to the Executive Body.

2. The Chairman of the Executive Body is responsible for managing the business of the organization in accordance with the relevant legal provisions and resolutions of the Board of Directors. The Chairman of the Executive Body has to see to it that TÜV Rheinland Berlin Brandenburg Pfalz is organized appropriately. He is responsible for the strategic orientation and administers the assets of TÜV Rheinland Berlin Brandenburg Pfalz.

As long as the conditions referred to in Art. 2 (2) apply, the powers and authorities of the heads of the technical centres and the technical directors of the inspection organizations and the Chairman of the Executive Body and his Deputy as Managers as defined in the ordinances for the organization of technical supervision or other statutory provisions remain unaffected.

3. The Chairman of the Executive Body proposes to the Board of Directors the other members of the Executive Body for appointment. The Chairman of the Executive Body shall engage the staff needed. The same shall apply to the termination of service and employment relationships.

4. The Executive Body shall decide, with the majority of votes of its members, upon all matters with the exception of those reserved for the Chairman of the Executive Body as referred to in Paragraphs 2 and 3. Each member of the Executive Body has one vote. The vote of the Chairman of the Executive Body is decisive with parity of votes.

The Chairman of the Executive Body has the right to object to resolutions of the Executive Body which have been passed without or against his vote, if, in his opinion, they do not serve the proper fulfilment of the tasks of the Executive Body. This objection shall be reported to the Presiding Board of the Board of Directors, which, where necessary in accordance with Art. 8 (6), has the right to confirm, modify or revoke the resolutions to which the Chairman of the Executive Body has objected.

5. Written records shall be taken of the meetings of the Executive Body, be signed by the chairman of the meeting and be sent to the members of the Executive Body.

6. As long as the conditions referred to in Art. 2 (2a) apply, the Chairman of the Executive Body and another member of the Executive Body are the manager or deputy manager within the context of the ordinances for the organization of technical supervision and as such must be experts as defined by said ordinances or other legal regulations. The appointment and dismissal of the Chairman of the Executive Body and other members of the Executive Body shall require the consent of the supervisory authorities as specified in Art. 2 (2a).

7. Otherwise the provisions of the Law governing the Qualification of Motor Vehicle Experts (Kraftfahrersachverständigengesetz) and/or Annex VIII b) to the Road Licensing Regulations (StVZO) will not be affected.

## **ART. 10 POWER OF REPRESENTATION**

1. The Executive Body in accordance with Art. 26 (2) of the Federal Civil Code (BGB) shall consist of the members of the Executive Body. The Chairman of the Executive Body and another member represent the organization jointly. In case the Executive Body consists of one person only, this person has the sole power of representation.

2. To safeguard the rights of TÜV Rheinland Berlin Brandenburg Pfalz as a shareholder in those subsidiary companies in which the Chairman of the Executive Body has been appointed to serve as Executive Body or as manager, the Board of Directors appoints from its members two Special Representatives to act jointly for a period of three years. The term of office terminates when the activity in the Board of Directors ends. The Board of Directors may prolong the term of office to last until expiry of the election period at the latest.

3. In addition to this, each of the Special Representatives shall be given unlimited authority to act on behalf of the organization in such a manner that he is authorized, together with a member of the Executive Body, to represent the organization jointly in accordance with Paragraph 1 in all those legal transactions in which an involvement of one of the bodies of the organization is not essential because of the particular nature of the legal transaction.

4. Art. 8 (6), Sub-Paragraph 2, Sentence 2 will not be affected.

## **ART. 11 EXPERTS**

1. As long as the conditions referred to in Art. 2 (2) apply, TÜV Rheinland Berlin Brandenburg Pfalz sees to it that it employs a sufficient number of experts, inspectors and equivalent specialists who have the necessary qualifications to

ensure that they fully meet the requirements placed on them. In selecting them, attention should be paid to their character and reliability as well as to their personal and specialist capabilities.

The organizational, operational and technical prerequisites that are needed for their exercising their function are created. Exchanging experience, further training and quality assurance shall be ensured to an appropriate degree.

2. The experts, inspectors and comparable specialists shall fulfil their tasks objectively and impartially.

3. With regard to the experts, inspectors and comparable specialists, an undertaking is given in the employment contracts that work and remuneration are non-conditional on the results of inspections or appraisals and that further-reaching legal obligations are met.

## **ART. 12 FINANCIAL YEAR - BUDGET AND ANNUAL FINANCIAL STATEMENTS**

1. The financial year is the calendar year.

2. The Executive Body submits to the Board of Directors the budget for each financial year for adoption.

3. Following conclusion of a financial year, the Executive Body draws up the annual financial statements and submits these with the annual report to the Board of Directors for adoption. The annual financial statements shall be audited as to their correctness by an officially certified public auditor who shall be appointed by the Board of Directors at the suggestion of the Presiding Board. The audit report shall be submitted to the Chairman of the Board of Directors, his Deputy and the members of the Executive Body. The Board of Directors shall be informed of the results of the audit of the annual financial statements.

4. As long as the condition referred to in Art. 2 (2) apply, books of account shall be kept of fees received for the inspection of plant subject to surveillance, broken

down according to the types of plant given in Art. 2 (7) of the German Equipment and Product Safety Act. The expenditure for the inspections shall be broken down accordingly. The preceding arrangement shall be applied to the accrual of fees from the technical test centres for road traffic maintained by TÜV Rheinland Berlin Brandenburg Pfalz and from the services rendered as inspection organization.

Inasmuch as the fees received for the inspection of plant listed in Art. 2 (7) of the German Equipment and Product Safety Act do not serve for covering the costs of technical supervision, their appropriation shall require the approval of the supervisory authorities in charge of the supervisory area. Art. 10 (2), Sentence 3 of KfSachVG (Law governing the Qualification of Motor Vehicle Experts) is not affected by that. The annual financial statements and the budget shall be sent to the competent supervisory authorities of the States.

## **ART. 13 AMENDMENT TO THE STATUTES**

Amendments to the Statutes require a majority of two thirds of the votes of the members present or represented at the General Meeting. As long as the conditions referred to in Art. 2 (2) apply, the approval of the supervisory authorities as specified in Art. 2 (3) shall be obtained.

## **ART. 14 DISSOLUTION**

1. The dissolution of TÜV Rheinland Berlin Brandenburg Pfalz can only be resolved at a General Meeting properly convened for the purpose. At least three quarters of the members present or represented will constitute a quorum. Should this proportion not be reached, then a newly convened General Meeting constitutes a quorum irrespective of the number of members present or represented.

2. A majority of three quarters of the votes of the members present or represented is necessary for the resolution on dissolution.

3. In the dissolution resolution the General Meeting decides upon the use of the organization's assets net of all obligations, at the suggestion of the Board of Directors.

4. As long as the conditions referred to in Art. 2 (2) apply, the dissolution resolution shall be reported to the supervisory authorities. It becomes effective at the earliest six months subsequent to its being reported. The General Meeting may set a longer time limit.

#### **ART. 15 EFFECTIVE DATE**

These Statutes were adopted by the General Meetings on 27.06, 28.06 and 30.06.2005 in accordance with Art. 13 of the Statutes. The supervisory authorities of the State of North Rhine-Westphalia approved the Statutes on 04. and 06.07.2005. The supervisory authorities of the State of Rhineland-Palatinate approved the Statutes on 06. and 20.07.2005, the supervisory authorities of the State of Berlin on 04. and 05.07.2005 and the supervisory authorities of the State of Brandenburg approved the Statutes on 05. and 07.07.2005. The new Statutes will come into force as soon as they have been entered in the Register of Associations.

Cologne, 1st October 2005