

Memorandum and Articles of Association of Trailer Industrie Verbandes e.V. (TIV)

Section 1 Name, Legal Form and Registered Office

The Association bears the name "Trailer Industrie Verband" (TIV). It is an association with legal capacity. The Association shall be registered in the register of associations. The Association's registered office is in Berlin.

Section 2 Purpose

1. The purpose of the Association is to take care of mutual professional tasks. In particular, these include:
 - a) safeguarding the rights and interests of the trailer industry and performing public relations work in the fields of industrial policy, consumer protection, product liability and the shaping of the law;
 - b) supporting and advising the legislative bodies and authorities at national, European and universal international level in respect of all matters concerning manufacturers and suppliers of trailers and trailer-related products;
 - c) safeguarding the interests of the trailer production industry and suppliers in relation to other national, European and international professional associations;
 - d) membership of national, European or other international trade associations, and participation in companies of any corporate form whatsoever, insofar as such membership or participation serves the Association's purpose or the members of the Association;
 - e) networking and know-how transfer between the Association members by means of working groups and the Association's website.
2. The Association shall have the function of representing the mutual professional and economic-policy interests of trailer manufacturers and of individuals, legal entities or partnerships closely associated with trailer manufacturers in professional or economic terms.
3. The Association shall not have the purpose of running a commercial business. In particular, it shall not have the functions of a cartel.

Section 3 Membership

1. The Association shall have full members and associate members. These shall, in accordance with the Memorandum and Articles of Association, exercise at the members' meeting their rights in matters concerning the Association.
2. Full members are
 - group I: European manufacturers (OEM)
 - group II: industrial suppliers
3. Group I members are *companies, domestic and foreign natural and/or legal entities or corporations with production operations set up in a commercial manner (benchmark: production of over 1,000 units per annum) in the field of trailers and trailer accessories, insofar as the object of their business includes the manufacture, or fitting-out, of mass-produced industrial vehicles. Group II members are companies closely associated with Group I companies (cf. Section 3 (2)) from a professional and commercial perspective.
4. Associate members are supporting members and guest members.
5. Supporting members are group III members. Companies, *domestic and foreign natural and/or legal entities or corporations. that are in any other way closely associated with the branch of industry concerned may become a supporting member.
6. Other organisations or individuals whose membership would be likely to promote the purpose of the Association, or be in the Association's interest, may become a guest member. Guest members do not have the right in general meetings of the members to make proposals, to submit election nominations or to take part in elections or votes. Guest members shall be regularly informed of the Association's activities.

Section 4 Acquisition of Membership

1. The Executive Board shall decide on admittance on the basis of a written application.
2. Applicants may, within two weeks of receiving notification of rejection of their application for admittance, lodge an appeal in writing with the Executive Board for the attention of the Chairman of the Executive Board. A final decision thereon shall be made at the next ordinary members' meeting.
3. There shall be no claim to membership.

Section 5 Rights and Duties of the Members

1. Members are to promote the purpose of the Association and refrain from doing anything that could hinder the activities to be performed by the Association's organs under its Memorandum and Articles of Association. They shall comply with the provisions of the Memorandum and Articles of Association and the resolutions made by the Association's organs in accordance with the Memorandum and Articles of Association.
2. Only full members shall be entitled to vote at the members' meeting.
3. Full members shall have the right to
 - a. use all facilities of the Association in conformity with the Memorandum and Articles of Association and any special provisions laid down,
 - b. take part in the Association's events,
 - c. make use of advice and assistance from the Association within the scope of the purpose of the Association, and
 - d. submit motions to the members' meeting.
4. Ordinary members, as defined by Section 3 (2.) of the Memorandum and Articles of Association, and supporting members acting as extraordinary members, as defined by Section 3 (5.) of the Memorandum and Articles of Association, are required to pay a monetary membership fee, whose sum and due date are set by the members' meeting.

However, guest members acting as extraordinary members, as defined by Section 3 (6.) of the Memorandum and Articles of Association, may be wholly or partly exempted from the obligation to pay this fee if such exemption is in the Association's interest. Whether, and how, such guests are exempted shall be decided on solely by the Executive Committee of the Association.
5. Associate members shall have access to all information and events of the Association. They shall have the right to speak, but not the right to vote, at members' meetings.
6. Full members shall be permitted to use on their letterhead paper any trademarks of the Association as well as a reference to their membership of the Association.
7. All members shall have the same rights and duties within the scope of their membership group. No preferential treatment shall be given to individual persons or companies.
8. All member's rights shall only be exercised after the admittance fee has been paid.

9. All members undertake to
 - a. inform the Association of any change in the legal name, purpose or registered office of the company and report in text form any change to the representation arrangements and any change of Executive Director,
 - b. to pay the membership fee on time
 - c. disclose in a timely and truthful manner all information necessary for setting the fees,
 - d. answer truthfully all enquiries, questionnaires, statistical surveys and the like necessary for implementing the purpose of the Association.
10. Any breach of the duties specified in subsection 8 may, on the basis of a resolution of the Executive Board, lead to the suspension of the rights arising from membership. Expulsion from the Association shall also come into consideration in the event of any particularly serious breaches; this shall be decided on by the Executive Board. Section 6, subsections 3 to 6 shall apply *mutatis mutandis*.

Section 6 Discontinuation of Membership

1. Membership shall discontinue
 - a. as a result of withdrawal or expulsion,
 - b. as a result of discontinuation or dissolution of the company concerned,
 - c. as a result of the institution of insolvency proceedings or in the event of rejection of the institution of insolvency proceedings owing to a lack of assets.
2. Withdrawal shall be subject to three months' written notice to the Association with effect from the end of a calendar year. Notice must be given by letter such that the Executive Board receives it no later than on September 30th of the year in progress.
3. A member may be expelled from the Association, if it has seriously breached the interests of the Association.
4. Expulsion shall also come into consideration, if other reasons constituting good cause exist, such as for example withdrawal of the trade licence.
5. The Executive Board shall decide on expulsion. The expulsion resolution shall be communicated to the member concerned by registered letter, giving reasons. The member concerned may lodge in writing with the Executive Board, for the attention of the Chairman of the Executive Board, an appeal against the resolution within two weeks of receipt. A final decision thereon shall be made at the next ordinary members' meeting. Until the members' meeting has made its decision, the rights of the member concerned shall be suspended. A written statement from the member concerned shall be brought to the attention of the members' meeting. The final expulsion resolution shall be communicated to the member in writing by the Executive Board. Recourse to the courts shall not be ruled out by this procedure.

6. When membership ends, the member shall lose all rights arising from membership. There shall be no claim to a share in the Association's assets. The obligation to pay the fees shall remain in effect until the respective calendar year has ended.

Section 7 Financial Year

The financial year shall be the calendar year.

Section 8 The Association's Constitution

The Association's organs are:

- a) the members' meeting,
- b) the Executive Board,
- c) the Management, insofar as the Executive Board sets up a Management

Section 9 Members' Meeting

1. In particular, the members' meeting shall be responsible for the following matters:
 - a. electing the Chairman of the Executive Board and the other members of the Executive Board,
 - b. removing from office the Executive Board or individual members of the Executive Board,
 - c. receiving the annual report and formally approving the actions of the Executive Board,
 - d. approving the budget for the next financial year,
 - e. setting the admittance/annual fees and (special) cost allocations and adopting the Rules on Membership Fees,
 - f. deciding on appeals against any rejection of admittance applications and expulsion of members,
 - g. amending the Memorandum and Articles of Association,
 - h. dissolving the Association,
 - i. electing the auditor and receiving the audit report.
2. The members' meeting shall be entitled to prescribe to the Executive Board fundamental guidelines for managing the Association.
3. An ordinary members' meeting shall take place once annually by 30 September.
4. An extraordinary members' meeting shall take place, if the Executive Board decides to convene such meeting for urgent important reasons, or if one tenth of the members request in writing, giving the reasons, that the Executive Board convene such meeting.

Section 10 Convening Members' Meetings

1. A members' meeting shall be convened in writing by the Chairman of the Executive Board or, in the event of his absence, by a deputy, giving at least two weeks' notice and stating the agenda. For extraordinary members' meetings, the Executive Board may shorten this notice period to one week. *Decisive for the validity of the convening is only the invitation to the members with voting rights.
2. This notice period shall begin on the day after the letter of invitation was sent off. The letter of invitation shall be deemed received by a member, if it has been sent to the address last made known to the Executive Board representing the Association.
3. *The members of Groups I and II can by no later than one week before the members' meeting begins, request in writing that additions be made to the agenda. Motions for additions to the agenda filed by members of these groups after this time limit has expired, or during a members' meeting, shall be allowable only by resolution of the members' meeting by a three-quarters' majority. Motions for additions to the agenda shall be impermissible, if they involve amendment of the Memorandum and Articles of Association.

Section 11 Procedure of Members' Meetings

1. The members' meeting shall be conducted by a chairman of the meeting appointed by the Executive Board. The chairman of the meeting shall designate a keeper of the minutes.
2. Every full member shall have one vote. This right to vote shall be exercised only by the business owner himself or by persons authorised to represent the company on account of their position as an organ of the company or on account of power of attorney granted to them specifically.
3. A full member not attending a members' meeting may appoint in writing as his proxy another full member from the group that he belongs to, and may have his voting right exercised by this member. The power of attorney shall be presented to the Chairman of the Executive Board in the original at the beginning of the meeting, and a copy shall be attached to the minutes of the meeting as an appendix.
4. The members' meeting shall constitute a quorum, if at least one tenth of the members of group I are present; at least two thirds of all full members must be present for any vote on changing the purpose of the Association or dissolving the Association.

5. If the members' meeting does not constitute a quorum, the Chairman of the Executive Board shall, within two weeks, convene a new members' meeting with the same agenda, which shall constitute a quorum regardless of the number of members present. This shall be pointed out in the invitation.
6. Resolutions of the members' meeting shall be passed by a simple majority of the votes represented. Voting shall take place according to groups. A resolution shall be deemed brought about, if it receives the majority of all votes cast and the majority of the votes cast in group I. In the case of resolutions on matters concerning only one of the two groups, only the members of the group concerned shall be entitled to vote.
7. A two thirds' majority shall be necessary for the expulsion of members and for amendment of the Memorandum and Articles of Association. A majority of nine tenths of all valid votes cast shall be necessary for changing the purpose of the Association or dissolving the Association.
8. All elections shall take place in separate, secret ballots. Votes not involving elections may also be carried out by acclamation, unless secret voting is decided on at the application of a member. In all other cases, the chairman of the meeting shall decide on the method of voting.
9. The minutes of the meeting shall be signed by the chairman of the meeting and the keeper of the minutes. The minutes shall include:
 - a. the place, date and time of the meeting,
 - b. the name of the chairman of the meeting and the keeper of the minutes,
 - c. the number of and represented voting full members appearing *,
 - d. a statement that the meeting has been properly convened and constitutes a quorum,
 - e. the agenda,
 - f. the motions filed, the result of the votes, the method of voting,
 - g. motions to amend the Memorandum and Articles of Association or change the purpose of the Association, and
 - h. the resolutions, which shall be recorded word-for-word.
10. Resolutions of the members' meeting may also be adopted in text form using the circulation method. A resolution brought about using the circulation method shall be effective, if two thirds of all members entitled to vote have participated in the circulation method. It shall not be permissible to use the circulation method in the case of status-changing resolutions, election resolutions or resolutions causing the Memorandum and Articles of Association to be amended or breached.

Section 12 Composition and Election of the Executive Board

1. The Executive Board shall consist of up to five representatives, at least one of whom is to be from group II. The Chairman of the Executive Board must be a member of group I.
2. The allocation of the duties of the Executive Board members shall be laid down by the Executive Board in its Rules of Procedure.
3. Members of the Executive Board must be owners, or responsible representatives, of a member. If an Executive Board member ceases to hold a position of managerial responsibility at the company represented by him, or if the company concerned ceases to belong to the Association, his membership of the Association's Executive Board shall lapse. No more than two Executive Board members may be elected to the Executive Board from affiliates.
4. If an Executive Board member leaves during his term of office, a substitute member may be elected for his residual term of office at the members' meeting following this.
5. Executive Board members shall be elected by a simple majority of the votes cast. The Chairman of the Executive Board shall be elected first, then the other members.
6. The Executive Board shall be elected by the members' meeting for a term expiring at the end of the third calendar year following the appointment of the Executive Board. The Executive Board shall remain in office until a new election is held.
7. All full members shall be entitled to vote in the election of Executive Board members belonging to group I. Only members of group II shall be entitled to vote in the election of Executive Board representatives reserved for group II. Their election may also take place at a special members' meeting, to which only the members of group II shall then be invited.

Companies which belong in a group of companies to a parent company do not receive more than 2 votes, regardless of how many companies are organised in a group.

Section 13 The Executive Board's Functions

1. The Executive Board shall manage the Association in accordance with the laws and the Memorandum and Articles of Association.
2. It shall draw up the principles and guidelines for the Association's work. It shall decide on all matters of the Association, unless these are assigned to another organ of the Association by means of the Memorandum and Articles of Association or by law.

3. In particular, it shall have the following functions:
 - a. implementing the resolutions of the members' meeting,
 - b. convening and preparing for the members' meeting,
 - c. drawing up the budget for each financial year, keeping books of account, drawing up the annual report,
 - d. admitting new members and assisting with the expulsion of members,
 - e. concluding and terminating employment contracts,
 - f. deciding on the setting-up of a Management and assisting with the appointment of Executive Directors and the Managing Director and agreeing upon employment relationships by consent.
4. The Executive Board shall be responsible for the day-to-day business and the administration of the Association.
5. The Executive Board shall be permitted to appoint committees for assisting with the performance of its functions and delegate tasks to these committees. It shall specify their composition.
6. The Executive Board shall provide itself with Rules of Procedure.

Section 14 Management

1. After the Executive Board has decided to set up a Management, the Chairman of the Executive Board may, with the consent of the Executive Board, appoint one or more Executive Directors, one of whom as Managing Director, and make agreements concerning their employment relationship in each case.
2. The Managing Director may be appointed as a special representative as defined by Section 30 *BGB* [German Civil Code]. Within the framework of his appointment and his power of representation as a special representative under Section 30 *BGB*, the Managing Director shall solely represent the Association judicially and extrajudicially.
3. The Management's powers of representation shall be limited to day-to-day administration and the work of the Association, unless the Executive Board expands its powers by resolution.

4. The Management shall conduct the Association's business in accordance with the directives of the Chairman of the Executive Board. It shall be entitled to act and sign on behalf of the Association and, within the scope of the budget, conclude the contracts necessary for running the Association's business. The consent of the Chairman of the Association shall be necessary for business beyond this.
5. The Management shall attend the members' meetings and, as a rule, meetings of the Executive Board or the committees, unless otherwise stipulated by the Chairman of the Association or by the chairman of the meeting in agreement with the Chairman of the Association in any individual case. A Management member may have himself represented by another member of the office, if need be

Section 15 Expert Committees

1. Expert committees for dealing with individual issues may be formed, if need be. Generally, the function of these expert committees shall be limited to giving their opinion on certain issues as an expert appraiser. Further powers of attorney may be granted to an expert committee or its chairman.
2. Professional suitability for the function that the expert committee has been set is to be the decisive factor for the selection of committee members. The term of office shall end upon the committee member's departure from the member company that he belonged to at the time when he joined the committee.
3. Executive Board members and other members of member companies, or guest members, may become a member of an expert committee.
4. If an elected member of the Executive Board belongs to an expert committee, he shall take the chair of the expert committee. Otherwise, the expert committee shall elect a chairman from among its members. The Chairman of the Executive Board shall be entitled to attend the meetings.
5. The committees shall autonomously organise and manage themselves and document their work.

Section 16 Compliance, Principle of Honorary Capacity

1. The Executive Board shall provide itself with compliance rules, which the members' meeting shall decide on.
2. All offices may only be exercised personally and in an honorary capacity. A remuneration may be paid only to the Managing Director and the Executive Director(s).

Section 17 Representation of the Association

The Chairman of the Executive Board shall form the Executive Board as defined by Section 26 *BGB* (Executive Board representing the Association). The Association shall be represented judicially and extrajudicially by the Chairman of the Executive Board or his deputy. He or she shall be authorised to solely represent the Association. He or she shall be exempt from the limitations under Section 181 *BGB*.

Section 18 Office, Cost Allocations

The Association shall maintain an office for dealing with the Association's day-to-day business and administrative tasks.

Section 19 Financial Constitution, Auditing

1. All members, full and associate, shall pay an admittance fee, which shall be specified in the Rules on Membership Fees to be adopted at the members' meeting, annual membership fees with variable elements, cost allocations under subsection 2 and, if applicable, special cost allocations, the sum and due date of which shall be decided on at the members' meeting with effect for the following financial year in each case.
2. The costs of the Association and its management shall be allocated irrespective of the Rules on Membership Fees, which shall be issued separately.
3. At the Executive Board's last meeting in every financial year, the Executive Board is to adopt the Association's budget for the following financial year. If the Association's annual accounts show a net profit, this net profit shall be carried forward to the next financial year.
4. For unforeseen expenses within a financial year, the Chairman of the Executive Board may, beyond the budget, approve up to ten per cent of the budget adopted by the Executive Board.
5. The members' meeting may elect an auditor for a term of up to three years. This auditor shall audit the Executive Board's annual accounts and give its opinion on the formal approval of the Executive Board's actions.

6. Notwithstanding subsection 5, the Executive Board may entrust an auditor with auditing the annual accounts.

Section 20 Dissolution of the Association

1. A motion to dissolve the Association may be filed by the Executive Board or by half its members.
2. If the members' meeting has decided to dissolve the Association, it may hold a subsequent vote to decide on the appropriation of the Association's assets remaining after the Association's liabilities have been paid.
3. The Chairman of the Executive Board shall be the liquidator authorised to solely represent the Association.
4. The above provisions shall apply *mutatis mutandis*, if the Association is dissolved, or loses its legal capacity, for any reason.