

Articles of Association of the Open Metering System Group – OMS-Group e. V.



This new version of the Articles of Association was resolved at the General Meeting on 2023-12-07 and entered in the register of associations at the District Court of Cologne under VR 18964 on 2024-02-14. – The German version of these Articles of Association is the legally binding version. –

§ 1 Name, Location, Fiscal Year

- (1) The association shall be called “Open Metering System Group – OMS-Group e. V. [registered association]” hereinafter referred to as the “OMS-Group”.
- (2) The location of the association is Cologne.
- (3) The fiscal year corresponds to the calendar year.

§ 2 Purpose

- (1) The purpose of the OMS-Group is the representation of the interests of developers, manufacturers, planners and users in the field of energy consumption measurements of all types, and material flows regarding the following products:
 - (a) Meters, shut-down controls, power limiters,
 - (b) Communication and system solutions in the field of Smart Metering,
 - (c) Support of customer interfaces through data provision,
 - (d) Connections to Smart Home and Smart Grids.
- (2) The purpose of the OMS-Group is furthermore the promotion of open, cross-vendor system, device and interface standards and norms, their application in the form required for Smart Metering, and the development of specifications that ensure a certain degree of functionality and interoperability for compliant products, in particular of consumption meters with the supply networks on the one hand and consumer energy management on the other.
- (3) Finally, the association aims to create an Open Metering System with an OMS Specification. Throughout the OMS-Group and its ideal carriers in particular, a standardisation process covering the mediums of gas, electricity, water and thermal energy as well as sub-distribution such as heat cost allocators should occur. The results drawn up within the framework of the association’s purpose are to be introduced into the standardisation process both at European and international level. The OMS-Group is not a standardisation organisation, but rather supports the relevant standardisation organisations and technical regulators, in particular DKE, DIN, CEN, CENELEC, ISO, IEC, VDE FNN, DVGW and PTB.
- (4) The purpose of the OMS-Group is also the joint representation of the interests of the members for Smart Metering in terms of politics, ministries, relevant federal and state authorities as well as comparable international authorities, standardisation organisations and the public, and the performance of the task as a central point of contact for the users as well as a dialogue partner for a fair exchange with other stakeholders.
- (5) The OMS-Group is not for-profit.

§ 3 Membership

- (1) The founding members of the OMS-Group are:
 - (a) figawa e. V., Cologne, Germany, and
 - (b) KNX Association cvba, Diegem, Belgium.They are the conceptual sponsors of the OMS-Group.
- (2) Companies and associations may join as members if they support the OMS-Group’s objectives and render the statutory financial contributions.
- (3) The membership application shall be submitted in writing or electronically to the Executive Board. The Executive Board decides definitively on the admission. The Board shall notify the applicant in writing or electronically of the application’s acceptance or rejection. The Executive Board informs the applicant about the current Draft and Final Draft OMS Specifications, with reference to the requirements resulting from § 11 section (2) to section (4) of the Articles of Association.
- (4) Membership shall terminate upon the member’s withdrawal, expulsion or cancellation.
- (5) Each member can declare their withdrawal from the OMS-Group with a deadline of 6 months to the end of the calendar year. The withdrawal declaration shall be submitted in writing or electronically to the Executive Board.

- (6) A member may be expelled if they are in material breach of the OMS-Group's objectives or their membership obligations under the Articles of Association, in particular the obligation to render the statutory financial contributions or with reference to the granting of IPR pursuant to § 11, or if an application has been made to open insolvency proceedings against their assets. The General Meeting shall decide on the expulsion. The Executive Board shall notify the expelled member of the decision on the expulsion in writing or electronically. The founding members as outlined in section (1) cannot be expelled.
- (7) Public institutions and other interested parties who do not meet the requirements of section (2) cannot become members, but may obtain guest status. Guest status is free of charge and without voting rights. The Executive Board decides on the granting of guest status in individual cases.
- (8) The head office of the OMS-Group maintains a list of members and guests which must be presented to the Board at any time upon request.
- (9) All members and executive bodies of the association are obliged to work in a non-discriminatory and equitable manner.

§ 4 Executive Bodies

- (1) The OMS-Group executive bodies consist of the:
 - (a) General Meeting,
 - (b) Executive Board,
 - (c) Working groups,
 - (d) Task forces,
 - (e) Cash auditors.
- (2) The OMS-Group's work is organised by a head office; the head office is not an executive body of the association.

§ 5 General Meeting

- (1) The General Meeting is an assembly of representatives of all members.
- (2) As a rule, the General Meeting occurs once per calendar year. Invitations to this effect are made by the Executive Board. The invitation period is three weeks. A proposed agenda shall accompany the invitation. If decision papers for voting are to be presented at the General Meeting, they have to be communicated to members no later than one week before the voting date.
- (3) The General Meeting shall be organised by the head office.
- (4) The General Meeting shall be quorate regardless of the number of members represented.
- (5) Each member has one vote at the General Meeting.
- (6) Each member is entitled to be represented in the general meeting by another member. Representation by non-members is excluded. The representative must prove their power of representation by written authorization.
- (7) Decisions in the General Meeting shall be made by consensus. Where no consensus can be reached, decisions may be taken by at least a two-thirds majority of the votes cast; the majority provided for in the special case of § 10 section (3) shall remain unaffected. Abstentions are regarded as votes not cast. Each of the founding members referred to in § 3 section (1) has a veto right.
- (8) The tasks of the General Meeting are, insofar as they do not already arise from other provisions of these Articles of Association:
 - (a) Decisions on the basic approach of the OMS-Group,
 - (b) Decisions on policy papers,
 - (c) Decisions on OMS-Group financing,
 - (d) Approval and revocation of OMS Specifications, which may also be carried out in a circulation procedure,
 - (e) Provision of a platform for general exchange between participants,
 - (f) Decisions on the establishment, dissolution and duties of working groups,
 - (g) Discharge of the Executive Board,
 - (h) Confirmation of Executive Board members in accordance with § 6 section (1).

§ 6 Executive Board

- (1) The Executive Board consists of up to nine members appointed in accordance with sections (2) to (7).
- (2) To this end, the founding members as per § 3 section (1) shall each appoint one of their employees as a member of the Executive Board. The appointed employees shall be called to the Board in the General Meeting during which the election of the remaining members of the Executive Board takes place.
- (3) The other, up to seven, board members are elected by the General Meeting. All candidates among the members who are either (i) proposed by the founding members under § 3 section (1) or (ii) proposed by another member of the association and supported by at least 10 % of the members (as of January 1st of the year of the upcoming board election) are eligible for election. The proposals and statements of support must be submitted to the Board in writing. They must be available in full to the Executive Board no later than six weeks before the General Meeting in which a new Executive Board is to be appointed.
- (4) Each member has seven votes in the election of the members of the Board, whereby each member may only cast one vote per candidate.
- (5) The (up to) seven candidates who receive the most votes cast are elected. Should several candidates receive the same number of votes, exceeding the number of seven electable members of the Executive Board, a runoff vote will be held between all those candidates with the same number of votes. Candidates with a higher number of votes are elected regardless of the result of the run-off ballot.
- (6) With regard to the proposed candidates and the results of the elections, the right of veto of the founding associations pursuant to § 5 section (7) of the Articles of Association shall not apply.
- (7) If, for any reason, the number of Executive Board members is less than nine, the Executive Board shall be deemed to be duly occupied as long as there are at least three members. A succession during the current election period shall not take place. If the Executive Board has fewer than five members, the co-optation of further board members by the Executive Board is to be carried out if possible until the Executive Board has five members. This co-optation must be presented to the next General Meeting for consultation and resolution. In this case, the General Meeting has the right to elect other candidates from among its members to the Executive Board until the number of seven Executive Board members to be elected is reached.
- (8) The term of office of the Executive Board shall be three years. The Executive Board remains in office until the appointment of a new Executive Board and its confirmation by the General Meeting. Before expiry of the term of office, a member of the Executive Board may only be removed by resolution of the General Meeting in accordance with § 5 section (7).
- (9) The Executive Board is the executive board within the meaning of § 26 German Civil Code [BGB]. Two members of the Executive Board jointly externally represent the OMS-Group. The two jointly acting members of the Executive Board shall belong to different founding members per § 3 section (1), or have been named by different founding members per § 3 section (1). The Board may elect one or two spokespeople; in this case, at least one spokesperson must be involved in the external representation of the OMS-Group. If the OMS-Group officially participates in external events or meetings as a syndicate, the Executive Board may give members of other executive bodies, in particular chairmen of working groups or task forces, the right to represent the OMS-Group; representational authority for legal transactions is not associated with such a delegation of rights.
- (10) The Executive Board shall be quorate if at least half of its members are present or represented.
- (11) Resolutions of the Executive Board require a simple majority of the members of the Executive Board. Resolutions regarding section 2.2 of Annex 11(4)-1 to reject the request of an Objecting Member require a two-thirds majority of the members of the Executive Board.
- (12) Each member of the Executive Board has one vote. A member of the Executive Board may transfer their voting right to another member of the Executive Board, but not to a third party. An Executive Board member may not adopt more than one representation.
- (13) One of the spokespeople shall issue invitations to the meetings of the Board; if there is no spokesperson, the invitation is made by a majority decision of the Executive Board. The meetings of the Executive Board are organised by the head office.

- (14) The tasks of the Executive Board, insofar as they have not already resulted from other provisions of these Articles of Association, are:
- (a) Development of the strategic orientation of the OMS-Group and the submission of appropriate proposals to the General Meeting for resolution,
 - (b) Decisions on applications from the working groups and task forces between General Meetings,
 - (c) Decisions on publications (e.g. press articles, comments on policies, content of internet pages), based on the principles adopted by the General Meeting,
 - (d) Provisional approval of the OMS Specifications adopted by the respective working group and their publication as a “Final Draft OMS Specification” pending final decision by the General Meeting pursuant to § 5 section (8) lit. (d),
 - (e) Development of work specifications for the working groups and task forces while taking the proposals of the General Meeting into account, and monitoring the work results,
 - (f) Receipt of the agenda and minutes of the working groups and task forces,
 - (g) Operational work based on the strategic decisions of the General Meeting,
 - (h) Establishment, monitoring and controlling of the head office as well as the conclusion, modification and termination of contracts relating thereto,
 - (i) All other matters which are not assigned to other executive bodies of the association by these Articles of Association.

§ 7 Working Groups

- (1) Working groups are responsible for preparing and formulating specific topics in order to achieve the objectives of the OMS-Group as per § 2.
- (2) The Executive Board draws up the work assignments for the working groups, taking the proposals from the General Meeting into account, and monitors the results of the work. The working groups are provided with a task description, expected results, participants, a timetable as well as financial resources.
- (3) Working groups prepare specifications in accordance with their work assignments. Their work is for an indefinite period and they report on the progress of the work to the General Meeting.
- (4) Each working group shall elect a chairperson and a vice-chairperson.
- (5) A working group is quorate if at least two-thirds of its members are present. If it is not a quorum, it can nevertheless draw up resolutions for the announced resolution at a subsequent meeting.
- (6) In a working group, each member has one vote.
- (7) Resolutions of the working groups are to be reached by consensus. If no consensus can be reached, resolutions may be passed by at least a two-thirds majority of the votes cast. Abstentions are regarded as votes not cast. If at least three members oppose a majority decision, the Executive Board may be called upon to make a final decision.
- (8) A member of a working group can only be a representative of a member of the OMS-Group, or a person with guest status, who has been confirmed by the Executive Board upon demonstration of the applicable expertise. All members of a working group should contribute regularly and actively. The working group can exclude members after two non-appearances. A resumption of activities can only be decided upon by the Executive Board.
- (9) The working groups shall organise their meetings autonomously. The chairperson of the working group issues invitations to their meetings. For each session of a working group, minutes shall be taken that include, at a minimum, participants, topics discussed, resolutions and further tasks.
- (10) Proposals for setting up a working group – which indicate the subject to be worked on – can be submitted by every member.

§ 8 Task Forces

- (1) Task forces are convened to support the work of the Executive Board or the working groups through special topics, including topics that span working groups.
- (2) The Executive Board decides on the establishment and dissolution of task forces. Proposals for setting up a task force – which indicate the subject to be worked on – can also be submitted by every member, every working group, and the Executive Board,
- (3) The Executive Board shall prepare the work assignments for the task forces, considering the proposals from the General Meeting, and monitor the results of the work. Task forces are provided with a task description, expected results, participants, a schedule including the end date of the task force, as well as – where necessary – financial resources.
- (4) Task forces develop defined sub-tasks with a clear temporal reference on behalf of the Executive Board. They have a limited timeframe and report on the status of the work to the working groups and the Executive Board.
- (5) Each task force shall elect a chairperson and a vice-chairperson from amongst themselves.
- (6) A task force is quorate regardless of the number of members present.
- (7) In a task force, each member has one vote.
- (8) Decisions of the task force require the unanimity of all present. If unanimity does not occur, the different positions shall be presented to the Executive Board, who will then decide.
- (9) A member of a task group can only be a representative of a member of the OMS-Group, or a person with guest status, who has been confirmed by the Executive Board upon demonstration of the applicable expertise. All members of a task force should contribute regularly and actively. The task force can exclude members after two non-appearances. A resumption of activities can only be decided upon by the Executive Board.
- (10) The task forces organise their meetings independently. The chairperson of the task force issues invitations to the meetings. For each session of a task force, minutes shall be taken that include, at a minimum, participants, topics discussed, resolutions and further tasks.

§ 9 Head Office

- (1) The OMS-Group's daily operations are carried out by a head office.
- (2) The head office is subject to the instructions of the Executive Board.
- (3) The head office is authorised to carry out legal transactions up to a threshold of € 1,000.00 as part of the association's daily operations, in consultation with one of the Executive Board spokespeople or one of the Executive Board members and within a given budget.

§ 10 Financing

- (1) Arising expenses shall be allocated to the respective members involved by apportionment. The allocation management shall be carried out by FIGAWA Service GmbH, which shall draw up a report for the Executive Board at least once every quarter and for each General Meeting.
- (2) The General Meeting shall decide on the financial framework for the subsequent year and shall fix the amount of the contributions to be paid by the Members accordingly. The Executive Board can decide on individual expenses within the framework of the financing approved by the General Meeting. The Executive Board will report on the expenses at the next General Meeting. The General Meeting decides annually on the discharge of the Executive Board.
- (3) New expenses not covered in the financing framework, and large projects, as well as necessary additional cost shares have to be decided in the General Meeting by a majority of at least three- quarters of the votes cast, in deviation from § 5 section (7) phrase 2. In exceptional cases, the decision can be made in writing or by email.
- (4) The annual membership fees and membership admission fees will be charged by the Executive Board at its own discretion within the year following the General Meeting. Any surpluses will be charged against the next apportionment. No reserves shall be created.

- (5) If a working group or a task force requires financial resources, this has to be approved by the Executive Board if the costs within the respective workgroup or task force are not provided directly by the participants in their own apportionment.
- (6) Each member shall be required to pay a one-time membership admission fee as well as annual contributions.
 - (a) The amount of the membership admission fee shall be based on the contributions paid by the existing members over the past three years. In principle, members who join later are not to be put in a significantly better financial situation than members who joined earlier. The amount shall be determined by the Executive Board depending on the size of the acceding company or association.
 - (b) The annual contribution is valid for one calendar year and is payable in full, irrespective of the date of joining.
 - (c) Unused funds from membership admission fees and annual contributions shall be carried forward to the next fiscal year.
 - (d) Upon termination of the membership there is no entitlement to reimbursement of membership admission fees or annual contributions, as well as no claim to the association's assets.

§ 11 Intellectual Property Rights (IPR)

- (1) Members are by their membership bound to the terms of sections (2) to (4).
- (2) Members are obliged to notify the Executive Board of their own and any third-party IPR known to them, the use of which would be essential to implement any OMS Specification already existent or in development.
- (3) Members are obliged to grant an irrevocable licence for those of their IPR, the use of which would be essential to implement an OMS Specification, to an unrestricted number of applicants on a worldwide, non-discriminatory basis and on fair, reasonable terms and conditions to make, use and sell implementations of that OMS Specification.

The obligation is void if a non-member applicant does not act in reciprocity.
- (4) Annex 11(4)-1 to these Articles of Association contains the "Policy for the Protection of Intellectual Property Rights of the OMS-Group (OMS IPR Policy)" This OMS IPR policy applies only to the specification listed below:
 - "OMS LPWAN – Burst Mode".

§ 12 EU Certification Marks

- (1) The association is the owner of the EU certification marks



- (2) Use of the EU certification marks by members of the association is only permitted in accordance with the provisions in §§ 4, 5 and 8 of the Regulations of Use of the EU certification marks attached as Annexes 12(2)-1 and 12(2)-2 to these Articles of Association. Annexes 12(2)-1 and 12(2)-2 are directly binding for members of the association.

§ 13 Penalties

- (1) If a member culpably (intentionally or negligently) violates § 12 of these Articles of Association (including Annexes 12(2)-1 and 12(2)-2), the following penalties can be pronounced against him:
 - (a) a warning to the member,
 - (b) a fine of up to three times the initiation fee for new members in the classification of the violating member in the version valid at the time of the violation,
 - (c) the expulsion from the association.
- (2) The imposition of a penalty presupposes that the breach of duty is not insignificant. Expulsion from the association presupposes a gross breach of duty. Repeated or several significant breaches of duty are equivalent to a gross breach of duty. The penalties can also be imposed repeatedly and in combination.

- (3) The Executive Board alone decides on the pronouncement of penalties.
- (4) Before a decision is made on imposing penalties, the member concerned shall be given the opportunity to comment. The decision is to be communicated to the member in writing or in text form. The decision on the expulsion must always be justified in writing or in text form.
- (5) The penalty becomes effective upon notification to the member. The affected member can appeal to the arbitral tribunal pursuant to § 14 of the Articles of Association against the decision of the Executive Board on the imposition of the penalty. Appeal to the arbitral tribunal has no suspensive effect.
- (6) The legal claims, in particular according to the trademark law and the unfair competition act (UWG), remain unaffected by the pronouncement of a sanction against the member.

§ 14 Arbitration Clause

- (1) All disputes between the association and its members about the rights and obligations arising from membership, in particular about a penalty imposed in accordance with § 13 of the Articles of Association shall be settled in accordance with the arbitration rules of the German Arbitration Institute e. V. (DIS) to the exclusion of ordinary legal proceedings.
- (2) The arbitral tribunal consists of three arbitrators; a chairperson and two assessors.
- (3) Each party appoints an assessor. The assessors determine the chairperson. The chairperson must be qualified to hold judicial office and must not be employed by a member.
- (4) The place of arbitration is Cologne.
- (5) The language of the proceedings is German.
- (6) The law applicable to the matter is the law of the Federal Republic of Germany.

§ 15 Cash and Invoice Auditing

- (1) The OMS-Group has a cash auditor.
- (2) The cash auditor shall be elected by the General Meeting for the election period of the Executive Board. S/he shall remain in office until a new cash auditor is elected. The cash auditor cannot be a member of the Executive Board or the head office.
- (3) If the cash auditor leaves prematurely, the next General Meeting shall conduct a by-election for the remainder of the term.
- (4) The cash auditor shall inspect income and expenditure based on receipts and examine their regularity, as well as compliance with the financing framework.
- (5) The cash auditor shall report to the General Meeting the nature, scope and results of their activities.

§ 16 Confidentiality

- (1) The members treat information that their employees receive as part of their work in the OMS-Group's executive bodies as confidential, unless this information is generally accessible on the OMS Group's website or elsewhere.
- (2) Employees of members may only share confidential information that becomes accessible to them as part of their work in an OMS-Group executive body with other employees of the same member company. The passing on of such information to third parties, i.e. to companies that are not members of the OMS-Group, their employees, or other persons is not permitted.
- (3) The members inform all of their employees who become aware of such information as a result of their work in an OMS-Group executive body or through other means of this confidentiality obligation.

§ 17 Other Provisions

- (1) Collaboration in the OMS-Group's executive bodies takes place on a voluntary basis and is generally not remunerated; in individual cases, the Executive Board may decide on a different arrangement.
- (2) The OMS-Group does not assert any proprietary claims against its executive bodies and indemnifies them from third-party proprietary claims if these claims are not based on intentional or gross negligence on the part of the member of the executive body. In addition, the liability of each member of an executive body is limited to the amount of one year's contribution; this does not apply in the case of intent. Compensation claims against members of executive bodies become time-barred 12 months from the date of their formation.
- (3) Minutes shall be drawn up from the meetings of all executive bodies. The minutes shall be distributed within the respective executive body.
- (4) The executive bodies of the OMS-Group may also hold meetings and make decisions in writing, by telephone conference or by email. In the case of written votes, a response period of at least 10 working days must be observed. In exceptional cases, particularly in the case of shorter deadlines stipulated by third parties, a different deadline may be possible.
- (5) All public disclosures regarding activities of the OMS-Group must be approved in advance by the Executive Board or its spokespeople. The Executive Board or its spokespeople must give clearance to documents prior to their publication or transfer to third parties.
- (6) Amendments to the Articles of Association may only be decided by the General Meeting and require a majority of three quarters of the votes cast (§ 33 German Civil Code [BGB]).
- (7) The dissolution of the association can only be decided by the General Meeting and requires a majority of three quarters of the votes cast (§ 41 German Civil Code [BGB]).
- (8) In the event of dissolution of the association, the association shall be liquidated (§§ 47 et seq. German Civil Code [BGB]); the assets shall be distributed equally to the existing members at the time of dissolution.
- (9) All disputes arising under the Articles of Association shall be governed by the law of the Federal Republic of Germany. However, any disputes with respect to the ownership, existence, scope, validity or infringement of intellectual property rights shall be governed by the law of the country in which the intellectual property rights confer protection.

OMS-Group

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