

OpenADR Alliance

BYLAWS

Article I

Name, Principal Office, Purpose and Restrictions

1.01 Name and Office: The name of the corporation is OpenADR Alliance, a California nonprofit mutual benefit corporation. The OpenADR Alliance office shall be located in a place determined by the Board of Directors (Board).

1.02 Purpose: The purpose of this corporation is to foster the ongoing development, adoption and compliance of the Open Automated Demand Response (OpenADR) standards through collaboration, education, training, testing and certification.

1.03 Restrictions: The corporation is subject to various laws and regulations. All policies and activities of OpenADR Alliance and its members shall be consistent with: (1) federal, state and local antitrust and trade requirements; (2) its nonprofit status such that its earnings shall not be distributed to the members by way of dividends or otherwise; and (3) all other applicable laws, such as those protecting intellectual property and contracts.

Article II

Membership

2.01 Membership: Membership shall be comprised of individuals and companies representing the vendor community (e.g., systems integrators, control vendors, etc.) and consumer and government, research agencies (e.g., facilities, regulators, etc.). Each member shall be assigned to one of the below categories with such rights as the Board may determine.

2.02 Sponsor Members: Corporate Sponsor membership is extended to industry stakeholders that strongly support the vision, mission, and activities of the OpenADR Alliance and whom the Board approves for Sponsor membership. Sponsor membership shall be limited to the first nine members approved by the Board. The primary representative designated of a Sponsor Member company is eligible to hold a seat on the Board of Directors, submit recommendations, lead and participate in working groups, and participate all activities of the Alliance.

2.04 Contributor Members: Contributor membership is extended to any vendor organization offering hardware, software or services that desires to participate in OpenADR Alliance activities. Contributor Members shall have the right to lead, participate and vote in work groups and committees.

2.05 Adopter Members: Adopter membership is extended to organizations (utilities, consumer and government organizations, research agencies, regulatory bodies), not otherwise classified as a vendor community or supplier of products, systems, components or services interested in furthering the development, use, or promotion of OpenADR Alliance standards. Adopter Members shall have the right to lead, participate and vote in work groups and committees.

2.06 Individual Members: Individual membership is extended to an individual that is engaged in the development, distribution, installation, maintenance, and use of OpenADR recommendations. Individual Members may not vote or serve on the Board of Directors. Individual Members shall have the opportunity to participate in general meetings and have access to the Members-only website and discussion forum.

2.07 Membership Application: Individuals, firms, or corporations seeking membership must complete a membership application and membership agreement with OpenADR Alliance in order to be eligible for membership.

2.08 Primary Representatives of Members: (a) Each Member firm, corporation, or company shall designate one individual as its voting Primary Representative and an one Alternate to act in the Primary Representative's absence by giving written notice of such designation to the Secretary/Treasurer of OpenADR Alliance; and (b) the Primary Representative shall be the primary liaison with OpenADR Alliance and shall coordinate the involvement of the Member.

2.09 Discipline of Members: A Member may be publicly reprimanded, fined, suspended, or have their membership terminated for cause by the Board after the following procedure:

Cause shall include a failure, in serious degree, to observe OpenADR Alliance rules of conduct as prescribed by the Board in these Bylaws or otherwise. The discipline shall occur only after the Member has been given a fifteen-day prior written notice of the proposed discipline and the reasons therefore. The Member shall have an opportunity to be heard, orally or in writing, not less than five days before the effective date of the discipline by the Board or its designee. The Board shall determine whether cause exists and the appropriate discipline, in any. The Board is not required to follow the procedure when imposing a lesser discipline such as private reprimand.

2.10 Termination of Membership: A membership shall be suspended or terminated whenever the Board or its designee determines that any of the following have occurred: a) resignation of a Member, on reasonable notice, (b) failure of a Member to pay dues, fees, or assessments in accordance with rules adopted by the Board, or (c) occurrence of any event that renders a Member either ineligible for membership or incapable of satisfying membership qualifications.

2.11 Voting: Sponsor Members ("Voting Members") shall have one vote each on matters on which OpenADR Alliance Members are entitled to vote. Every Voting Member shall have the right to vote in person or by an agent authorized by a written proxy signed by the Primary Representative of the Member and filed with OpenADR Alliance pursuant to its procedures. Voting Members' entitlement to voting rights is contingent upon the Member being current on its dues and assessment obligations to OpenADR Alliance.

2.12 Dues: The Board shall set dues, fees, and assessments and set the terms of payment. Any Member who is delinquent in dues, fees, or assessments may be suspended or terminated as provided above.

Article III Affiliates

3.01 Affiliates: Affiliates shall be associations organized with objectives consistent with the purposes of OpenADR Alliance and the provisions contained in the OpenADR Alliance Affiliate Agreement.

3.02 Affiliation Agreement: Associations seeking affiliation must complete an OpenADR Alliance Affiliate Agreement.

3.03 Members of Affiliates: Members of affiliated association shall have automatic membership in OpenADR Alliance.

Article IV Meetings

4.01 Annual Meeting: The annual meeting of the Voting Members shall be held at a time and place to be determined by the Board.

4.01 Special Meetings: Special meetings of the Members may be called by the Secretary/Treasurer, the Chair of the Board of Directors, a Vice Chair, or by any two members of the Board of Directors.

4.02 Notice of Meetings: Notice of meetings of the Members shall be delivered in writing not less than 20 days before the date of the meeting. Such notice shall specify the date, time, place, and purpose of such meeting and provide sufficient information so that Members can form a reasoned judgment as to the business to be transacted at this meeting. A quorum shall be 20 percent of the Voting Members of OpenADR Alliance represented by their Primary Representatives or Alternates at the meeting called. Notice of meetings shall be sent by one or more of the following methods: personally, fax, mail, or email.

4.03 Action by Written Ballot: Any action required or permitted to be taken at a meeting of the Members may, when directed by the Board, be taken by written ballot according to law.

4.04 Participation of Non-Members: A meeting of Members is limited to Members in good standing and others authorized to attend. However, the Board of Directors, in its sole discretion, may invite other interested persons to attend a particular meeting or portion of a meeting.

Article V

Board of Directors

5.01 Board of Directors: The Board of Directors shall be the governing body of the corporation. Membership on the Board shall be limited to the Primary Representatives of Voting Members, shall not be available to Alternate representatives, and shall further be limited to one representative per Member.

5.02 Board Composition: Each Sponsor Member shall designate one primary representative to be a director.

5.03 Managing Director: The Managing Director will be an appointed position and shall serve as an ex officio member of the Board.

5.04 Term: Each Director will serve on the Board for a period of one year and shall last until their successors are selected and or death.

5.05 Participation: All Directors must participate in all Board meetings either in person or via teleconference. The failure of any elected Board member to attend two consecutive meetings shall constitute resignation from the Board of Directors.

5.06 Committees and Working Groups: The Board will establish working groups and task groups to develop recommendations on specific technical and marketing issues and will provide direction to the Secretary/Treasurer with respect to proposed funding of marketing programs.

5.07 Duties of the Board: The Board is the governing body of the corporation and may delegate the management of the activities of OpenADR Alliance to any person or persons, management company, or committee however composed, provided that the activities and affairs of the corporation shall be managed and all corporate powers shall be exercised under the ultimate direction of the board. The Board shall (a) approve the budget of OpenADR Alliance, (b) approve the annual plan for marketing activities to be conducted by OpenADR Alliance, and (c) approve the recommendations regarding the technical requirements to obtain OpenADR Alliance certification.

5.08 Meetings: The Board shall hold regular meetings at times and places designated by the Board. The Board shall keep a record of its proceedings and shall report on its activities at each member's meeting.

5.09 Meeting by Conference Telephone or Other Electronic Means: Members of the Board may participate in a meeting through use of conference telephone, electronic video screen communication, or other communication equipment if all of the following apply:

- (1) each Director can communicate with all of the other Directors concurrently;
- (2) each Director is provided with a means of participating in all matters before the Board, including the capacity to propose, or to interpose an objection, to a specific action to be taken;
- (3) a means of verification is adopted and implemented by the corporation as to both of the following: (a) the person communicating by electronic means is entitled to participate in the Board meeting and (b) all statements, questions, actions, or votes were made by that person and not by another not entitled to participate.

5.10 Observers: In the event that the Director is incapable of attending a meeting due to absence or otherwise, or no longer desires to serve in such capacity for any reason, or is directed by the applicable Sponsor Member to resign in such capacity, the applicable Sponsor Member shall have the right to appoint a non-voting observer to attend Board meetings until such time as the Sponsor Member is able to appoint a new Primary Representative who will serve on the Board of Directors.

Any non-voting Board observer shall be invited to attend all meetings of the Board of Directors, and committees thereof, and, in this respect, each such non-voting observer shall be provided copies of all notices, minutes, consents and other materials that the Corporation provides to its Directors generally at the same time it provides same to the Directors.

5.11 Special Meetings: Special meetings of the Board may be called by the Secretary/Treasurer or by any three Directors.

5.12 Notice: The Board may hold regular meetings without notice if the time and place of such meetings is fixed by the Board. The Board may hold special meetings upon four days notice by first-class mail or 48 hours notice delivered personally or by telephone, fax, or email. In all cases notices shall specify in reasonable detail the business to be transacted.

5.13 Quorum: All Directors shall have one vote each on matters on which the Board of Directors is entitled to vote. A majority of the Directors then in office shall constitute a quorum for the transaction of business at any meeting of the Board. Any action taken at a meeting may be taken by a majority of a quorum and is the action of the Board.

5.14 Action by Unanimous Written Consent: Any action required or permitted to be taken at a meeting of the Board of Directors may be taken without a meeting, with a consent in writing, setting forth the action so taken, shall be signed by each Director.

5.15 Vacancies: Should a Director Member resign from the Board, or otherwise be unable to complete his/her term of service on the Board, the Board of Directors, by majority vote, shall have the authority to fill any that vacant position until the next general election. In filling vacancies, the Board of Directors shall ensure that the replacement Director is a Primary Representative of a firm, company, or corporation with Promoter membership as the Director who vacated his/her seat on the Board.

Article VI

Executive Committee

6.01 Powers and Qualifications: The Executive Committee shall have the authority of the Board to act in its place between Board meetings on all matters except those specifically reserved to the Board by law or by the Board itself. The Executive Committee shall report its action to the Board at the earliest practical time. The formation of the Executive Committee shall be based on actions derived from section 9.01 below.

6.02 Composition: The Executive Committee shall consist of three members: the Chair of the Board, the Vice Chair of the Board, and an additional Director selected by the Board.

Article VII

Officers

7.01 Designation: The principal Officers of this Corporation shall be the Chair, Vice Chair, Treasurer, Secretary, Managing Director, and such other officers as the Board of Directors may appoint. One person may hold two or more offices. Officers must be the Primary Representatives of Voting Members.

7.02 Selection: The Board shall select the Officers annually.

7.03 Duties: The officers perform those duties that are usual to their positions and that are assigned to them by the Board, including those duties that are set forth in the position description for each officer as adopted by the Board from time to time. In addition, the Chair serves as Chair of the Board; the Vice Chair acts in place of the Chair when the Chair is not available; and the Secretary/Treasurer is the Chief Financial Officer of the Corporation.

7.04 Removal, Resignation, and Vacancy: The Board may, in its discretion, remove an officer. An officer may resign and should give the Board appropriate notice. The Board may fill any Officer vacancy.

7.05 Other Officers: The Board may appoint such other officers as it deems appropriate.

Article VIII

Managing Director

8.01 Managing Director: OpenADR Alliance shall have a Managing Director. The Managing Director shall have general powers and duties of supervision and management normally associated with a Chief Executive Officer and shall be an ex-officio member of the Board and an Officer. The Managing Director shall report to the Executive Committee of OpenADR Alliance and shall have general supervision, direction and control of the daily affairs of OpenADR Alliance. The Managing Director shall also perform those duties specified in Board policies and procedures and by employment agreement

Article IX

Committees

9.01 Committees and Task Groups: The Board may establish such committees, working groups, and task groups as it deems necessary to carry on the work of OpenADR Alliance and shall prescribe their specific powers and duties. The Board, in its discretion, may terminate any such committee, working group, or task group. A task group shall be designated as standing or special, and a working group is for a specific purpose. The Board shall document the specific mission and authority that is being delegated in each committee, working group, or task group.

Article X

Board Policies

10.01 Authority: The Board has the authority to adopt policies necessary or appropriate in the best interests of OpenADR Alliance.

10.02 Effect: Board policies shall be binding such that both OpenADR Alliance and each of its Members are required to follow them.

10.03 Amendment: The Board may amend policies from time to time and shall notify each Member of significant amendments.

Article XI

Antitrust

11.01 Antitrust: Each Member of OpenADR Alliance shall comply with federal, state, and local laws and regulations regarding antitrust and fair trade. Each Member shall also abide by the antitrust statement adopted by the Board.

Article XII

Intellectual Property

12.01 Intellectual Property: A Member should expect its own intellectual property rights to be protected and should respect the intellectual property rights of other members. Each Member shall be required to abide by the Intellectual Property Rights Policy adopted by the Board.

Article XIII

Confidentiality

13.01 Confidentiality: Each Member shall be responsible for preserving the confidentiality of its own proprietary information and shall, to the extent reasonably possible, refrain from exchanging confidential information and trade secrets while participating in meetings and activities. Each Member shall be required to observe the confidentiality of other Members and shall strictly observe the Confidential Information Policy adopted by the Board.

Article XIV

Use of Funds

14.01 Use of Funds: OpenADR Alliance shall use its funds only to accomplish the objectives and purposes specified in these Bylaws and no part of said funds shall inure, or be distributed, to the Members of OpenADR Alliance.

Article XV

Indemnification and Insurance

15.01 Indemnification: To the fullest extent permitted by the law, OpenADR Alliance shall indemnify and hold harmless all agents against claims arising out of any alleged or actual action or inaction in the good-faith performance of their duties. "Agents" for this purpose shall include Directors, Officers, employees, and volunteers.

15.02 Insurance: OpenADR Alliance shall have the right to purchase and maintain insurance to the full extent permitted by law on behalf of its agents against any liability asserted against or incurred by the agent in such capacity arising out of the agent's status as such.

Article XVI

Dissolution

16.01 Dissolution: OpenADR Alliance may be dissolved upon a majority vote of the Voting Members of OpenADR Alliance. Any funds that remain after the dissolution has been carried out shall be divided among the Members pro-rata based on the Member's dues paid during the one-year period prior to the dissolution. Members shall continue to have a Royalty Free License to Alliance IPR.

Article XVII

Amendment

17.01 Amendment: These Bylaws may be amended by a majority vote of the Board or the members, provided that certain amendments to the Bylaws, which will materially affect the rights of members, must be approved by the members according to law.