

# By-Laws

## EtherCAT Technology Group

### Preamble

The EtherCAT Technology Group is the forum in which end user companies OEM machine building companies and automation suppliers join forces. The purpose of the group is to support, promote and advance the EtherCAT as an open technology.

The EtherCAT Technology Group is constituted as a German non-registered club or *nicht eingetragener Verein*.

### 1. Name, Seat, Fiscal Year, No Registration

1.1 The Group is named "*EtherCAT Technology Group*".

1.2 The seat of the Group is Nürnberg, Germany. The Group shall not be registered in Germany.

1.3 The fiscal year is the calendar year.

### 2. Purpose

The purpose of the group is to support, promote and advance the EtherCAT as an open technology.

### 3. Membership

3.1 Members of the Group are:

3.1.1 ordinary members

3.1.2 extra-ordinary members

3.1.3 honorary members

3.2 Ordinary members: all companies, corporations, associations, partnership and the like (but no individuals) who are prepared to support the aims and objectives of the Group.

3.3 Extra-ordinary members (non-voting): experts whose professional abilities may further the objectives of the Group. They will be appointed by the board of directors.

- 3.4 Honorary members (non-voting): persons who have given meritorious service to the Group. They will be selected by the membership assembly.
- 3.5 All ordinary members are entitled to vote.
- 3.6 Membership begins with the acceptance of a written application by the board upon the board shall decide in its free discretion.
- 3.7 Membership ends by:
  - 3.7.1 resignation
  - 3.7.2 death in case of individuals
  - 3.7.3 expulsion
- 3.8 A member may resign at any time. Resignation must be in writing.
- 3.9 A member can be expelled in writing by the board of the Group if:
  - 3.9.1 the member is found guilty of a severe violation of the by-laws and interests of the Group and of the decisions and instructions of the organs of the club.
  - 3.9.2 the member is found guilty of serious damage to the reputation of the Group.
  - 3.9.3 the member fails to pay its membership dues within a reasonable period of time.

Before a decision for expulsion becomes final, the member concerned has the right to address the allegations before the board. The member must be informed of the expulsion by registered letter.

The member has the right of appeal at a meeting of the membership assembly within two weeks after the receipt of the letter. The membership is suspended until final decision. In order for the expulsion to become final it must be approved by the membership assembly with a simple majority of the votes cast.

#### **4. Membership Dues**

- 4.1 The amount of membership dues per member will be determined by the membership assembly for each fiscal year.
- 4.2 Membership dues shall be paid annually and are due in advance by the end of the first month of the fiscal year. A member newly joining the Group shall pay the full annual membership dues for the then current fiscal year.
- 4.3 There will be no reimbursement of membership dues to members who resign or are expelled.

#### **5. Organs and Legal Representation of the Group**

- 5.1 Organs of the EtherCAT Technology Group are:
  - 5.1.1 the membership assembly
  - 5.1.2 the board of directors (board)
  - 5.1.3 the executive
- 5.2 One member of the executive jointly with a different member of the board shall be authorized to represent the Group as against third parties within the meaning of § 26 of the German Civil Code.

#### **6. Membership Assembly**

- 6.1 The membership assembly is the highest authority of the EtherCAT Technology Group.
- 6.2 The responsibilities and duties of the membership assembly are:
  - 6.2.1 to elect and remove the members of the board of directors;
  - 6.2.2 to receive annual reports from the board of directors;
  - 6.2.3 to discharge the board of directors annually;
  - 6.2.4 to deal with the expulsion of members pursuant to Article 3.9;
  - 6.2.5 to modify or amend the By-Laws of the Group.

- 6.3 The membership assembly shall meet once a year. The chairperson of the board shall invite the members to attend the membership assembly in writing, by fax, email or any other electronic format not less than 2 weeks prior to the date of the membership assembly. The invitation shall include the agenda of the meeting.
- 6.4 At the request of one third of the members, a special membership assembly must be held within 3 weeks of receipt by the board of a written request. The notice period for the invitation shall be reduced to one week.
- 6.5 Minutes of the membership assembly must be prepared in English by the executive director and must be signed by him and one other board member. The executive director shall provide each member with a copy of the minutes without undue delay after the membership assembly. The minutes may be distributed in writing, by fax, email or any other electronic format.
- 6.6 The membership assembly shall be chaired by the executive director.
- 6.7 Each ordinary member has one vote. Members are represented by their designated representative as stated in the entry form or its authorized proxy. Members may be represented by another member holding a written power of attorney to be delivered to the chairperson of the board before the commencement of the meeting. A person shall not represent more than two members.
- 6.8 Each duly called membership assembly shall constitute a quorum authorized to vote on all issues before it.
- 6.9 Resolutions of the membership assembly shall be passed with a simple majority of the votes validly cast, provided, however, that a majority of three quarters of the votes cast is required to modify or amend the constitution and a majority of all members if the purpose of the Group shall be modified. Abstentions shall be deemed as votes not cast.
- 6.10 Resolutions may be challenged, only, within a period of four weeks after dispatch of the minutes of the respective membership assembly to the members.

## **7. Board of Directors**

- 7.1 The board of directors shall consist of three individuals elected by the membership assembly, provided, however, that Beckhoff Automation GmbH, Verl, Germany ("Beckhoff") as the founding member has the right to appoint one of the directors. Reelection is permissible. All board members must be members or representatives of members of the Group. The board shall elect a chairperson from the members so elected.
- 7.2 The term of each board member ends with the commencement of the second annual membership assembly following their election. Each member may be removed by the membership assembly at any time. If a member is removed the membership assembly shall appoint another member for the remaining term of the removed member. Each board member may resign from his office at any time. If a member resigns the remaining members of the board shall elect another member for the remaining term of the member who resigned.
- 7.3 The board shall meet not less than twice per fiscal year and if one member of the board requests such meeting. The meetings shall be held at Nürnberg or any other venue determined by the chairperson of the board. The decisions of the board shall be cast by a simple majority of its members. Board members shall be entitled to vote in their own affairs as well.
- 7.4 Minutes of each meeting of the board must be prepared in English and must be signed by the chairperson of the board. The chairperson shall provide each board member with a copy of the minutes immediately after each meeting. The minutes may be distributed in writing, by fax, email or any other electronic format.
- 7.5 The board shall
- 7.5.1 prepare the annual membership assembly;
  - 7.5.2 deliver an annual budget and plan of events and activities in writing to the annual membership assembly;
  - 7.5.3 appoint and remove the members of the executive;
  - 7.5.4 establish and dissolve subcommittees and appoint and remove the chairpersons of such subcommittees;
  - 7.5.5 implement resolutions passed by the membership assembly;
  - 7.5.6 oversee the business of the executive and the subcommittees;

7.5.7 establish, pass and publish statutes, guidelines or any other rules to serve the purpose of the group such as, but not limited to, protocol conformance, standardization and device interoperability.

## **8. Executive**

- 8.1 The executive shall consist of up to three individuals appointed by the board of directors. The executive shall elect a president from its members. In case the executive consists of one person, only, this person shall automatically serve as president.
- 8.2 Each member of the executive shall be appointed for a term ending with the commencement of the second annual membership assembly following their appointment.
- 8.3 The executive shall conduct the administration and day-to-day operations and management of the Group and shall report to the board of directors. It shall in particular implement the resolutions of the board.
- 8.4 The president shall have the authority to bind the Group pursuant to § 30 of the German Civil Code limited to the conduct of the affairs set forth in Article 8.3.

## **9. Intellectual Property Rights**

- 9.1 Each member of the Group acknowledges that the EtherCAT technology and the EtherCAT trademark and logo are solely owned by Beckhoff. The Group shall not be or become the owner of any intellectual property rights in or pertaining to the EtherCAT technology. Neither by joining the Group nor by participating in the activities of the Group a right or license in the EtherCAT technology shall be conveyed or otherwise transferred to any member other than Beckhoff.
- 9.2 Each member of the Group shall disclose the existence of any intellectual property right for information relevant to EtherCAT technology to the members of the Group prior to the participation in any event of the Group, in which the pertinent member intends to use or disclose such information potentially protected by such intellectual property right. In the event such member does not or not in time disclose the existence of such potential intellectual property rights and Beckhoff relied upon the absence of such intellectual property rights for a period of thirty (30) or more days after the disclosure of the information protected by such intellectual property right, then the member shall be deemed to have granted to Beckhoff a royalty-free, irrevocable, non-exclusive, worldwide license, including the right to grant sublicenses to make use and

sell the information or technology in conjunction with EtherCAT products and systems.

- 9.3 During the term of its membership in the group each member grants the group and the other members the use of their company names and company logos for the sole purpose of promoting the EtherCAT technology. Individual group members shall use a member logo compilation only and shall not use single company names or logos for the given purpose. During the term of its membership each member shall have right to use the EtherCAT logo and the EtherCAT Technology Group logo for the purpose of promoting EtherCAT and indicating its membership. No member may use the company names or logos for any other purpose.

## **10. Dissolution**

- 10.1 The Group may only be dissolved by a special membership assembly specifically called for this purpose with a majority of 75% of all votes cast.
- 10.2 Unless the membership assembly appoints specific liquidators, the chairperson of the board and the president shall act as liquidators of the Group.
- 10.3 The liquidators shall wind up all business. The remaining assets, if any, shall be distributed among the members.

## **11. Governing Law, Arbitration**

- 11.1 This Constitution and the affairs of the Group shall be governed by German law.
- 11.2 To the extent those are arbitrable, all disputes arising out of or in connection with the present constitution shall be finally settled under the Rules of Arbitration of the International Chamber of Commerce by one or more arbitrators appointed in accordance with the said Rules. Place of arbitration shall be Nürnberg, Germany. The arbitration shall be conducted in the English language. However, the arbitrators shall be fluent in English and German.

Accepted unanimously by the ETG Kick-off Meeting in Raunheim, Germany, on March 9<sup>th</sup>, 2004. Clarifications / Modifications in Clauses 6.2, 9.2, 9.3 accepted unanimously by the ETG Membership Assembly in Nuremberg, Germany, on November 22<sup>nd</sup>, 2005. Clarifications / Modifications in the Preamble and in Clauses 7.1, 7.5, 9.1, 9.2, 9.3 accepted by the ETG Membership Assembly in Nuremberg, Germany, on November 25, 2008.