

# The Green Grid Association

## Second Amended Bylaws

Rev. 4.0



**THE GREEN GRID ASSOCIATION SECOND AMENDED BYLAWS**

**Table of Contents**

**Chapter I. Definitions.....3**

**Chapter II. Introduction.....4**

**Clause 1. Purpose of the Bylaws.....4**

**Clause 2. Duration.....4**

**Clause 3. Objectives.....4**

**Clause 4. Compliance with Laws.....5**

**Chapter III. Membership.....5**

**Clause 5. Membership.....5**

        (1) **Membership.....5**

        (2) **Classes of Membership.....6**

        (3) **Application.....7**

        (4) **Membership Fees.....8**

        (5) **Resignation/Withdrawal.....8**

        (6) **Termination of Membership.....8**

        (7) **Effect of Resignation or Termination of Membership.....9**

        (8) **Transition to Another Level.....9**

        (9) **Transfer of Membership.....9**

        (10) **Use of Names.....9**

        (11) **Nonliability of Members.....9**

        (12) **Membership Roll.....9**

**Chapter IV. Organization.....10**

**Clause 6. Organizational Structure.....10**

**Clause 7. Officers.....10**

        (1) **Appointment.....10**

        (2) **Removal and Resignation.....11**

        (3) **Vacancies.....11**

        (4) **Powers and Duties.....11**

        (5) **Duties of President.....11**

        (6) **Duties of Vice President.....11**

        (7) **Duties of Secretary.....11**

        (8) **Duties of Treasurer.....11**

**Clause 8. General Meetings.....12**

        (1) **Objectives and Activities.....12**

        (2) **Participants.....12**

        (3) **Organization.....12**

        (4) **Decisions by General Meeting.....12**

        (5) **Notice.....12**

**Clause 9. Board of Directors.....13**

        (1) **Authority.....13**

        (2) **Activities and Duties.....13**

        (3) **Participants.....13**

Rev. 4.0 – 04/01/08

(4) Organization.....	13
(5) Decisions by BOD .....	13
(6) Voting Percentages.....	14
(7) Consultation of Third Parties.....	15
<b>Clause 10. Committees and Working Groups .....</b>	<b>15</b>
<b>Chapter V. Intellectual Property Obligations .....</b>	<b>16</b>
<b>Clause 11. Intellectual Property .....</b>	<b>16</b>
<b>Chapter VI. General Provisions .....</b>	<b>16</b>
<b>Clause 12. Accounting .....</b>	<b>16</b>
<b>Clause 13. No Agency or Partnership, Indemnification .....</b>	<b>16</b>
<b>Clause 14. No Warranty .....</b>	<b>16</b>
<b>Clause 15. Obligations of Ex-Members .....</b>	<b>17</b>
<b>Clause 16. Effective Date.....</b>	<b>17</b>
<b>Clause 17. Settlement of Disputes.....</b>	<b>17</b>
<b>Clause 18. Place of Business.....</b>	<b>17</b>
<b>Clause 19. Insurance.....</b>	<b>17</b>
<b>Clause 20. Execution of Instruments .....</b>	<b>17</b>
<b>Clause 21. Deposits .....</b>	<b>18</b>
<b>Clause 22. Tax-Exempt Status .....</b>	<b>18</b>
<b>Clause 23. Enforceability .....</b>	<b>18</b>
<b>Clause 24. Governing Law .....</b>	<b>18</b>

## Chapter I. Definitions

**“Affiliate”** means any legal entity that directly or indirectly controls another entity via beneficial ownership of more than fifty percent (50%) of voting power or equity in another entity (“Control”), or is Controlled by another entity or is under common Control with another entity, so long as such Control exists.

**“The Green Grid” or “Association” or “Corporation”** means The Green Grid Association, a nonprofit, mutual benefit corporation formed under the laws of Oregon.

**“BOD”** means the Board of Directors appointed by the BOD Members to manage the affairs of The Green Grid in accordance with the powers and duties enumerated in these Bylaws.

**“BOD Member”** means a Member with a then effective BOD Membership as described in Clause 5(2)(a).

**“Chair”** means a designated employee of a Member that has the role of conducting the proceedings of a committee or working group in the activities of The Green Grid.

**“Contributor Member”** means a Member with a then effective Contributor Membership as described in Clause 5(2)(b).

**“Draft Specification”** means a document in development or under consideration for adoption as a Specification of The Green Grid Association that has not been adopted or approved by the Corporation in accordance with the Membership Agreement and Clause 9(6)(c), below.

**“Director”** means an employee, agent or consultant appointed by a BOD Member to serve on the BOD until death, resignation or removal.

**“General Member”** means a Member having a then effective General Membership as described in Clause 5(2)(c).

**“Majority Vote”** means an affirmative vote of more than fifty percent (50%) of the total number of Members (regardless of Membership class) entitled to vote on such matter and participating in such vote (telephonically, electronically or physically, as applicable). If an eligible Member either (1) fails to vote or (2) casts a vote characterized as an abstention, such action shall be treated as if that Member had not voted.

**“Member”** means any entity having a then effective Membership in The Green Grid as described in Clause 5. Member does not mean a “member” as that term is defined under ORS 65.001(28), since the Corporation shall not be deemed to have members as defined under the Oregon Nonprofit Corporation Act.

**“Associate Member”** means any educational or governmental organization qualified to register and receive a “.gov” or “.edu” domain name having a then effective Associate Membership in The Green Grid as described in Clause 5. Associate Member does not mean a “member” as that term is

**Rev. 4.0 – 04/01/08**

defined under ORS 65.001(28), since the Corporation shall not be deemed to have members as defined under the Oregon Nonprofit Corporation Act. Except as otherwise provided for under the Bylaws or the applicable Associate Membership Agreement, Associate Members shall be a subset of the term “Member” and as such, entitled to the same rights and subject to the same obligations as all of other Members.

“**Specification**” means a document entitled “The Green Grid Specification” as finally adopted and approved by the BOD pursuant to these Bylaws.

“**Super Majority Vote**” means an affirmative vote of more than seventy-five percent (75%) of the total number of Members (regardless of Membership class) entitled to vote on such matter and participating in such vote (telephonically, electronically or physically, as applicable). If an eligible Member either (1) fails to vote or (2) casts a vote characterized as an abstention, such action shall be treated as if that Member had not voted.

## **Chapter II. Introduction**

### **Clause 1. Purpose of the Bylaws**

These Bylaws provide the structure and rules for governance and operation of The Green Grid.

### **Clause 2. Duration**

The duration of The Green Grid shall be perpetual, but may be reviewed and terminated at the option of the BOD by a vote pursuant to the provisions of these Bylaws. In the event The Green Grid ceases operations for a continuous period exceeding one (1) year, the association officers and the BOD shall take all steps necessary to wind-up the affairs of The Green Grid in accordance with the laws of the State of Oregon.

### **Clause 3. Objectives**

The Green Grid is a global consortium dedicated to advancing energy efficiency in data centers and business computing ecosystems. In furtherance of its mission, The Green Grid will:

- Define meaningful, user-centric models and metrics;
- Develop standards, measurement methods, processes and new technologies to improve performance against the defined metrics; and
- Promote the adoption of energy efficient standards, processes, measurements and technologies.

For the avoidance of doubt, the objectives of The Green Grid do not prevent or obstruct any Member in any way from participating in or from supporting any research or development for any

**Rev. 4.0 – 04/01/08**

data center power management or business computing ecosystems technology or practices which might be viewed as competitive to any technology or practices approved by The Green Grid; provided, however, that such participation or support of research and development shall not violate any confidentiality obligations of The Green Grid membership.

The Green Grid will pursue its objectives through an open collaboration and make any specifications or test suites produced by The Green Grid available to interested parties pursuant to an appropriate license on reasonable and nondiscriminatory terms.

**Clause 4. Compliance with laws**

All Members shall comply at all times with applicable laws and regulations relevant to the activities of The Green Grid, including without limitation applicable antitrust laws.

Detailed antitrust guidelines may be issued by The Green Grid to Members from time to time and shall be observed by all then-current Members.

Each Member acknowledges that all Members are committed to fostering competition in the development of new products and services and that The Green Grid is intended to promote such competition. The Members further acknowledge that some of them may compete with one another in various lines of business and agree that it is therefore imperative that they and their representatives act in a manner that does not violate any applicable antitrust laws and regulations. Without limiting the generality of the foregoing, the Members shall not discuss issues relating to absolute or particular product costs, product pricing, methods or channels of product distribution, any division of markets, or allocation of customers or any other topic that would be prohibited by applicable antitrust laws. Accordingly, each Member assumes responsibility to provide appropriate legal counsel to its representatives regarding actions taken according to these Bylaws regarding the importance of limiting their discussions to subjects that relate to the purposes of The Green Grid, whether or not such discussions take place during formal meetings, informal gatherings, or otherwise. Each Member consents to The Green Grid providing notice of Member's membership in The Green Grid to the extent necessary for The Green Grid to invoke the protection of the National Cooperative Research and Production Act of 1993.

**Chapter III. Membership**

**Clause 5. Membership**

**(1) Membership.**

The Green Grid shall have Members and classes of membership as defined by these Bylaws and the BOD. No Member shall hold more than one (1) membership in The Green Grid. A Member and its Affiliates shall be deemed one (1) Member. Except as expressly provided in and authorized by the applicable Membership Agreements, the Articles of Incorporation, these Bylaws, or other provisions of law, all Members shall have the rights, privileges, restrictions and conditions established by resolution of the BOD. Applicants for membership shall be admitted to membership

**Rev. 4.0 – 04/01/08**

upon affirmation of the Articles of Incorporation and these Bylaws, execution of the applicable Membership Agreement, and payment of any annual dues established by the BOD.

**(2) Classes of Membership.**

The Green Grid shall have four (4) classes of Membership: BOD Membership, Contributor Membership, General Membership, and Associate Membership. Subject to Sections (5) and (6) and provided the Member is in compliance with all membership obligations, membership shall be automatically renewed annually upon payment of any annual dues established by the BOD.

**(a) BOD Membership.**

BOD Members shall have all the rights afforded Contributor Members and General Members as well as any rights conferred by the applicable membership agreement. So long as they retain their BOD Membership in good standing, every BOD Member shall be entitled to appoint a Director to the BOD. Every BOD Member shall have the right to be a member of, participate in, and vote in any Committee or Working Group created by BOD resolution. BOD Members shall have voting rights in the associational governance of The Green Grid and in all its meetings. BOD membership shall initially be limited to those eleven (11) “founding” members who participated in the formation of The Green Grid. The initial BOD Members shall retain their status as a BOD Member as long as they abide by all obligations contained in the Articles of Incorporation, these Bylaws, the applicable membership agreements and any other obligations specified by the BOD. The BOD may, at its discretion, change the number of BOD Members as provided in these Bylaws; however, in no event will the total number of BOD Members exceed eighteen (18).

**(b) Contributor Membership.**

Contributor Members shall have all the rights afforded General Members as well as any rights and obligations conferred in the applicable membership agreement. Contributor Members shall have no right to attend or vote in BOD meetings. Contributor Members shall be entitled to attend and participate in any Committee or Working Group created by BOD resolution and may be a member of and vote in such Committee or Working Group upon appointment by the BOD. The number of Contributor Members may be limited by BOD resolution.

**(c) General Membership.**

General Members shall be entitled to attend and participate in General Meetings of the Green Grid. General Members shall be entitled to vote in any General Meeting on all substantive issues, policy matters and official positions prior to final adoption by the Board of Directors of The Green Grid; however, all matters put to a vote of the General Members shall be advisory in nature and not binding upon The Green Grid or the BOD. General Members may, upon approval by the BOD, attend and participate in, but not be a member of or vote in, Committee or Working Group meetings. General Members shall have no right to attend or vote in BOD meetings. General Members shall generally be afforded the following benefits unless otherwise determined by the BOD:

- (i) subject to procedures adopted by the BOD, the right to submit proposed revisions or proposals for Specifications, test suites and design guidelines of The Green Grid;
- (ii) the right to technical support with regard to then-supported Specifications, test suites, and design guidelines of The Green Grid;

**Rev. 4.0 – 04/01/08**

(iii) the right to receive support documentation and materials concerning The Green Grid Specifications, test suites and design guidelines;

(iv) subject to procedures adopted by the BOD, the right to review and comment on Specifications and design guidelines prior to adoption by The Green Grid; and

(v) license rights as specified in the applicable membership agreement or as otherwise specified by the BOD including the right to a royalty free, nontransferable, non-sublicensable, worldwide license to use The Green Grid trademarks, service marks and logo types in compliance with any and all usage guidelines set forth by the applicable membership agreement or the BOD.

**(d) Associate Membership.**

Associate Members shall be entitled to attend and participate in General Meetings of the Green Grid except for any portion thereof where Draft Specifications are disclosed or discussed. Associate Members shall be entitled to vote in any General Meeting on all substantive issues, policy matters and official positions prior to final adoption by the Board of Directors of The Green Grid; however, all matters put to a vote of the Associate Members shall be advisory in nature and not binding upon The Green Grid or the BOD. Associate Members may, upon approval by the BOD, attend and participate in, but not be a member of or vote in, Committee or Working Group meetings with the exception of any Committee or Work Group that is developing any Specifications or reviewing any Draft Specifications. Associate Members shall have no right to attend or vote in BOD meetings. Associate Members shall generally be afforded the following benefits unless otherwise determined by the BOD:

(i) the right to technical support with regard to then-supported Specifications, test suites, and design guidelines of The Green Grid;

(ii) the right to receive support documentation and materials concerning The Green Grid Specifications, test suites and design guidelines;

(iii) license rights as specified in the applicable membership agreement or as otherwise specified by the BOD including the right to a royalty free, nontransferable, non-sublicensable, worldwide license to use The Green Grid trademarks, service marks and logo types in compliance with any and all usage guidelines set forth by the applicable membership agreement or the BOD.

It is expressly acknowledged and agreed that Associate Members shall not generally be afforded the following benefits otherwise available to all other classes of Membership:

(x) the right to submit proposed revisions or proposals for Specifications, test suites and design guidelines of The Green Grid; and

(y) the right to review and comment on Specifications and design guidelines prior to adoption by The Green Grid.

**(3) Application.**

Any for-profit corporation, nonprofit corporation, government organization, educational institution or other entity or individual supportive of The Green Grid's purposes and not otherwise prohibited by treaty, law or regulation from abiding by the terms of these Bylaws is qualified to become a Member. All applications for membership shall be submitted to the BOD. The BOD shall be entitled to make inquiries to any applicant as to any vague statement on the application from the applicant, its legal status, its contact information, its organizational background, and to the extent

**Rev. 4.0 – 04/01/08**

that the BOD needs to clarify the intention stated on the application or confirm that the applicant has sufficient legal standing to comply with and fulfill the rules and obligations, including but not limited to confidentiality obligations, under these Bylaws or the applicable membership agreement.

**(4) Membership Fees.**

The annual dues payable to The Green Grid by each class of members shall be established and may be changed by resolution of the BOD. Initial dues shall be due and payable upon written commitment to join The Green Grid and completion of the applicable membership agreement. Thereafter, yearly dues shall be due and payable on the anniversary of such initial written commitment. If any Member is delinquent in payment of dues, such Member's rights as a Member shall be deemed suspended upon written notice from The Green Grid until all delinquent dues are paid.

**(5) Resignation/Withdrawal.**

Any Member may resign or withdraw from Membership in The Green Grid at any time upon sixty (60) days' prior written notice to the BOD or the Secretary. Such withdrawal shall be effective sixty (60) days after the date of receipt of such notice of resignation by the BOD or the Secretary; provided, however, that any obligation of such withdrawing Member, which has accrued before such withdrawal is effective, shall survive withdrawal and shall stay in force.

**(6) Termination of Membership.**

Membership in The Green Grid may be terminated by the BOD in the event such Member:

- (a) is more than thirty (30) days in default of payment of the applicable annual Membership fee after receipt of the invoice;
- (b) has breached any confidentiality obligations under these Bylaws, applicable membership agreements, or any other The Green Grid agreement;
- (c) has performed other acts and/or omissions specified in writing from time to time by the BOD as acts and/or omissions materially transgressing the terms of these Bylaws; provided that such specification by the BOD shall never be retroactively effective; or
- (d) is legally dissolved.

If a Member does not reasonably correct such acts and/or omission as mentioned under (a), (b) or (c) within thirty (30) days after the first written request for such correction is sent by the BOD or its duly authorized representative to such Member, the BOD may notify such Member in writing that the BOD has terminated the Member's Membership.

During the thirty- (30-) day notice period in the preceding sentence, Membership of such Member shall be deemed suspended. A Member who has been suspended shall not be entitled to the rights and privileges of any Membership during the period of suspension and shall not be allowed to participate in any of the activities of The Green Grid until such time as the suspended Member complies with the requirements for the removal of the suspension.

**Rev. 4.0 – 04/01/08**

**(7) Effect of Resignation or Termination of Membership.**

A Member whose Membership is terminated by the BOD or who resigns from The Green Grid shall no longer have the right to participate in any of the activities of The Green Grid and/or receive information, as applicable. Any terminated Member shall not be permitted to reapply for Membership in The Green Grid unless the BOD consents to such reapplication by a Super Majority Vote.

No resignation, termination or suspension of any Membership shall relieve any Member from full payment of any and all dues and other fees and assessments remaining unpaid on the date of such resignation, suspension or termination. Upon resignation, suspension or termination of Membership, a Member shall not be entitled to a refund of any amounts paid during Membership.

Suspension of any Membership shall not relieve a Member from any obligation under these Bylaws.

**(8) Transition to Another Level.**

In the event of transition to a different level of Membership the Member shall have to pay the additional applicable Membership fee; however, in the event the fee for the new level of Membership would be lower than the fee already paid, there will be no refund of any amounts already paid.

**(9) Transfer of Membership.**

No Member may assign or otherwise transfer its Membership without the prior written consent of the BOD, except in the event of a change of control or by operation of law. Any such assignment or transfer shall be effective only upon the agreement in writing by Member's intended assignee to (i) be bound by the terms and conditions of these Bylaws and any other The Green Grid agreements to which the Member is a party and (ii) assume all the obligations and liabilities of such Member under these Bylaws or such other agreements. Any attempted assignment or transfer contrary to the terms of this section shall be null and void and have no effect. Any Member acquiring or merging with another Member shall be entitled to only one (1) vote after the consummation of such acquisition or merger.

**(10) Use of Names.**

Each Member agrees and consents, subject to its internal approval process, to the use of its corporate name and/or corporate logo in membership lists on The Green Grid website and membership lists in The Green Grid promotional materials; provided, that each name listed shall be of equal prominence with all other names listed that are part of the same membership level. Any other public use of a Member's name by The Green Grid shall require each Member's prior written consent.

**(11) Nonliability of Members.**

No Member of the Green Grid shall be liable for the debts, liabilities, or obligations of The Green Grid.

**(12) Membership Roll.**

Rev. 4.0 – 04/01/08

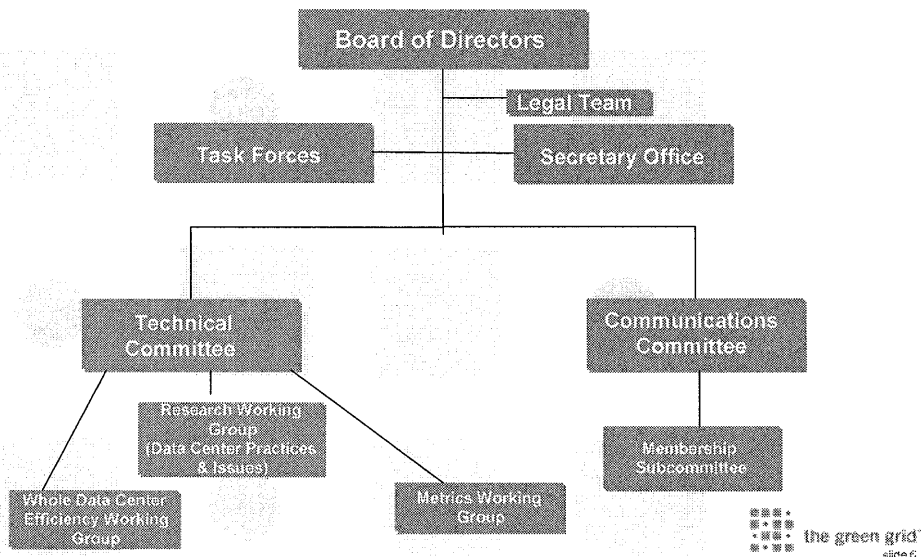
The Green Grid shall keep a membership roll containing the name and address, including email addresses, of each Member, the date upon which the applicant became a Member, and the name of one (1) individual from each Member who shall serve as a primary contact for The Green Grid, receive all correspondence and information, distribute this information within his or her organization, and vote on all issues submitted to a vote of the Members. Termination of the membership of any Member shall be recorded in the roll. The membership roll shall be kept at The Green Grid’s principal office. The membership roll will not be sold or otherwise be made available to third parties.

### Chapter IV. Organization

#### Clause 6. Organizational Structure

The organizational structure of The Green Grid is currently as depicted below. The actual structure and tasks of each organization within The Green Grid can be changed from time to time by a decision of the BOD. The picture below is for reference purposes only.

**The Green Grid – Initial Organizational Structure**



#### Clause 7. Officers

##### (1) Appointment.

**Rev. 4.0 – 04/01/08**

The BOD shall elect a President, Vice President, Secretary, and Treasurer from the BOD. The BOD may appoint an Executive Director. The BOD may elect such other Officers as it deems necessary. Any two (2) or more offices may be held by the same person except the offices of President and Secretary; however, no instrument required to be signed by more than one (1) Officer may be signed by one (1) person in more than one (1) capacity. The Officers shall be elected by the BOD annually and shall hold office until the Officer's successor is elected or until he or she resigns or is removed. All Officers shall be appointed by a Majority Vote of the BOD.

**(2) Removal and Resignation.**

The BOD may remove any Officer, with or without cause, at any time by a Super Majority Vote. Any Officer who is an employee of a Member shall automatically be removed if the employer/Member terminates or loses its membership in The Green Grid. Unless otherwise agreed to and modified by contract, any Officer may resign at any time by giving written notice to the BOD.

**(3) Vacancies.**

The BOD shall fill any vacancy in any office by election for the unexpired portion of the vacating Officer's term.

**(4) Powers and Duties.**

The Officers shall have the powers and duties customarily associated with their respective offices except as the BOD may otherwise determine.

**(5) Duties of President.**

The President shall be the chief executive officer and Chair the BOD. The President shall, subject to BOD control, supervise and control the affairs of The Green Grid and the activities of the Officers. The President shall perform all duties incident to the office and such other duties as may be required by the Articles of Incorporation, these Bylaws, or any other The Green Grid agreements or BOD resolutions, including presiding as Chair of all Member meetings. Except as otherwise expressly provided by law, the Articles of Incorporation, these Bylaws, or any BOD resolutions, the President shall, in the name of The Green Grid, execute any legal documents or instruments which the BOD authorizes.

**(6) Duties of Vice President.**

In the absence of the President, or in the event of his or her inability or refusal to act, the Vice President shall perform all duties of the President and, when so acting, shall have all the powers of, and be subject to all the restrictions on, the President. The Vice President shall have other powers and perform other duties as authorized by the Articles of Incorporation, these Bylaws or the BOD.

**(7) Duties of Secretary.**

The Secretary shall: maintain the corporate records of The Green Grid including minutes of all BOD and Member meetings; provide notices to Members as required by law and these Bylaws; be custodian of records of The Green Grid and affix the corporate seal as authorized by law or these Bylaws to duly executed corporate documents; maintain the membership roll; distribute information to Members as authorized by law, these Bylaws or the BOD; and perform all other duties incident to the office of Secretary or assigned by the BOD.

**Rev. 4.0 – 04/01/08**

**(8) Duties of Treasurer.**

The Treasurer shall have custody of the corporate funds and securities and shall keep full and accurate accounts of receipts and disbursements in books belonging to The Green Grid and shall deposit all moneys and other valuable effects in the name and to the credit of The Green Grid in such depositories as may be designated by the BOD. The Treasurer shall perform all duties incident to the office of Treasurer or assigned by the BOD.

**Clause 8. General Meetings**

**(1) Objectives and Activities.**

A General Meeting shall be held once a year upon the call of the BOD. Such meeting shall be notified by the Secretary in writing to all Members at least thirty (30) days prior to the scheduled meeting date.

At each General Meeting, the BOD shall report a summary of the activities of The Green Grid during the past year, as well as the plan for the next year's activities.

Other regular meetings of Members shall be held on dates and at times to be determined by the BOD.

Special Meetings of the Members for any purpose shall be called by the BOD within ninety (90) days of a written request by at least seventy-five percent (75%) of the Members.

**(2) Participants.**

All Members shall be entitled to attend and participate in discussions at the General Meetings.

**(3) Organization.**

The General Meeting shall be presided by the President.

**(4) Decisions by General Meeting.**

At a General Meeting, the presence in person or by a proxy of at least fifty percent (50%) of all General Members, fifty percent (50%) of all Contributor Members and fifty percent (50%) of all BOD Members shall be required to constitute a quorum. Decisions may only be made at a General Meeting if such quorum is established.

Only General Members, Contributor Members and BOD Members who reached such status as of thirty (30) days prior to such General Meeting shall be entitled to vote at such General Meeting. Each such Member shall have one (1) vote in each General Meeting, which vote may be made in person, by a proxy or in writing, the manner of which shall be designated by the BOD.

Provided that the quorum has been reached, decisions taken at the General Meeting shall require a Majority Vote of all those present and entitled to vote at such meeting. All matters put to a vote of the General Members shall be advisory in nature and not binding upon The Green Grid or the BOD.

**(5) Notice.**

Unless otherwise provided in these Bylaws or by provisions of law, the Secretary shall provide at least thirty (30) days' prior written notice of the time and place for any General Meeting and shall

**Rev. 4.0 – 04/01/08**

give at least fourteen (14) days' prior written notice of the time and place for any regular or special meetings. Notice may be provided personally, by mail, by fax, or by electronic message with return confirmation.

**Clause 9. Board of Directors**

**(1) Authority.**

Subject to controlling law, the Articles of Incorporation and these Bylaws, the BOD shall manage the general affairs, property and interests of The Green Grid. All activities and affairs of The Green Grid shall be conducted and all corporate powers shall be exercised by or under the direction of the BOD.

**(2) Activities and Duties.**

The BOD shall have BOD meetings no less than once per year in which it shall discuss activities of The Green Grid and make decisions regarding such activities. The duties of the BOD include, but are not limited to the following: perform all duties imposed by law, the Articles of Incorporation or these Bylaws; appoint and manage all officers, agents and employees of the corporation; establish, charter, and staff Committees and Working Groups as necessary to conduct The Green Grid activities and objectives; establish policies and procedures for The Green Grid; approve all public disclosure of information by The Green Grid; approve The Green Grid annual budget; establish annual membership dues; establish or revise Member rights and obligations; and perform such other duties as are customary for the Directors of a 501(c)(6) nonprofit corporation.

**(3) Participants.**

The BOD shall consist of a number of Directors equal to the number of BOD Members, with a single Director appointed by each BOD Member. The BOD Member that appointed a Director may remove that Director at any time, with or without cause, in its sole discretion. Directors shall serve without compensation by The Green Grid. The Green Grid may reimburse Directors for their reasonable expenses incurred in performance of their duties.

**(4) Organization.**

The President shall preside over each BOD meeting. Each Director shall be notified by the Secretary in advance of any BOD meeting so that each Director can reasonably prepare for and attend such BOD meeting. Each Director has a right to attend and shall make a reasonable effort to attend each BOD meeting.

Regular or special BOD meetings shall be held at a place proposed by any of the Directors and accepted by all of the other Directors or at a place designated by the Secretary in proper consultation with the Directors.

**(5) Decisions by BOD.**

Any decision of the BOD will enter into force on the date specified in such decision or on the date when such decision is made if no effective date is specified in such decision.

The BOD shall make all decisions in accordance with the voting rules below.

**Rev. 4.0 – 04/01/08**

(a) A Director that reasonably cannot be physically present at a BOD meeting can participate in the BOD meeting and the voting during such BOD meeting by telephone or videoconference, or via an alternate appointed by the BOD Member, with prior written notice to the Board of Directors.

(b) Abstention shall be considered as a waiver of voting right and shall not be counted either for or against the proposal being voted on. It shall, however, count towards the applicable quorum.

(c) There shall be a Quorum at any BOD meeting if the Directors representing no less than seventy-five percent (75%) of the Directors entitled to vote are present at the meeting in person (including via telephone or videoconference) or by a duly authorized alternate. If such quorum shall not be established at any BOD meeting, the Directors present in person or by alternate and entitled to vote at such meeting can recess the BOD meeting from time to time, without notice other than announcement at the meeting, until such quorum is established.

(d) If and when a decision should be made by the BOD before a next BOD meeting, then the BOD may make the decision in accordance with the email voting rules below.

(i) INITIATION: Any Director may initiate an email voting procedure by submitting to all Directors by email a clear and succinct written description of matters to be considered and voted on by the Directors and, if the initiating Director deems necessary, the Secretary with materials to be referred to, if any. This email shall be deemed a motion. This motion must be seconded by an email reply to all Directors. The Secretary shall then email all Directors and afford them a reasonable period of time to discuss the motion via reply email to all Directors. Upon running of the time set by the Secretary for discussion of the motion the Secretary shall send an email to all Directors calling the motion for a vote and setting a reasonable deadline for the submission of email votes. All Directors voting on the motion shall do so via reply to all Directors indicating approval or disapproval of the motion, or abstention from the vote. If an email voting procedure is initiated on a matter within seven (7) days to a scheduled BOD meeting, the Directors shall discuss and, if necessary and possible, vote on the matter during the BOD meeting.

(ii) DISCUSSION: Any discussion on the proposed matter in an email voting procedure shall be limited exclusively to Directors and not be shared with any party other than the Directors and BOD Members.

(iv) VOTING COUNT: The Secretary will record the votes of each Director. Pursuant to the Oregon Nonprofit Corporations Act, no email vote shall be deemed an action of the Board of Directors unless all Directors participate in the email vote. Should less than all Directors vote on a proposal, it shall be deemed tabled and subject to further discussion and a vote at the next face-to-face or telephone meeting of the Directors. Within twenty-four (24) hours of the end of the voting period, the Secretary shall report the vote tally to all Directors specifying the number of 'yes'/'yea' votes, 'no'/'nay' votes, 'abstention' votes and 'not voting' Directors.

**(6) Voting Percentages.**

The following voting percentages shall be required for any motion, act or decision to be an action of the BOD with respect to the following matters:

<b>Matter to be Voted On</b>	<b>Number of Affirmative Votes Required</b>
(a) General business matters	75% vote of the Quorum.
(b) Changing or modifying these Bylaws.	The number of Directors currently serving on the BOD, minus one (1)
(c) Approval, adoption and/or release of Specifications, metrics, or other formal policy positions	75% vote of the Quorum.
(d) Overriding decisions made by Committees.	75% vote of the Quorum.
(e) Removal of a Director or Delegate appointed by the Director	The number of the Quorum, minus one (1).
(f) Revocation or Suspension of Member Status	The number of Directors currently serving on the BOD, minus one (1).
(g) Termination of the membership of a BOD Member	The number of Directors currently serving on the BOD, minus one (1).
(h) Addition of a BOD Member	The number of Directors currently serving on the BOD, minus one (1)
(i) Termination of the membership of Contributor or General Members	75% vote of the Quorum.
(j) Determination of Fees and Dues	75% vote of the Quorum.
(k) Election of Officers	75% vote of the Quorum.
(l) Revision or modification of membership agreements	The number of Directors currently serving on the BOD, minus one (1)

The term “number of Directors currently serving on the BOD,” as used in these Bylaws, refers to the number of elected or appointed individuals serving as Directors at the time of determination, or any individual appointed by a BOD Member as an alternate for the Director. If an individual serving on the BOD, whether a Director or an appointed alternate, is present at a meeting, but abstains from voting on a matter, for purposes of that vote, the “number of Directors currently serving on the BOD” shall not be reduced.

**(7) Consultation of Third Parties.**

The BOD can decide to consult third parties for obtaining advice from such third parties in relation to the activities of The Green Grid. Unless otherwise authorized by the BOD, such consultation shall be conducted only with non-confidential information to be exchanged with the third-party. If the BOD has determined that it is necessary to disclose confidential information to such third-party advisors, the BOD shall enter into a confidentiality agreement with the third party advisors and disclose such confidential information as is reasonably necessary to be disclosed to the third-party advisors to obtain advice on specific issues.

Rev. 4.0 – 04/01/08

**Clause 10. Committees and Working Groups**

The BOD may create Committees and/or Working Groups to assist in the work of The Green Grid. The decision to create Committees or Working Groups, the membership criteria for such Committees or Working Groups, appointment of the Chair of such Committees or Working Groups, the procedures for meetings, and any other essential issues necessary for composition and management of a Committee or Working Group shall be at the BOD's sole discretion.

**Chapter V. Intellectual Property Obligations**

**Clause 11. Intellectual Property**

Each Member shall retain ownership of all worldwide rights, titles, and interests in and to its Contributions made pursuant to the terms of the membership agreement or these Bylaws, subject to the licenses granted therein. Each Member agrees to honor and be bound by the any and all rights and obligations concerning intellectual property contained in the applicable membership agreements as modified by the BOD from time to time.

**Chapter VI. General Provisions**

**Clause 12. Accounting**

The fiscal year of The Green Grid for accounting purposes shall be from January 1 to December 31 unless otherwise determined by the BOD. An auditor shall be appointed by the BOD to audit the annual balance sheet and statement of accounts of The Green Grid. The Treasurer shall prepare and submit to the BOD an audited balance sheet of The Green Grid as of the end of each fiscal year.

**Clause 13. No Agency or Partnership, Indemnification**

These Bylaws shall not be construed to create an agency, joint venture or partnership between or among the Members. No Member shall have the authority to conclude agreements or enter into any obligation on behalf of The Green Grid without the prior written consent or authorization from the BOD. No Member shall be liable for any loss or damages whatsoever resulting from any act performed by another Member(s) on behalf of The Green Grid, for which act such Member had not obtained prior written consent or authorization from the BOD.

**Clause 14. No Warranty**

All information disclosed during the activities of The Green Grid by Members, Officers, BOD, Working Groups, Committees, or other subordinate organizations duly established pursuant to these Bylaws are provided on an "AS IS" basis, without any warranty of any kind, express or implied, including without limitation any warranty in connection with accuracy, completeness, performance, fitness for any particular purpose, any requested quality of the disclosed information or noninfringement.

**Rev. 4.0 – 04/01/08**

Notwithstanding the foregoing, each Contributor Member and BOD Member represents and warrants that it has sufficient rights to provide its technical contributions to The Green Grid projects and objectives.

**Clause 15. Obligations of Ex-Members**

All obligations which accrued for a Member before losing its Membership shall survive its losing the Membership and, accordingly, the former Member shall fulfill such obligations even after it loses its Membership. For the avoidance of doubt, such obligations shall include but not be limited to confidentiality obligations and payment obligations under these Bylaws and the applicable Membership Agreement.

**Clause 16. Effective Date**

These Bylaws shall become effective immediately upon their adoption. Amendments to these Bylaws shall become effective immediately upon their adoption unless the BOD in adopting the amendments provides that they are to become effective at a different date.

**Clause 17. Settlement of Disputes**

In the event of any disputes between or among Members, former Members, and any third party(ies) arising from or related to these Bylaws or the activities of The Green Grid, the Members and former Members concerned shall make reasonable effort to amicably settle such disputes. Notwithstanding the foregoing, nothing in these Bylaws shall preclude any Member at any time from seeking an injunction, damages, or any other legal relief available under applicable laws against any other Member or former Member or third party for intellectual property infringement.

**Clause 18. Place of Business**

The principal office and place of business of The Green Grid shall be at such location as the BOD determines from time to time in its sole discretion. The initial principal place of business of The Green Grid shall be at 701 Brazos St., Suite 1100, Austin, Texas 78701, c/o Blanc & Otus.

**Clause 19. Insurance**

The Green Grid shall acquire directors' and officers' insurance for all Directors and Officers of the corporation in an amount to be determined by the BOD.

Except as may be otherwise provided under provisions of law, the BOD may authorize the purchase and maintenance of insurance on behalf of any agent or employee of The Green Grid against liabilities asserted against or incurred by the agent in such capacity or arising out of the agent's status as such, whether or not The Green Grid would have the power to indemnify the agent against such liability under these Bylaws or other provisions of law.

**Clause 20. Execution of Instruments**

**Rev. 4.0 – 05/14/08**

The BOD, except as otherwise provided in these Bylaws, may authorize any officer or agent of The Green Grid to enter into any contract or execute and deliver any instrument in the name of and on behalf of The Green Grid, and such authority may be general or confined to specific instances. Unless so authorized, no agent or employee shall have any power or authority to bind The Green Grid by any contract or engagement or to pledge its credit or to render it liable monetarily for any purpose in any amount.

**Clause 21. Deposits**

All funds of The Green Grid shall be deposited from time to time to the credit of The Green Grid in such banks, trust companies, or other depositories as the Treasurer may select.

**Clause 22. Tax-Exempt Status**

Notwithstanding any other provisions of these Bylaws, The Green Grid shall not carry on any activities not permitted to be carried on by a corporation exempt from federal income tax under Section 501(c)(6) of the United States Tax Code. Without limitation of the foregoing, The Green Grid shall not “engage in a regular business of any kind ordinarily carried on for profit” within the meaning of Treasury Regulation section 1.501(c)(6)-1 promulgated under section 501(c)(6) of the United States Tax Code. The BOD and Officers shall have broad discretion to curtail activities of Members which conflict with the tax-exempt status of The Green Grid and the BOD may expel a Member if necessary to protect that tax exempt status.

No part of the net earnings of The Green Grid shall inure to the benefit of, or be distributable to, its Members or other private persons, except that The Green Grid shall be authorized to pay reasonable compensation for services rendered and to make payments and distributions in furtherance of the purposes of The Green Grid.

**Clause 23. Enforceability**

If any provision or portion of these Bylaws is held unenforceable or invalid for any reason, the remaining provisions and portions of these Bylaws shall be unaffected by such holding.

**Clause 24. Governing Law**

These Bylaws shall be governed by, and construed in accordance with, the laws of the State of Oregon without regard to the conflict of laws provisions of any state or jurisdiction.

These Second Amended Bylaws were adopted by the BOD effective as of May 14, 2008

Rev. 4.0 – 05/14/08

**CERTIFICATE OF SECRETARY**

I hereby certify:

That I am the duly appointed Secretary of The Green Grid Association, an Oregon Nonprofit Corporation; and

The foregoing Bylaws comprising 20 pages, including this page, the cover page, table of contents and exhibits, constitute the original Bylaws of the Corporation as duly adopted by the Board of Directors of said Corporation.

IN WITNESS WHEREOF, I have hereunder subscribed my name this 14 day of May, 2008.

Signature

A handwritten signature in cursive script, appearing to read "Thomas Berg", is written over a horizontal line.