

FDT Group AISBL  
International non-profit association

Culliganlaan 1B  
B-1831, Diegem

Identification no. 0880 940 043

(**FDT Group** or the "**association**")  
BYLAWS

## PREAMBLE

FDT Group AISBL was incorporated on September 1, 2005.  
These Bylaws were approved during the first meeting of the Board of directors and the first General Assembly. The purpose of these Bylaws is to explain, as far as necessary, some provisions of the Articles of Association and cover other management rules of the association.

## **CHAPTER I - OFFICES, CORPORATE SEAL, OFFICIAL LANGUAGE**

- A. Other Offices. The FDT Group may have such other offices, within or without Belgium, as the Board of directors may from time to time determine.
- B. Corporate Seal. The FDT Group shall have no seal.
- C. Official Language. The official language in which the business and affairs of the FDT Group and all meetings of the Members and the Board of directors of the FDT Group shall be conducted is the English language, except if otherwise provided in Belgian law.

## **CHAPTER II MEMBERS**

- A. Each business indicated on Exhibit A to these Bylaws under a class of corporate membership shall become a corporate member of such class if such business pays the initiation fee and/or annual dues prescribed by the Board of directors, (BOD). The FDT Group shall invoice its members on or before 31 January each year. Corporate members may be either suppliers or users of FDT based technology or equipment.
- B. All references to "members" in these Bylaws and in any resolutions or minutes of the FDT Group shall mean only corporate members unless expressly stated otherwise.
- C. The initial Sponsoring Member annual fee shall be fifty thousand (50,000) Euros.
- D. Any entity that is a domestic or foreign association, limited liability company, whether domestic or foreign, partnership, limited partnership or other legal entity, whether domestic or foreign, (a "Juridical person") shall not be entitled to any of the rights, privileges or benefits of membership in the FDT Group unless it is a Corporate Member, an Affiliate or provided the rights of membership by agreement and approval of the BOD.  
No Juridical Person shall be entitled to any of the rights, privileges or benefits of membership in the FDT Group by virtue of the membership in the FDT Group of any "Associate" of such entity. For purposes of these Bylaws, the term "Associate" of a Juridical Person shall mean any person or entity that directly or indirectly controls, is controlled by, or is under common control with, such Juridical Person.

## **CHAPTER III. BOARD OF DIRECTORS**

- A. Exhibit C provides a list of the current Board of directors as of November 7, 2006.
- B. None of the non-employee, board members shall be paid for their services or for travel related expenses for attendance to board Meetings. If an independent board member is elected, the independent board member may be paid a reasonable stipend and travel expenses in accordance with the policy that is approved by the Board of directors.  
The FDT Group will pay all expenses associated with official board meetings.

C. The Chairman of the Board of directors shall be elected by a majority vote of the directors present at a director's meeting. The directors eligible to vote shall be those in office for the following year after taking into account the member's vote for directors at the annual meeting of the same date. The Chairman shall serve a one year term and may be re-elected annually. The first Chairman of the Board shall be appointed by a majority vote of the inaugural Board of directors and shall serve through 2006 before standing for re-election.

#### **CHAPTER IV. OFFICERS**

Section 4.01. Number and Qualifications. The officers of the FDT Group shall be a Managing Director, Vice Presidents, a Treasurer and a Secretary. The Group may have one or more Vice Presidents and such other officers as may be elected by the Board of directors. Only one office may be held by the same person unless otherwise approved by a majority vote of the Board of directors. Officers shall be natural persons.

The officers of the FDT Group shall be annually appointed by the Board of directors and comprise the Executive Committee which shall have the responsibility for the day-to-day management of the FDT Group and shall serve at the pleasure of the Board of directors.

The Board of directors shall annually appoint the Treasurer, Secretary and Vice Presidents. The FDT Groups' Managing Director who serves as the Chief Marketing and Administrative Officer is a permanent member of the Executive Committee.

The Officers of the Executive Committee shall also include the persons performing the functional roles for the Vice President/Chief Technical Officer or the Technical Directors for the Technical Working Group and Conformance Working Group, the Vice President of User Forums and the Vice President of Standards and Consortia.

Additional at large Vice Presidents may be appointed by the Board of directors as required. The initial Executive Committee shall include representatives of the eight Sponsoring Member companies who may serve in capacity of an at large Vice President or one of the other FDT Group officer positions.

Section 4.02. Election and Term of Office. Officers shall be elected annually by the Board of directors, and, except in the case of officers appointed in accordance with the provisions of Section 4.10, each shall hold office until the next annual election of officers and until a successor is elected and qualified, or until the earlier death, resignation, or removal of the officer. The Treasurer and Secretary shall be selected from the Executive Committee.

Section 4.03. Resignations. Except as otherwise provided in an employment contract, an officer may resign by giving written notice to the Group. The resignation is effective without acceptance when the notice is given to the FDT Group, unless a later effective date is named in the notice.

Section 4.04. Removal. An officer may be removed, with or without cause, by a resolution adopted by the Board of directors.

Section 4.05. Vacancies. A vacancy in an office because of death, resignation, removal, or any other cause shall be filled for the unexpired part of the term in the manner prescribed in these Bylaws for election to such office.

Section 4.06. Managing Director. The Managing Director shall: (a) have general active management of the day-to-day business of the FDT Group; (b) see that orders and resolutions of the Board of directors are carried into effect; (c) sign and deliver in the name of the FDT Group deeds, mortgages, bonds, contracts, or other instruments pertaining to the business of the FDT Group, except in cases in which the authority to sign and deliver is required by law to be exercised by another person or is expressly delegated by the Articles of Association or Bylaws or by the Board of directors to another officer or agent of the FDT Group; and (d) perform such other duties as may from time to time be prescribed by the Board of directors.

Section 4.07. Vice President. Each Vice President, if one or more is elected, shall have such other powers and shall perform such other duties as may from time to time be prescribed by the Board of directors or by the Managing Director. In the event of absence or disability of the Managing Director, the Vice President(s) shall succeed to the power and duties of the Managing Director in the order designated by the Board of directors.

Section 4.071 Vice President At Large. The Board of directors may annually elect at large Vice Presidents who shall serve as members of the Executive Committee. The number of at large Vice

Presidents shall be established by the Board of directors. The at large Vice Presidents shall represent the members' interests on the Executive Committee.

Section 4.08. Treasurer. The Treasurer shall: (a) keep accurate financial records for the FDT Group; (b) deposit money, drafts, and checks in the name of and to the credit of the FDT Group in the banks and depositories designated by the Board of directors; (c) endorse for deposit notes, checks, and drafts received by the FDT Group as ordered by the Board of directors, making proper vouchers for the deposit; (d) disburse corporate funds and issue checks and drafts in the name of the FDT Group, as ordered by the Board of directors; (e) upon request, provide the Managing Director and the Board of directors an account of transactions by the Treasurer and of the financial condition of the FDT Group; (f) perform such other duties as may from time to time be prescribed by the Board of directors or by the Managing Director ; and (g) an at large Vice President may be appointed to the position of Treasurer by the Board of directors.

Section 4.09. Secretary. The Secretary shall: (a) maintain records of and, when necessary, certify proceedings of the Board of directors and the Members; (b) when directed to do so, give proper notice of meetings of the Board of directors and the Members; (c) perform such other duties as may from time to time be prescribed by the Board of directors or by the Managing Director and (d) an at large Vice President may be appointed to the position of Treasurer by the Board of directors.

Section 4.10. Other Officers. This FDT Group may have such other officers and agents as the Board of directors considers necessary for the operation and management of the FDT Group, each of whom has the powers, rights, duties, responsibilities, and terms in office as may be determined by resolution of the Board of directors.

Section 4.11. Delegation. An officer may not, without the approval of the Board of directors, delegate some or all the duties and powers of his or her office to any other person.

## **CHAPTER V. COMMITTEES**

Section 5.01. Committees. A resolution approved by the affirmative vote of a majority of the Executive Committee may establish committees, including, without limitation having the authority of the Board of directors in the management of the business of the FDT Group but only to the extent provided in the resolution that the Board of directors may adopt from time to time with respect thereto. The Board of directors shall establish an Audit Committee to review, and report to the Board of directors regarding, the financial situation of the FDT Group. The Audit Committee shall be composed of one or more directors and one or more representatives of a certified public accounting firm of national repute selected by the Board of directors. Such committees shall be subject at all times to the direction and control of the Board of directors. Members of such committees must be natural persons. A committee established pursuant to this Section 5.01 shall consist of one or more persons, who need not be directors, appointed by the Board of directors.

Section 5.02. Technical Committees. The Executive Committee, if one is established pursuant to Section 5.01 and authorized to do so by resolution of the Board of directors, may establish one or more technical committees by a resolution approved by the affirmative vote of a majority of the Board of directors or the Executive Committee. Such technical committees shall act in an advisory capacity only, shall have no authority to act on behalf of or bind the FDT Group in any way and shall be subject at all times to the direction and control of the Board of directors. Members of committees established pursuant to this Section 5.02 must be natural persons. A committee established pursuant to this Section 5.02 shall consist of one or more persons, who need not be directors, appointed by the Board of directors or the Executive Committee, as the case may be.

Section 5.03. Procedures. Articles 20 through 25 of the Articles of Association apply to committees and members of committees to the same extent as those sections apply to the Board of directors. Each committee shall prepare minutes of its meetings and shall furnish such minutes to the Board of directors and to members of the committee.

## **CHAPTER VI. INTELLECTUAL PROPERTY**

All members shall sign the FDT Group Intellectual Property Rights (IPR) Policy, Exhibit B, which is approved by the Board of directors. Members shall be granted a royalty free, non-exclusive, non-assignable license for use of the FDT Group intellectual property in accordance with the IPR.

Any authorised use by a member of FDT Group's intellectual property rights shall be limited to normal use in the course of business. Any derogatory or prejudicial use shall be deemed to be a violation of the IPR."

Any member company, who fails to comply with the IPR, may be dismissed from membership by the Board of directors and is subject to penalty under Belgian Law. Members who are dismissed from membership shall surrender all rights and license granted to members for the use of FDT Group intellectual property.

**CHAPTER VII. BOOKS OF RECORD**

The FDT Group shall keep at its registered office correct and complete copies of:

- (a) its Articles of Association and Bylaws;
- (b) accounting records; and
- (c) minutes of meetings of the General Assembly, the Board of directors and committees having any of the authority of the Board of directors.

**CHAPTER VIII. CHANGES TO BYLAWS**

The initial bylaws must be approved and adopted by the Board of directors. Any changes to the Bylaws must be approved by the Board of directors and the revised bylaws provided to all members within sixty (60) days of the revision.

Corporate members may provide for changes in the bylaws by introducing a formal motion for change at any General Assembly . Motions for bylaw changes by a member must be submitted in writing to the Managing Director sixty (60) days prior to the Annual meeting. A simple majority of the members is required to change the bylaws.

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These Bylaws have been approved and adopted by the Board of directors of this Association by written action dated 1 September 2005. Modifications were approved and adopted by the Board of Directors by written action dated October 18, 2006.

**Exhibit A. Member Companies**

As of November 21, 2006 the FDT Group Member Companies are

**Sponsoring Corporate Member Companies**

ABB Process Automation GmbH  
Endress + Hauser Process Solutions AG  
Flowserve Corporation  
Invensys  
Metso Automation Inc.  
Omron Europe BV  
Rockwell Automation  
Schneider Electric GmbH  
Siemens AG  
Yokogawa

**Corporate Member Companies**

Bosch Rexroth AG  
Bürkert Werke GmbH & Co. KG  
CodeWrights GmbH  
Comsoft GmbH  
Cooper Crouse-Hinds GmbH  
Hilscher Gesellschaft für Systemautomation mbH  
Honeywell International Inc  
Ifak system GmbH  
Ifm electronic GmbH  
Krohne Messtechnik GmbH & Co.  
M&M Software GmbH  
Moeller GmbH  
MTL  
Phoenix Contact GmbH & Co.  
SICK AG  
Smar Equip. Industrials  
Softing AG  
Stahl R. Schaltgeräte GmbH  
Trebling+Himstedt Prozessautomation GmbH & Co. KG  
Turck  
Tyco Valves & Controls  
VEGA Grieshaber GmbH & Co.  
Wago Kontakttechnik GmbH  
Wetcon (Welte It Consulting)  
Woodhead Software & Electronics  
Yamatake

## **Exhibit B. Intellectual Property Policy (IPR)**

### **INTELLECTUAL PROPERTY RIGHTS (IPR) POLICY**

#### **Purpose**

As the technology owner and standards setting body for FDT Group, the FDT Group (FDT) strives to promote the FDT Specifications (collectively the "FDT Specifications") as openly available standards for use by automation suppliers and industry users around the globe. As such and to protect the good name and integrity of FDT Group, the FDT Technology and the FDT® trademark, any barriers interfering with open application and authorized use of the FDT Technology must be limited. Accordingly, the FDT Group has established this Intellectual Property Rights (IPR) Policy to govern the rights of FDT Group and its members and promote widespread use of the FDT Technology.

#### **1. Intellectual Property Arising from FDT Name Marks and Logos**

The corporate members of the FDT Group have free access to the intellectual property arising from the FDT name mark and logos and the dtm name mark. This entitles the member company to use these names and logos in their communication material. It also entitles the member company to use them in their product names and to register them. The usage of the FDT name, dtm name and logos is not permitted in the company name.

Upon leaving the FDT Group, the member will immediately cease any use of this intellectual property and transfer the ownership rights to the FDT Group or cancel its ownership.

#### **2. Intellectual Property Arising from FDT Group Activities**

All parties, legal corporations, institutions or individuals, applying for membership in the FDT Group must sign the Application for Membership form affirming their commitment to abide by all bylaws, rules and policies of the FDT Group including the following statement regarding Non-Disclosure and Intellectual Property Rights.

Intellectual property shall mean all information including but not limited to inventions, data and discoveries, copyrightable materials: including software programs, tapes, documentation, publications and reports arising out the work or proceedings of any technical or marketing committee of the FDT Group.

Members who have representation on any technical committee of the FDT Group agree and acknowledge that (i) the FDT Group shall own all rights, title and interest in all works, information, ideas, publications, reports, trade secrets, copyrights or other rights of property, either personal or intellectual, arising out of the work or proceedings of any such committee, (ii) no proprietary information shall be disclosed to the FDT Group or any technical or marketing committee of the FDT Group without the appropriate consent of its owner, and (iii) no work or proceedings of any such committee shall be disclosed to any outside third party or any other member who is not a participant in the committee prior to the publication of such work by the committee. Therefore, and as affirmed by their signed commitment on the Application for Membership form, each officer, director, employee, consultant, independent contractor or other agent/representative of a corporate, institutional or individual FDT Group member who participates on any FDT Group technical working group/committee shall be deemed to have assigned to the FDT Group irrevocably and without compensation, all right, title, and interest in and to their contribution to the technical working group/committee, if and only if it is material to the collective output of the collaborative effort.

The FDT Group encourages free and open discussion among technical working group/committee participants, but desires to avoid conflicts that may result from any proprietary interest of the participant or the participant's employer/client from flowing into the working group/committee output without appropriate approval, notice and contribution of proprietary rights. Accordingly, technical working group/committee participants shall not disclose or contribute any ideas or suggestions that they know to be proprietary in nature without the appropriate prior consent of the technology owner and the appropriate contribution of Private Intellectual Property Rights as set forth in section 2.

This fundamental policy is essential to the proper development of FDT Group standards and to ensure that the contributions of volunteer member representatives can be incorporated into the FDT Specifications.

Specifications, free of conflict with proprietary interests, and effectively owned, managed and disseminated, shall be provided by the FDT Group to its members, the industry and the public.

### **3. Contributions of Intellectual Property**

Should the member owner of any Private Intellectual Property Rights such as patents, trademarks, copyrights or trade secrets, under the law of any nation (collectively, "Private IPR") desire to contribute any portion of such Private IPR for use or inclusion in the FDT Specifications or other elements of the FDT Technology, it shall do so only by means of a written assignment or license agreement duly executed between such member owner and the FDT Group.

As a general rule, but subject to amendment at the discretion of the FDT Group Board of directors, the FDT Group will only accept such assignment or license if the transfer of the Private IPR is without any compensation from the FDT Group or its members to the Private IPR member owner. The owner shall be responsible for providing FDT Group with intellectual property with a clear title and without liability to any third party. The assignment of IPR should be in the form of either; (a) an outright gift of assignment to the FDT Group subject to a royalty-free license grant back to the original member owner, or (b) a nonexclusive, worldwide, royalty-free license to the FDT Group with the right to sublicense at the FDT Group's sole discretion and without further obligation to the original member owner.

### **4. Royalty-Free License as Condition of Membership**

If any FDT Group member acquires or possesses any Private IPR that is deemed to be "necessary and essential" by the FDT Group's Board of directors to implementation of the published FDT Specifications, then as a condition of initial or continued membership, such member shall grant to the FDT Group a perpetual, non-exclusive, worldwide, royalty-free license to such Private IPR solely to the extent reasonably necessary for implementation and open application of the FDT Technology in any commercial products to be manufactured, distributed or used.

Should the Private IPR consist of a patent, then "perpetual" shall mean for the remaining life of the patent in any country and "necessary and essential" shall mean that the patent contains one or more claims that either; (a) reads directly upon an element or the equivalent of an element of the approved FDT Specifications such that any implementation of the specifications would infringe upon such claims, or (b) reads upon any natural and commercially practical use of the approved FDT Specifications so that any such use would infringe upon such claims. The FDT Group shall have no rights under this Section 3 to any patent that does not come within the foregoing definitions of "necessary and essential".

Any such license of a Private IPR shall include the right for the FDT Group to sublicense the same to members in good standing and/or non-members, subject in either case to reasonable, uniform, and non-discriminatory license fees. Any disagreement between the member and the FDT Group that cannot be resolved by good faith discussion shall be settled by final and binding arbitration in Brussels, Belgium with the reasonable costs of such arbitration split equally between the member and the FDT Group and with the party entitled to recover its reasonable legal fees and costs incurred.

### **5. Notification and Disclosure of Conflicting Private IPR**

Prior to the adoption of any Proposed FDT Specifications, the FDT Group will publish notification to all FDT Group members expressly requesting that the FDT Group be notified should they have any knowledge or awareness to the existence of any Private IPR, existing under the law of any nation, owned by either a member or non-member that would conflict, legally bar or adversely affect application or implementation of the Proposed FDT Specifications in any commercial products.

The FDT Group shall not adopt the Proposed FDT Specifications for a period of at least ninety (90) calendar days following the notice to all FDT Group members. Should the FDT Group receive any notification during this period regarding the existence of any conflicting Private IPR, then adoption shall be further deferred pending completion of legal review by the FDT Group's intellectual property counsel and the resolution of any conflicting Private IPR.

Any party notifying the FDT Group to the alleged existence of any conflicting Private IPR shall provide a reasonably detailed description of the Private IPR and the nature and extent of the alleged conflict between the Private IPR and the Proposed FDT Specifications.

All communication between the FDT Group and the notifying party or between the FDT Group and the owner of the alleged conflicting Private IPR shall be held in strict confidence. Such duty of confidentiality, however, shall not extend to any information that: (i) is or becomes publicly known through no act or omission of the recipient party; (ii) is independently developed by the recipient party without any use of or reliance upon the disclosing party's confidential information; (iii) is obtained from a third party without obligation to the disclosing party; (iv) is already known to the

recipient party prior to its receipt from the disclosing party; (v) is required to be disclosed by law, provided however, that the recipient party gives prompt and written notice thereof to the disclosing party and gives reasonable cooperation to the disclosing party to limit any public release of such information to the extent provided by law.

Should the conflicting Private IPR be owned by an FDT Group member, the FDT Group Managing Director shall consult with the member in good faith to determine a mutually acceptable resolution to alleviate the conflict between the Private IPR and the Proposed FDT Specifications under section 2 or section 3 of this policy as applicable.

Should the conflicting Private IPR be owned by a non-member, the FDT Group shall endeavour in good faith to determine a mutually acceptable resolution to eliminate the conflict between the Private IPR and the Proposed FDT Specifications comparable to Section 2 or otherwise.

The FDT Group shall endeavour to reasonably attempt to avoid conflicting Private IPR in the development of Proposed FDT Specifications, taking reasonable precautions and actions to avoid such conflicts, including modifying the Proposed FDT Specifications to avoid alleged conflicts with Private IPR.

## **6. FDT Group Intellectual Property**

All right, title and interest in and to any and all IPR developed by the FDT Group staff or individuals employed or retained by the FDT Group shall be owned by and assigned to the FDT Group. The FDT Group shall be free to use and publish any research results, ideas, algorithms, software architectures, techniques and other information developed for or by the FDT Group. FDT Group members shall have access to FDT Group IPR subject to the fee schedules and license terms established by the FDT Group as being necessary for administration, management and technical support to maintain and preserve the IPR in accordance with FDT Group standards.

The FDT Group shall not knowingly use or incorporate any information or data into the FDT Specifications or any other elements of the FDT Technology which the FDT Group does not own or have lawful rights to use through license or assignment of title under Sections 1, 2, or 3 of this policy.

The FDT Group shall consult with intellectual property counsel to register and protect its intellectual property through the use of patents, copyrights, trademarks or other means as deemed reasonably necessary or appropriate to further the purposes of the FDT Group and promote widespread use of the FDT Technology.

## **7. Term of Licenses in Event of Dissolution**

Licenses granted to the FDT Group under Section 3 of this policy are perpetual, meaning that should the FDT Group be acquired or merged into another entity or legally dissolved or otherwise ceases to do business, such licenses shall inure to the benefit of any successors or assigns and shall in any case have a term of not less than twenty (20) years from the effective date of such event or the maximum life of any patent, as applicable.

With regard to other licenses granted to the FDT Group under this policy, those licenses shall be assignable or terminable, as the case may be, in accordance with their respective terms, provided however, that any such permitted assignment or required termination shall not terminate, shorten, limit, modify, or otherwise affect any sublicenses of rights granted by the FDT Group to others prior to the effective date of any such dissolution event.

## **Exhibit C. Board of directors and Officers**

### **Board of Directors** as of November 7, 2006

Chairman – Hartmut Wuttig

#### Group with term expiring in 2009

Schneider – André Bourouchaki

Flowserve – Eric van Gemeren

#### Group with Terms Expiring in 2008

ABB Process Automation - Hartmut Wuttig

Endress + Hauser - Dieter Schaudel

Metso Automation – Antti Kaunonen

PACTware – Guenther Kegel

#### Group with Terms Expiring in 2007

Invensys – Hartmut Wallraf

Omron – Faouzi Grebici

Rockwell Automation – Ken Deken

Yokogawa – Shuzo Kaihori

#### Group with Terms Expiring in 2006

None

### **Founding Executive Committee** – as of November 7, 2006

Managing Director – Flavio Tolfo

Board of directors Secretary – Glenn Schulz

Board of directors Treasurer – Scott Bump

Vice Presidents:

Vice President – User Forums – Open

Vice President – Standards and Consortia – Klaus Peter Lindner

Vice President - Technology – Achim Laubenstein

Vice President – Marketing – Flavio Tolfo

Vice Presidents at Large:

Invensys – Scott Bump

Metso Automation – Ismo Niemela

Omron Europe – John van Hoojdonk

Rockwell Automation – Glenn Schulz

Siemens AG – Ulrich Eger

Yokogawa – Hideo Akahori

Flowserve – Karlin Wilkes

PACTware – Frank Rohn