Association Statutes of Kitodo. Key to digital objects e.V.

Preamble

Free access to scientific information and to cultural assets is the declared aim *inter alia* of the European Commission and of UNESCO. At the same time digitalisation serves the long-term protection and preservation of cultural assets threatened with deterioration. Libraries and other cultural institutions should be enabled to use a low-priced and permanently available infrastructure to digitalise their corpus of knowledge and cultural assets. For this purpose these institutions also need access to the standards, technologies and expertise necessary for digitalisation. Open source software ensures this access to all cultural institutions, while enabling them to participate in the further development of these technologies and to encourage their advance.

Pursuant to these aims, Kitodo. Key to digital objects e.V, as an association, particularly encourages the further development of open and free Kitodo digitalisation software in all fields involving the production, opening, access provision, and archiving of digitised media. This is effected by way of a joint knowledge transfer and a long-term collaboration between the participants. The aim of this activity is also to adapt digitalisation platforms better to user-specific requirements and to strengthen the independence of cultural institutions vis-a-vis commercial software providers.

Article 1 Name, registered office, business year

(1) The Association shall be named Kitodo. Key to digital objects, hereinafter called the Association. These Statutes shall remain unchanged in their substance should merely the name of the Association or the product name of the Kitodo Software Suite (Article 2) change.

(2) The Association shall have its registered office in Dresden and is entered in the Register of Associations at the Dresden District Court, bearing the suffix "e.V."

(3) The business year shall be the calendar year.

Article 2 Purpose, tasks, non-profit making status

(1) The Association shall pursue non-profit making purposes solely and exclusively as defined in the Paragraph entitled "Tax-beneficial purposes" in the German Fiscal Code (Sections 51ff. of the German Fiscal Code (AO)) in its version in force for the time being. The Association shall be of a charitable kind; it shall not primarily pursue its own commercial purposes.

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(2) The purpose of the Association shall be the promotion of science and research (Section 52, Paragraph 2, No. 1 of the German Fiscal Code (AO)), the promotion of art and culture (Section 52, Paragraph 2, No. 5 of the German Fiscal Code (AO)), and the promotion of popular and professional education (Section 52, Paragraph 2, No. 7 of the German Fiscal Code (AO)). In particular it shall work to disseminate the knowledge of digitalisation and long-term availability of cultural assets as well as to support and advance the open-source, and cooperatively developed, Kitodo Software Suite.

(3) The purpose of the Association shall be realised in particular through collaboration by its members in

a) The strategic and cooperative further development and adaptation of Kitodo, particularly of its core functions and central interfaces, to the latest standards;

b) The coordination of the Kitodo Community and assistance to developers and users;

c) External presentation of the Kitodo Software and publicity, in order to support interested institutions in digitalising their cultural assets;

d) Developing and holding information events and seminars, courses, and exhibitions of its own, and other forms of PR work;

e) Editing, operating and servicing the Kitogo.org website as an information and communication platform for users and Association members;

f) Planning and realising the implementation of new software versions (particularly bug tracking and coordination of bug fixing, release policy, and publication);

g) Increasing the level of public awareness of the Kitodo brand and detailed further development of its profile;

h) Running non-profit making research and development projects;

i) Approaching the Federal German Government, the German states, the European Union, scientific and academic organisations and the general public as a lobbyist for the digitalisation of cultural assets;

j) Nurturing young professional entrants to the sector, e.g. through international or institutional exchange programmes.

Article 3 Membership

(1) Members of the Association may be legal entities and natural persons who are legally competent and are expressly and certifiably committed to cooperative and open-source software development.

(2) A condition for the acquisition of membership shall be a written application, to be directed to the Executive Board (Article 7).

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(3) The Executive Board shall decide on acceptance. Should acceptance be refused, the applicant must be informed of the reasons for the refusal. The applicant shall have the right to appeal to the next General Meeting; this shall make the final decision.

(4) Membership shall include inter alia collaboration on a joint development programme and a generally accepted release management. Pursuant to the Association's purpose, every development of Kitodo software undertaken or commissioned by a member shall be freely available to the general public. To guarantee this aim, all Association members shall bind themselves, and the service providers whom they commission, to the following rules:

- The programming shall follow the guidelines resolved by the majority of the members or by the General Meeting governing the cooperative software development (Kitodo Coding Guidelines) in their version in force for the time being.

- The source code so developed shall usually be made fully available to the Release Manager three months following completion.

- The source code shall be provided, under GNU Public Licence 3, with a comparable, pertinent open-source licence.

- The Release Manager shall be actively supported in taking over the source code into the main development branch.

(5) The Executive Board may adopt legal entities and natural persons as associate members providing such persons or entities submit a written application, are legally competent, and are committed expressly and certifiably to a cooperative and open-source software development. Associate members shall not pay a regular annual subscription and shall have no voting rights. With regard to the ending of membership, Article 4 shall apply.

Article 4 Endling of membership

(1) Membership shall end through voluntary resignation, removal from the Membership List, exclusion, death of member, loss of legal competence in the case of legal entities, or dissolution of the Association.

(2) Resignation shall be by a written declaration to a member of the Executive Board (Article 7). Resignation can only be declared as of the end of a business year, whereby notice of two months must be given. Without complying with such a period of notice, resignation may also be declared at a time when the obligation to pay an increased membership fee comes into effect.

(3) A member may be removed from the Membership List by resolution of the Executive Board if, despite two written warnings, they are in arrears of payment of their membership fee. Removal may only be resolved if two months have elapsed since dispatch of the second warning and this warning contained a threat of removal. The resolution of the Executive Board on such removal must be notified to the member.

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(4) A member may be excluded from the Association by resolution of the Executive Board if with culpability they grossly or repeatedly damage the interests of the Association. Prior to passing such a resolution the Executive Board must give the member an opportunity of a verbal or written reply. The resolution of the Executive Board must be justified in writing and sent to the member. The member may appeal against the resolution to the General Meeting. Appeal must be lodged within one month following delivery of the Executive Board's resolution. The Executive Board must call a General Meeting within one month following timely submission of the appeal, where said General Meeting shall rule on their exclusion.

Article 5 Financing, use of funds

(1) The Association shall finance itself through membership fees, donations, and funds from third parties.

(2) The level of the membership fees shall be set by the General Meeting. It shall be on a sliding scale and may, for example, reflect the size of a member firm or organisation.

(3) The Association's funds shall only be used for non-profit making purposes. Members shall receive no financial aid from the Association's funds. No individual shall be favoured by expenditure which is incompatible with the Association's purpose or through disproportionately high remuneration.

Article 6 Governing bodies of the Association

The Association's governing bodies shall be the Executive Board and the General Meeting.

Article 7 Executive Board

(1) The Executive Board, as defined under Section 26 of the German Civil Code (BGB), shall consist of the Chairperson, two Deputy Chairpersons, the Treasurer and the Secretary. A maximum of two persons from the category of corporate members which provide Kitodo with software and services may have office on the Executive Board per election period.

(2) The Association shall be represented in and out of court jointly by two members of the Executive Board. The Executive Board shall manage current business. It shall appoint Standing Orders for itself. These Standing Orders shall also govern representation.

(3) The Executive Board shall be responsible for the Association's current business under these Statutes. In particular it shall have the following duties:

  a) Preparation for the General Meeting, the calling of the same, and the drawing up of the Agenda;

  b) Executing resolutions of the General Meeting and strategic management;

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c) Preparation of the business plan, accounting, production of the Annual Financial Statement;

d) Management of the Association's own assets;

e) Management of the Office and administration of the release management;

f) Resolving the adoption of members pursuant to Article 3.

(4) The members of the Executive Board shall work in an honorary capacity. They may receive reasonable reimbursement of expenses. The expenses rate must represent actual and certified costs. The expenses rate must in every case be reasonable under the terms of the German Fiscal Code (AO).

Article 8 Election of Executive Board and term of office

(1) The Executive Board shall be elected by the General Meeting for a period of three years, calculated from the election. It shall remain in office until the election of a new Executive Board. Re-election shall be possible. The election procedure shall be determined by the Electing Officer.

(2) Only natural persons who are members of the Association or who belong to member institutions may be elected. Upon the ending of a natural person's membership or that of the member institution in the Association, their office on the Executive Board shall also end. Office on the Executive Board shall also end should the member of the Executive Board no longer be a member of the member institution.

(3) Should a member of the Executive Board resign prematurely, the Executive Board may appoint a successor for the resigned member's remaining period of office.

Article 9 Meetings and resolutions of the Executive Board

(1) The Executive Board shall normally pass its resolutions in meetings called by the Chairperson; should they be prevented from doing so, by one of the Deputy Chairpersons. It shall not be necessary to announce the agenda.

(2) The Executive Board shall be quorate if at least half of its members are present. In passing resolutions the majority of valid votes cast shall decide; in case of a tie, the Chairperson's vote shall decide.

(3) On the initiative of an Executive Board member the Executive Board may pass a resolution by a written procedure or in an e-mail circular procedure, providing that within an agreed period at least half of the members have cast their vote; in case of a tie the Chairperson's vote shall be decisive.

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Article 10 Association Office

(1) The Association shall be supported by an Office financed from Association funds, whose staff, in carrying out the Association's work, shall be subject exclusively to the Association's instructions.

(2) The Office may be set up at a member institution, but not at a member firm which itself supplies software or services for Kitodo. The Office shall in particular undertake the duties of member administration and acquisition, organisation of Kitodo users' meetings and other events, raising outside funds, press and public-relations work, and organisation of release management.

Article 11 General meeting

(1) At the General Meeting the member institutions shall be represented by authorised representatives. Each member shall have one vote. Transfer of vote to another member shall be possible through non-formal written authorisation. Such authorisation must be issued separately for each General Meeting. One member may not represent more than three other votes. Vote transfer must be notified to the Executive Board prior to the beginning of the meeting.

(2) Insofar as the members present agree thereto, participation of guests at the General Meeting shall be possible.

(3) The General Meeting shall have the following duties:

   a) To approve the business plan, election of two cash auditors or one external auditor, debate on the Executive Board's annual report;

   b) To monitor compliance with the tasks of the Association as set out in Article 2;

   c) To set the membership fees and to resolve on the Fee Rules;

   d) To elect and remove members of the Executive Board, to pass the official discharge of the Executive Board;

   e) To resolve on any amendment to the Statutes or to the Association's name and on the dissolution of the Association;

   f) To resolve on Association Rules or Standing Orders, unless stated otherwise at another point in these Statutes;

   g) To pass the Kitodo Coding Guidelines, the rules governing cooperative software development;

   h) To resolve on an appeal against a resolution for exclusion by the Executive Board.

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Article 12 Calling the General Meeting

(1) The Ordinary General Meeting shall be held at least once a year. It shall be called by the Executive Board in writing or by e-mail, giving notice of four weeks and stating the Agenda. Time shall begin to run upon the day following the dispatch of the written invitation. The invitation shall be deemed to have been delivered to a member if it is directed to the last address which the member gave the Association in writing. The Executive Board shall set the Agenda.

(2) Each member may apply in writing to the Executive Board, no later than one week prior to a General Meeting, for an addition to be made to the Agenda. The Chairperson of the Meeting must disclose this addition at the beginning of the General Meeting.

(3) The Meeting shall resolve on applications to make additions to the Agenda which have been presented in General Meetings.

Article 13 Extraordinary General Meeting

An Extraordinary General Meeting must be called by the Executive Board if the interests of the Association so require or at least one third of the members apply to the Executive Board in writing for the same, stating the purpose and the reasons.

Article 14 Passing resolutions at the General Meeting

(1) The General Meeting shall be conducted by the Chairperson of the Executive Board; should they be prevented from doing so, by a Deputy Chairperson of the Executive Board. The Chairperson of the Meeting shall appoint a secretary. In the case of elections the conduct of the Meeting may be transferred to an Election Officer for the period of the election and the prior discussion.

(2) The Chairperson of the Meeting shall determine the method of voting. Voting must be in writing and in secret if one of the members present so petitions.

(3) The General Meeting shall be quorate if at least half of all members' votes are represented. Should the Meeting not be quorate, the Executive Board shall have a duty to call a second General Meeting within two weeks with the same Agenda; this Meeting shall be quorate irrespective of the number of members attending. Attention must be drawn thereto in the invitation.

(4) The General Meeting shall pass resolutions by a majority of represented members' votes cast. For amendment of these Statutes and dissolution of the Association a two-thirds majority of represented members' votes cast shall be required.

(5) A change to the purpose of the Association may only be resolved with the agreement of all members. Written agreement by members who did not attend the General Meeting may only be declared to the Executive Board within one month following the General Meeting.

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(6) Elections shall be governed by Paragraph 4, Clause 1 analogously. Should the majority fail to be reached in two rounds, the candidate who has attracted the most votes shall be deemed to be elected. In case of a tie, the result shall be decided by lot.

(7) Minutes must be taken of the Resolutions of the General Meeting, and they must be signed by the Secretary.

Article 15 Release Management

(1) The General Meeting shall elect a Release Manager for a term of 24 months in each case. Re-election shall be possible. Private businesses cannot stand as candidates.

(2) The Release Manager shall have the following duties:

- They shall be responsible for supervising the further technical development of Kitodo, in which work they must follow the instructions of the Executive Board and report annually to the General Meeting.

- They shall be given write access to the main development branches and thus be responsible for the adoption of all developed source codes into the publicly and freely available Kitodo Community Edition and the regular publication of new software versions. To ensure software compatibility and a high level of code quality, they shall monitor compliance with the rules passed by the General Meeting governing cooperative software development (Kitodo Coding Guidelines) and shall propose amendments to these Guidelines to the General Meeting if required.

- They shall further provide all tools necessary for the said cooperative software development, for bug tracking, technical documentation and source-code management and, should it be so wished, shall train the Association's own internal software developers in their use. They shall coordinate the development projects of all Association members, draw up a release schedule derived therefrom, and thus chiefly determine the versioning of the software.

Article 16 Support by third parties

(1) The Association shall be entitled, in pursuance of its tasks, to accept funds from third parties and to apply them in accordance with the rules.

(2) The Association's financial earnings, gained from projects pursuant to these Statutes which have been carried out in the Association, particularly income which the Association enjoys as remuneration for utilisation of staff, material resources and equipment, shall be available to the Association for fulfilment of its tasks.

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Article 17 Annual Financial Statement

(1) The Annual Financial Statement must be drawn up in the form of an Income & Expenditure Account and audited and certified by two independent, honorary cash auditors or one external auditor.

(2) The cash auditors appointed by the General Meeting or the external auditor, following their election, must be immediately commissioned, as part of their audit of the financial statement, also to audit the due and proper nature of the management. The rights of third parties to audit the application of the funds which they have provided shall not be affected hereby.

(3) The cash auditors or external auditor shall report to the General Meeting without delay following the end of each business year's audit.

Article 18 Dissolution of the Association

(1) The dissolution of the Association must be resolved at a General Meeting by a two-thirds majority of the votes of those members present. A dissolution shall further be compulsory should its tax-privileged purpose under Sections 51ff. of the German Fiscal Code (AO) no longer apply.

(2) Unless the General Meeting resolves otherwise, the Chairperson and Deputy Chairpersons of the Executive Board shall be the jointly representative liquidators.

(3) Should the Association be dissolved or wound up, or should tax-privileged purposes no longer apply, the Association's remaining assets shall accrue to the German Initiative for Network Information (Deutsche Initiative für Netzwerkinformation e.V. (DINI)). The assets so received must be used directly and exclusively for the promotion of science and research (Section 52, Paragraph 2, No. 1 of the German Fiscal Code (AO)).

Article 19 Commencement

The amended Statutes shall come into force upon entry of the amendments to the Statutes in the Register of Associations of the Dresden District Court. At the same time the previous Statures of 13 May 2016 shall become void.

Frankfurt am Main, 1 June 2017

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