



**BYLAWS
OF
THE DIGITAL DISTRIBUTED COMMUNITY ARCHIVE,
a California Nonprofit Public Benefit Corporation**

ARTICLE 1

OFFICES

Section 1.01 PRINCIPAL OFFICE

The location of the principal office for the transaction of the business of the corporation ("principal executive office") shall be determined by the board of directors by resolution from time to time.

Section 1.02 OTHER OFFICES

The board of directors may at any time establish branch or subordinate offices at any place or places where the corporation is qualified to do business.

ARTICLE II

OBJECTIVES AND PURPOSES

The objectives of this corporation shall be:

This corporation is a nonprofit public benefit corporation and is not organized for the private gain of any person. It is organized under the California Nonprofit Public Benefit Corporation Law for charitable and public purposes. The specific purposes for which this corporation is formed are to establish and operate an archive and other collective system for written materials, works, and other content through the cooperation of libraries and publishers (including societies as publishers) with the purpose of continued access for all works and content should they become inaccessible.

ARTICLE III

NONPARTISAN ACTIVITIES

This corporation is a nonprofit public benefit corporation and is not organized for the private gain of any person. It is organized under the California Nonprofit Public Benefit Corporation Law for charitable and public purposes. No substantial part of the activities of the corporation shall consist of carrying on propaganda or otherwise attempting to influence legislation, and the corporation shall not participate or intervene in (including the publication or distribution of statements) any political campaign on behalf of any candidate for public office. This corporation shall not, except in an insubstantial degree, engage in any activities or exercise any powers that are not in furtherance of the purposes described above.

ARTICLE IV

DEDICATION OF ASSETS

The property of this corporation is irrevocably dedicated to charitable, literary and/or educational purposes. No part of the net earnings or assets of this corporation shall ever inure to the benefit of any director, officer, agent or other fiduciary of this corporation or to the benefit of any private individual whatsoever (except that reasonable compensation may be paid for services rendered to or for the corporation affecting one or more of its purposes). Upon the dissolution of this corporation, after paying or adequately providing for the debts and obligations thereof, any remaining assets shall be distributed for use in furtherance of the purposes of this corporation as set forth in the articles of incorporation and these bylaws, to one or more nonprofit funds, foundations or corporations, which are then in existence, which are organized and operated exclusively for charitable, literary and/or educational purposes and which are exempt from taxation under Section 501(c)(3) of the Internal Revenue Code of 1986 (or any corresponding provision of any future United States Internal Revenue Law).

ARTICLE V

DIRECTORS

Section 5.01 POWERS

(a) Corporate powers. Subject to the provisions of the California Nonprofit Public Benefit Corporation Law and any limitations in the articles of incorporation and these bylaws, the business and affairs of the corporation shall be managed, and all corporate powers shall be exercised, by or under the direction of the board of directors. Without prejudice to these general powers, and subject to the same limitations, the directors shall have the power to:

- (i) Select and remove all officers, agents and employees of the corporation with or without cause; prescribe any powers and duties for them that are consistent with law, with the articles of incorporation and with these bylaws; fix their compensation; and require from them security for faithful service.
- (ii) Conduct, manage and control the affairs and business of this corporation, and make such rules and regulations therefore not inconsistent with law, with the articles of incorporation or with these bylaws, as they may deem best.
- (iii) Change the principal executive office or the principal business office within or outside the State of California from one location to another; cause the corporation to be qualified to do business in any other state, territory, dependency or country and conduct business within or outside the State of California; and designate any place within or outside the State of California for the holding of any meeting or meetings, including annual meetings.
- (iv) Adopt, make and use a corporate seal; and alter the form of the seal.
- (v) Borrow money and incur indebtedness on behalf of the corporation and cause to be executed and delivered for the corporation's purposes, in the corporate name, promissory notes, bonds, debentures, deeds of trust, mortgages, pledges, hypothecations and other evidences of debt and securities.

(b) Voting and other rights. Pursuant to Section 5310(b) of the California Nonprofit Public Benefit Corporation Law, any action, which would, by operation of law or otherwise, require a vote of members shall require only a vote of the directors. All rights, which would, by operation of law or otherwise, vest in the members, shall vest in the directors.

Section 5.02 NUMBER, QUALIFICATION AND ELECTION OF DIRECTORS

The authorized number of directors shall be not less than nine (9) nor more than sixty (60), the exact number to be fixed from time to time by a majority of the then authorized and acting directors. The initial number of directors of this corporation shall be twenty-five (25) until changed by amendment of this Section 5.02 of the bylaws duly adopted by the directors. The incorporator of the corporation shall select the initial directors for a one-year term. All subsequent directors who are elected or hold office by designation, as provided in Section 5.03(a), below, following the initial directors shall hold office for terms which are staggered as provided in Section 5.03(b), below. Except for directors selected by designation as provided in Section 5.03(a), below, all subsequent directors shall be elected by majority vote of the existing directors and serve until their successors have been duly selected and qualified. No reduction of the authorized number of directors shall have the effect of removing any director prior to the expiration of said director's term of office, unless a director is affirmatively removed as hereinafter provided. Directors need not be residents of the State of California. The number of Governing Publishers to Governing Libraries will be as close to equal as reasonably possible, and any imbalances will be assessed and remedied expeditiously.

Section 5.03 DESIGNATED DIRECTORS AND TERM OF OFFICE OF ALL DIRECTORS

(a) Designated Directors. Certain directors of this corporation shall hold office by virtue of being designated as a director representing either a Governing Publisher, or a Governing Library (as defined and set forth below in Sections 5.04(a) or (c), respectively).

(b) Term of Directors. Each initial director selected and qualified either pursuant to Section 5.02 or 5.03 shall hold office for a one (1) year term, or until a successor director has been selected and qualified. All subsequent directors elected or designated to hold such office to succeed the initial directors shall be divided into three separate classes of equal (or nearly equal) numbers to serve terms of one, two, or three years, respectively. Thereafter, the directors who are elected or designated to succeed the directors in each such class shall serve terms of three years or until their respective successors have been selected and qualified.

Section 5.04 CATEGORIES OF GOVERNING AND SUPPORTING ORGANIZATIONS

(a) Governing Publisher. Any publishing company may become and continue to qualify as a Governing Publisher if it is approved by at least two-thirds of all directors in office, pays the annual fee to the corporation, and meets such other requirements as may be set from time to time by the board of directors. Each Governing Publisher in good standing shall have the right to designate one person as a member of the board of directors pursuant to Section 5.03(a), above, and to designate a person to act as a director by designation at any board meeting in full substitution for the originally designated director, with full authority to act including full voting power, whenever the originally designated director is unavailable for any reason to attend a meeting of the board of directors.

(b) Archive Nodes. An entity which qualifies as an Archive Node shall house and maintain one or more copies of the content of the archive, assumes the costs associated therewith, pays an annual fee to the corporation, and meets such other requirements as may be set from time to time by the board of directors and is otherwise approved by at least two-thirds of all directors in office. The board of directors shall determine how many, and which, entities qualifying as Archive Nodes in good standing shall have the right from time to time to constitute a Governing Library pursuant to Section 5.04(c) below with all of the rights concerning designation of a director as set forth therein.

(c) Governing Library. Any university or other entity operating a library may become and continue to qualify as a Governing Library if it is approved by at least two-thirds of all directors in office, and pays the annual fee to the corporation, and meets such other requirements as may be set from time to time by the board of directors. Each Governing Library in good standing shall have the right to designate one person as a member of the board of directors pursuant to Section 5.03(a), above, and to designate a person to act as a director by

designation at any board meeting in full substitution for the originally designated director, with full authority to act including full voting power, whenever the originally designated director is unavailable for any reason to attend a meeting of the board of directors.

(d) Supporting Publisher. Any publisher may become and continue to qualify as a Supporting Publisher if it pays an annual fee to the corporation, and meets such other requirements as may be set from time to time by the board of directors.

(e) Supporting Library. Any library or consortium of libraries may become and continue to qualify as a Supporting Library if it pays an annual fee to the corporation, and meets such other requirements as may be set from time to time by the board of directors.

Section 5.05 VACANCIES

(a) Events causing vacancy. A vacancy or vacancies in the board of directors shall be deemed to exist on the occurrence of the following:

- (i) the death or resignation of any director;
- (ii) the declaration by resolution of the board of directors of a vacancy of the office of a director who has been declared of unsound mind by a final order of court or convicted of a felony or has been found by final order or judgment of any court to have breached a duty under Sections 5230 and following of the California Nonprofit Public Benefit Corporation Law;
- (iii) the vote of a majority of the directors then in office to remove a director;
- (iv) an increase in the authorized number of directors; or
- (v) the failure to elect the number of directors to be elected at a meeting at which any director is or directors are to be elected.

(b) Resignations. Except as provided in this paragraph, any director may resign, which resignation shall be effective on giving written notice to the chairman of the board, the chief executive officer, the secretary, or the board of directors, unless the notice specifies a later time for the resignation to become effective. If the resignation of a director is effective at a future time, the board of directors may elect a successor to take office as of the date when the resignation becomes effective. No director may resign when the corporation would then be left without a duly elected director or directors in charge of its affairs.

(c) Vacancies filled by directors. Except for directors selected by designation pursuant to Section 5.03(a), any vacancy in the board of directors shall be filled by election pursuant to Section 5.02, above. A vacancy in the office of a director selected by designation pursuant to Section 5.03(a), above, shall be filled by designation from the entity holding such right. Each director selected to fill a vacancy shall hold office until the expiration of the term of the departed director and until a successor has been selected and qualified.

(d) No vacancy on reduction of number of directors. No reduction of the authorized number of directors shall have the effect of removing any director before that director's term of office expires.

(e) Restriction on interested directors. Not more than 49% of the persons serving on the board of directors at any time may be interested persons. An interested person is (i) any person being compensated by the corporation for services rendered to it within the previous 12 months, whether as a full-time or part-time employee, independent contractor or otherwise, excluding any reasonable compensation paid to a director as director; and (ii) any brother, sister, ancestor, descendant, spouse, brother-in-law, sister-in-law, son-in-law, daughter-in-law, mother-in-law or father-in-law of any such person. Any violation of the provisions of this paragraph shall not, however, affect the validity or enforceability of any transaction entered into by the corporation.

Section 5.06 PLACE OF MEETINGS; MEETINGS BY TELEPHONE

Regular meetings of the board of directors may be held at any place within or outside the State of California that has been designated from time to time by resolution of the board. In the absence of such designation, regular meetings shall be held at the principal executive office of the corporation. Special meetings of the board shall be held at any place within or outside the State of California that has been designated in the notice of the meeting or, if not stated in the notice or if there is no notice, at the principal executive office of the corporation. Notwithstanding the above provisions of this Section 5.06, a regular or special meeting of the board of directors may be held at any place consented to in writing by all board members, either before or after the meeting. If consents are given, they shall be filed with the minutes of the meeting. Any meeting, regular or special, may be held by conference telephone or similar communication equipment, as long as all directors participating in the meeting can hear one another, and all such directors shall be deemed to be present in person at such meeting.

SECTION 5.07 ANNUAL MEETING

Annual meeting of the board of directors shall be held for the purpose of organization, election of directors and officers and the transaction of other business. The Annual meeting shall be held each year on a date and at a time designated by the Board of Directors.

SECTION 5.08 OTHER REGULAR MEETINGS

The board of directors shall meet at least twice annually, inclusive of the annual meeting. Other regular meetings of the board of directors shall be held from time to time. Such regular meetings shall be held with notice.

SECTION 5.09 SPECIAL MEETINGS

(a) Authority to call. The chairman of the board, the chief executive officer, any vice president, the secretary or any two directors may call special meetings of the board of directors for any purpose at any time.

(b) Notice.

- (i) Manner of giving. Notice of the time and place of special meetings shall be given to each director by one of the following methods: (a) by personal delivery of written notice; (b) by first-class mail, postage paid; (c) by telephone communication, either directly to the director or to a person at the director's office who would reasonably be expected to communicate such notice promptly to the director; (d) by telegram, charges prepaid; or (e) by email or other electronic forms of communication. All such notices shall be given or sent to the director's address: telephone number and email address (or the electronic address) as shown on the records of the corporation.
- (ii) Time requirements. Notices sent by first class mail shall be deposited into a United States mail box at least four days before the time set for the meeting. Notices given by personal delivery, telephone, telegraph, email or electronic communication shall be delivered, telephoned, given to the telegraph company or sent by email or electronic communication at least two (2) business days before the time set for the meeting.
- (iii) Notice contents. The notice shall state the time and place for the meeting. It need not specify the purpose of the meeting and it need not specify the place of the meeting if it is to be held at the principal executive office of the corporation.

Section 5.10 QUORUM AND VOTING REQUIREMENTS

Two-thirds of seated directors shall constitute a quorum for the transaction of business, except to adjourn as provided in Section 5.12. Every act or decision done or made by a majority of the directors present at a meeting

shall be regarded as the act of the board of directors, provided that at least two-thirds of the authorized number of directors are present at the time of the vote, subject to the provisions of law or the articles of incorporation, especially those provisions of the California Nonprofit Public Benefit Corporation Law relating to

- (i) approval of contracts or transactions in which a director has a direct or indirect material financial interest,
- (ii) appointment of committees, and
- (iii) indemnification of directors.

Section 5.11 WAIVER OF NOTICE

The transactions of any meeting of the board of directors, however called and noticed or wherever held, shall be as valid as though taken at a meeting duly held after regular call and notice, if (a) a quorum is present, and (b) either before or after the meeting, each of the directors not present signs a written waiver of notice, a consent to holding the meeting or an approval of the minutes. The waiver of notice or consent need not specify the purpose of the meeting. All waivers, consents and approvals shall be filed with the corporate records or made a part of the minutes of the meeting. Notice of a meeting shall also be deemed given to any director who attends the meeting without protesting before or at its commencement about the lack of adequate notice.

Section 5.12 ADJOURNMENT

A majority of the directors present, whether or not constituting a quorum, may adjourn any meeting to another time and place.

Section 5.13 NOTICE OF ADJOURNMENT

Notice of the time and place of holding an adjourned meeting need not be given, unless the meeting is adjourned for more than 24 hours, in which case notice of the time and place shall be given before the time of the adjourned meeting to the directors who were not present at the time of the adjournment.

Section 5.14 ACTION WITHOUT MEETING

Any action required or permitted to be taken by the board of directors may be taken without a meeting, if all members of the board, individually or collectively, consent in writing to that action. Such action by written consent shall have the same force and effect as a unanimous vote of the board of directors. Such written consent or consents shall be filed with the minutes of the proceedings of the board.

Section 5.15 FEES AND COMPENSATION OF DIRECTORS

Directors and members of committees may receive such compensation, if any, for their services, and such reimbursement of expenses, as may be determined by resolution of the board of directors to be just and reasonable.

Section 5.16 NO LIABILITY OF DIRECTORS

No director shall be personally liable for the debts, liabilities or obligations of this corporation. The directors of this corporation shall have no liability for dues or assessments.

Section 5.17 ACTIONS REQUIRING SUPER-MAJORITIES

(a) Trigger Event for Transferring Content. Upon the occurrence of a Trigger Event and providing at least 75% of all the members of the board then in office vote affirmatively, and not more than two (2) of all the members of the board vote in the negative, content may be assigned and copied from the CLOCKSS Archive to host

organization(s) and made available to the general public without charge. A Trigger Event occurs when either the owner of all rights to the content (including the copyright) gives unconditional consent to the release of such content to the general public, or the content is determined in good faith by the board to be unavailable from any publisher for at least six consecutive months and there are no successor interests or reversions or transfers of rights known to the board at the time of the determination. A required part of good faith effort will be that the board tries to contact the Publisher at least twice, no less than 30 days before releasing the triggered content and evaluates all information received from the Publisher as to whether a Trigger Event has, in fact, occurred and whether this is a temporary or permanent.

In determining whether a Trigger Event has occurred, the board may reasonably rely upon a written opinion of an independent third-party expert, provided that the factual and other bases for such opinion are set forth in such detail to permit the board to evaluate the strength and accuracy of the opinion. Any content assigned and copied from the Archive to host organization(s) for public view, pursuant hereto, may be authorized to be removed from host organization(s) and public view may be authorized to be removed from host organization(s) and public view, by the affirmative vote of at least 75% of all the members of the board of directors then in office, and with not more than two (2) of all the members of the board voting in the negative. Publisher may also request the removal of content from host organization and, if the board does not agree pursuant to a majority vote of all the members, the dispute shall be resolved by arbitration.

(b) Dissolution and Liquidation. The corporation shall be dissolved on the affirmative vote of at least seventy-five percent (75%) of all directors then in office.

ARTICLE VI

COMMITTEES

Section 6.01 COMMITTEES OF DIRECTORS

The board of directors may, by resolution adopted by a majority of the directors then in office, designate one or more committees, each consisting of two or more directors, to serve at the pleasure of the board. Such committees may include, without limitation, a finance committee, technical security committee and a marketing and development committee. Any committee, to the extent provided in the resolution of the board, shall have all the authority of the board, except that no committee, regardless of board resolution, may:

- (a) fill vacancies on the board of directors or in any committee which has the authority of the board;
- (b) fix compensation of the directors for serving on the board or on any committee;
- (c) amend or repeal bylaws or adopt new bylaws;
- (d) amend or repeal any resolution of the board of directors which by its express terms is not so amendable or repealable;
- (e) appoint any other committees of the board of directors or the members of these committees;
- (f) expend corporate funds to support a nominee for director after there are more people nominated for director than can be elected;
- (g) except as provided in Section 5233(d)(3) of the California Corporations Code, approve any transaction (i) to which the corporation is a party and one or more directors have a material financial interest; or (ii) between the corporation and one or more of its directors or between the corporation and any person in which one or more of its directors have a material financial interest.

Section 6.02 MEETINGS AND ACTION OF COMMITTEES

Meetings and actions of committees shall be governed by, and held and taken in accordance with, the provisions of Article V of these bylaws, concerning meetings of directors, with such changes in the context of those bylaws as are necessary to substitute the committee and its members for the board of directors and its members, except that the time for regular meetings of committees may be determined either by resolution of the board of directors or by resolution of the committee, and that special meetings of committees may also be

called by resolution of the board of directors or by resolution of the committee. Notice of special meetings of committees shall also be given to all alternate members of the committee, who shall have the right to attend all meetings of the committee. Minutes shall be kept of each meeting of any committee and shall be filed with the corporate records. The board of directors may adopt rules for the government of any committee not inconsistent with the provisions of these bylaws.

Section 6.03 EXECUTIVE COMMITTEE

There shall be an executive committee consisting of not more than seven (7) members of the board. The executive committee shall meet at least twice annually, and shall have only those powers assigned to it by the board, except those powers listed in Section 5212(a) of the California Nonprofit Public Benefit Corporation Law; provided that the executive committee's delegated authority shall not relieve the board or any individual director of the authority imposed on them by the articles of incorporation, these bylaws, or by law. The executive committee may act on behalf of the Corporation in any matter when the board of directors is not in session, reporting to the board of directors for its ratification of their actions at each regular or special meeting called for the purpose. Members of the executive committee shall be elected at each annual meeting by vote of the directors then in office for a one-year term and serve until a successor has been selected and qualified.

Section 6.04 AUDIT COMMITTEE

There shall be an audit committee consisting of no more than five (5) members of the board, who shall be appointed by the chairman or a co-chairman of the board, subject to approval of the board. No member of the audit committee shall be an "interested director" as that term is defined in Section 5.05(e). A chairman or co-chairman and a majority of the audit committee may not be members of the finance committee, if any. Members of the audit committee shall not have any material financial interest in any entity doing business with the corporation. At least one of the members of the audit committee shall have accounting and/or finance experience. Additionally, at least one of the members of the audit committee shall be a member of the finance committee, if any. The audit committee shall be responsible for the oversight of the corporation's accounting procedures, compliance policies and financial statements. Additionally, the audit committee will carry out such additional functions and duties as may from time to time be assigned to it by the chairman or a co-chairman of the board.

ARTICLE VII

ADVISORY COUNCIL

The board of directors may, by resolution adopted by a majority of the directors then in office, establish a Advisory Council and confer or delegate to it such rights, privileges, powers, responsibilities and obligations as the board may in its sole discretion determine consistent with Section 5210 and all other provisions of the California Nonprofit Public Benefit Corporation Law. Members of the Advisory Council shall be individuals affiliated with a Supporting Publisher (as defined in Section 5.04(d), above) or a Supporting Library (as defined in Section 5.04(e), above) or such other entities throughout the world having an interest in protecting and preserving the materials and other content of the corporation's archive as approved by the board of directors. In addition to the rights, privileges, powers, responsibilities and obligations conferred or delegated expressly by the board, the Advisory Council may recommend to the corporation when a "trigger event" has occurred, and to express its views with respect to any other matters associated with, or relating to, the corporation's archive, activities, programs, or structure as the Council may determine.

ARTICLE VIII

OFFICERS

Section 8.01 OFFICERS

The officers of this corporation shall be a chairman of the board or, if the board so determines, two co-chairmen of the board, a secretary and a chief financial officer. This corporation may also have, at the discretion of the board of directors, a president or executive officer or managing director, one or more vice presidents, one or more assistant secretaries, one or more assistant treasurers, and such other officers as may be appointed in accordance with the provisions of Section 8.03. The same person may hold any number of offices, except that neither the secretary nor the chief financial officer may serve concurrently as a chairman of the board or, if none, as a co-chairman of the board.

Section 8.02 ELECTION OF OFFICERS

The officers of the corporation shall be chosen by the board of directors, and each shall serve at the pleasure of the board, subject to the rights, if any, of an officer under any contract of employment. Only individuals who hold the office of director pursuant to Section 5.02 hereof shall be eligible to be elected to the office of chairman or co-chairman described in Section 8.07(a).

Section 8.03 SUBORDINATE OFFICERS

The board of directors may appoint, and may authorize the chairman of the board or, if none, a co-chairman or another officer to appoint other officers which the business of this corporation may require, each of whom shall have the title, hold office for the period, have the authority and perform the duties specified in the bylaws or as may be determined from time to time by the board of directors.

Section 8.04 REMOVAL OF OFFICERS

Subject to the rights, if any, of an officer under any contract of employment, any officer may be removed, with or without cause, by the board of directors, at any regular or special meeting of the board, or, except in case of an officer chosen by the board of directors, by an officer on whom such power of removal may be conferred by the board of directors.

Section 8.05 RESIGNATION OF OFFICERS

Any officer may resign at any time by giving written notice to this corporation. Any resignation shall take effect at the date of the receipt of that notice or at any later time specified in that notice; and, unless otherwise specified in that notice, the acceptance of the resignation shall not be necessary to make it effective. Any resignation is without prejudice to the rights, if any, of the corporation under any contract to which the officer is a party.

Section 8.06 VACANCIES IN OFFICES

A vacancy in any office because of death, resignation, removal, disqualification or any other cause shall be filled only in the manner prescribed in these bylaws for regular appointments to that office.

Section 8.07 RESPONSIBILITIES OF OFFICERS

(a) Chairman or co-chairman of the board. The chairman of the board or, if none, a co-chairman shall have the authority to preside at meetings of the board of directors and exercise and perform such other powers and

duties as may be from time to time assigned to him by the board of directors or prescribed by these bylaws. In the absence or upon the disability of the chairman or co-chairman of the board, the board shall designate non-staff member(s) of the board to act temporarily as chairman or co-chairman of the board; he shall perform all the duties of the chairman or co-chairman of the board and, when so acting, shall have all the powers of, and be subject to all the restrictions upon, the chairman or co-chairman of the board.

(b) Chief executive officer. Subject to such powers as may be given by the board of directors, the chairman or, if none, a co-chairman of the board shall, subject to the control of the board of directors, generally supervise, direct and control the business and the affairs of the corporation. He shall have such other powers and duties as may be prescribed by the board of directors or by these bylaws.

(c) Vice presidents. In the absence or disability of the chairman or co-chairman of the board, the vice presidents, if any, in order of their rank as fixed by the board of directors or, if not ranked, a vice president designated by the board of directors, shall perform all the duties of the chairman or co-chairman of the board and, when so acting, shall have all the powers of, and be subject to all the restrictions upon, the chairman or co-chairman of the board. The vice presidents shall have such other powers and perform such other duties as from time to time may be prescribed for them respectively by the board of directors or by these bylaws.

(d) Secretary. The secretary shall attend to the following:

- (i) Book of minutes. The secretary shall keep or cause to be kept, at the principal executive office or such other place as the board of directors may direct, a book of minutes of all meetings and actions of directors and committees of directors, with the time and place of holding, whether regular or special, and, if special, how authorized, the notice given, the names of those present at such meetings, and the proceedings of such meetings.
- (ii) Director records. The secretary shall keep, or cause to be kept, at the principal executive office, as determined by resolution of the board of directors, a record of the corporation's directors, showing the names of all directors and their addresses.
- (iii) Notices, seal and other duties. The secretary shall give, or cause to be given, notice of all meetings of the board of directors required by the bylaws to be given. The secretary shall keep the seal of this corporation in safe custody. The secretary shall have such other powers and perform such other duties as may be prescribed by the board of directors or by these bylaws. If for any reason the secretary shall fail to give notice of any special meeting of the board of directors called by one or more of the persons identified in Section 6.08(a), then any such person or persons may give notice of any such special meeting.

(e) Treasurer. The treasurer shall be the chief financial officer and shall attend to the following:

- (i) Books of account. The treasurer shall keep and maintain, or cause to be kept and maintained, adequate and correct books and records of accounts of the properties and business transactions of this corporation, including accounts of its assets, liabilities, receipts, disbursements, gains, losses, capital, retained earnings and other matters customarily included in financial statements. The books of account shall be open to inspection by any director at all reasonable times.
- (ii) Deposit and disbursement of money and valuables. The treasurer shall deposit, or cause to be deposited, all money and other valuables in the name and to the credit of this corporation with such depositories as may be designated by the board of directors; shall disburse, or cause to be disbursed, the funds of this corporation as may be ordered by the board of directors; shall render, or cause to be rendered to the chief executive officer and directors,

whenever they request it, an account of all of his transactions as chief financial officer and of the financial condition of this corporation; and shall have such other powers and perform such other duties as may be prescribed by the board of directors or by these bylaws.

- (iii) Duties of treasurer. In the absence or disability of the chief executive officer, and if there be no vice presidents or if no vice presidents are present and available, the treasurer shall perform all the duties of the chief executive officer and, when so acting, shall have all the powers of, and be subject to all the restrictions upon, the chief executive officer.
- (iv) Bond. If required by the board of, directors, the treasurer shall give, or shall cause to be given, to this corporation a bond in the amount and with the surety or sureties specified by the board for faithful performance of the duties of his or her office and for restoration to this corporation of all its books, papers, vouchers, money and other property of every kind in the possession or under the control of the chief financial officer on his or her death, resignation, retirement, or removal from office.

ARTICLE IX

INDEMNIFICATION OF DIRECTORS, OFFICERS, EMPLOYEES, AND OTHER AGENTS

Section 9.01 DEFINITIONS

For the purpose of this Article,

(a) "agent" means any person who is or was a director, officer, employee or other agent of this corporation, or is or was serving at the request of this corporation as a director, officer, employee or agent of another foreign or domestic corporation, partnership, joint venture, trust or other enterprise, or was a director, officer, employee or agent of a foreign or domestic corporation that was a predecessor corporation of this corporation or of another enterprise at the request of the predecessor corporation;

(b) "proceeding" means any threatened, pending or completed action or proceeding, whether civil, criminal, administrative or investigative; and

(c) "expenses" includes, without limitation, all attorneys' fees, costs and any other expenses incurred in the defense of any claims or proceedings against an agent by reason of his position or relationship as agent and all attorneys' fees, costs and other expenses incurred in establishing a right to indemnification under this Article.

Section 9.02 SUCCESSFUL DEFENSE BY AGENT

To the extent that an agent of this corporation has been successful on the merits in the defense of any proceeding referred to in this Article, or in the defense of any claim, issue or matter therein, the agent shall be indemnified against expenses actually and reasonably incurred by the agent in connection with the claim. If an agent either settles any such claim or sustains a judgment rendered against him, then the provisions of Sections 9.03 through 9.05 shall determine whether the agent is entitled to indemnification.

Section 9.03 ACTIONS BROUGHT BY PERSONS OTHER THAN THE CORPORATION

Subject to the required findings to be made pursuant to Section 9.05, this corporation shall indemnify any person who was or is a party, or is threatened to be made a party, to any proceeding other than an action brought by, or on behalf of, this corporation, or by an officer, director or person granted related status by the California Attorney General, or other governmental authority having jurisdiction over the corporation for the supervision of its general affairs ("Attorney General"), or by the Attorney General on the ground that the defendant director was or is engaging in self-dealing within the meaning of California Nonprofit Public Benefit

Corporation Law Section 5233, or by the Attorney General or a person granted related status by the Attorney General for any breach of duty relating to assets held in charitable trust, by reason of the fact that such person is or was an agent of this corporation, for all expenses, judgments, fines, settlements and other amounts actually and reasonably incurred in connection with the proceeding.

Section 9.04 ACTION BROUGHT BY OR ON BEHALF OF THE CORPORATION

(a) Claims settled out of court. If any agent settles or otherwise disposes of a threatened or pending action brought by or on behalf of this corporation, with or without court approval, the agent shall receive no indemnification for either amounts paid pursuant to the terms of the settlement or other disposition or for any expenses incurred in defending against the proceeding, unless it is settled with the approval of the Attorney General.

(b) Claims and suits awarded against agent. This corporation shall indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action brought by or on behalf of this corporation, by reason of the fact that the person is or was an agent of this corporation, for all expenses actually and reasonably incurred in connection with the defense of that action, provided that both of the following are met:

- (i) The determination of good faith conduct required by Section 9.05 must be made in the manner provided for in that Section; and
- (ii) Upon application, the court in which the action was brought must determine that, in view of all of the circumstances of the case, the agent should be entitled to indemnity for the expenses incurred. If the agent is found to be so entitled, the court shall determine the appropriate amount of expenses to be reimbursed.

Section 9.05 DETERMINATION OF AGENT'S GOOD FAITH CONDUCT

The indemnification granted to an agent in Sections 9.03 and 9.04 above is conditioned on the following:

(a) Required standard of conduct. The agent seeking reimbursement must be found, in the manner provided below, to have acted in good faith, in a manner he believed to be in the best interest of this corporation and with such care, including reasonable inquiry, as an ordinarily prudent person in a like position would use in similar circumstances. The termination of any proceeding by judgment, order, settlement, conviction or on a plea of nolo contendere or its equivalent shall not, of itself, create a presumption that the person did not act in good faith or in a manner which he reasonably believed to be in the best interest of this corporation or that he had reasonable cause to believe that his conduct was unlawful. In the case of a criminal proceeding, the person must have had no reasonable cause to believe that his conduct was unlawful.

(b) Manner of determination of good faith conduct. The determination that the agent did act in a manner complying with Section 9.05(a) shall be made by:

- (i) the board of directors by a majority vote of a quorum consisting of directors who are not parties to the proceeding; or
- (ii) the court in which the proceeding is or was pending. Such determination may be made on application brought by this corporation or the agent or the attorney or other person rendering a defense to the agent, whether or not the application by the agent, attorney or other person is opposed by this corporation.

Section 9.06 LIMITATIONS

No indemnification or advance shall be made under this Article, except as provided in Sections 9.02 or 9.05(b)(ii), in any circumstance when it appears that:

(a) The indemnification or advance would be inconsistent with a provision of the articles, a resolution of the directors or an agreement in effect at the time of the accrual of the alleged cause of action asserted in the

proceeding in which the expenses were incurred or other amounts were paid, which prohibits or otherwise limits indemnification; or
(b) The indemnification would be inconsistent with any condition expressly imposed by a court in approving a settlement.

Section 9.07 ADVANCE OF EXPENSES

Expenses incurred in defending any proceeding may be advanced by this corporation before the final disposition of the proceeding on receipt of an undertaking by or on behalf of the agent to repay the amount of the advance unless it is determined ultimately that the agent is entitled to be indemnified as authorized in this Article.

Section 9.08 CONTRACTUAL RIGHTS OF NONDIRECTORS AND NONOFFICERS

Nothing contained in this Article shall affect any right to indemnification to which persons, who are other than directors and officers of this corporation or any subsidiary hereof, may be entitled by contract or otherwise.

Section 9.09 INSURANCE

The board of directors may adopt a resolution authorizing the purchase and maintenance of insurance on behalf of any agent of the corporation against any liability other than for violating provisions against self-dealing asserted against or incurred by the agent in such capacity or arising out of the agent's status as such, whether or not this corporation would have the power to indemnify the agent against that liability under the provisions of this Section.

ARTICLE X

RECORDS AND REPORTS

Section 10.01 MAINTENANCE OF CORPORATE RECORDS

The corporation shall keep:

- (a) Adequate and correct books and records of account;
- (b) Minutes in written form of the proceedings of its board and committees of the board;
- (c) A record of its directors, giving their names and addresses.

All such records shall be kept at the corporation's principal executive office, or if its principal executive office is not in the State of California, at its principal business office in this state.

Section 10.02 MAINTENANCE AND INSPECTION BY DIRECTORS

This corporation shall keep at its principal executive office, or if its principal executive office is not in the State of California, at its principal business office in this state, the original or a copy of the articles and bylaws as amended to date. Every director shall have the absolute right at any, reasonable time to inspect all books, records and documents of every kind and the physical properties of this corporation and each of its subsidiary corporations. This inspection by a director may be made in person or by an agent or attorney, and the right of inspection includes the right to copy and make extracts of documents.

Section 10.03 ANNUAL REPORT TO DIRECTORS

(a) Not later than 120 days after the close of the corporation's fiscal year, the board shall cause an annual report to be sent to the directors. Such report shall contain the following information in reasonable detail:

- (i) The assets and liabilities, including the trust funds, of the corporation as of the end of the fiscal year.
- (ii) The principal changes in assets and liabilities, including trust funds, during the fiscal year.
- (iii) The revenue or receipts of the corporation, both unrestricted and restricted to particular purposes, for the fiscal year.
- (iv) The expenses or disbursements of the corporation, for both general and restricted purposes, during the fiscal year.
- (v) Any information required by Section 10.04.

(b) The report required by this Section shall be accompanied by any report thereon of independent accountants, or, if there is no such report, by the certificate of an authorized officer of the corporation that such statements were prepared without audit from the books and records of the corporation.

Section 10.04 ANNUAL STATEMENT OF CERTAIN TRANSACTIONS AND INDEMNIFICATIONS

No later than the time the corporation gives its annual report, if any, and in any event no later than 120 days after the close of the corporation's fiscal year, the corporation shall prepare and mail or deliver to each director a statement of the amount and circumstances of any transaction or indemnification of the following kind:

(a) Each transaction, involving more than \$50,000 or which was one of a number of transactions with the same person involving in the aggregate more than \$50,000, in which the corporation, its parent or its subsidiary was a party, and in which either of the following had a direct or indirect financial interest:

- (i) Any director or officer of the corporation, its parent or subsidiary (a mere common directorship shall not be considered such an interest); or
- (ii) Any holder of more than 10% of the voting power of the corporation, its parent or its subsidiary.

(b) Any indemnifications or advances aggregating more than \$10,000 paid during the fiscal year to any officer or director of the corporation pursuant to Article IX hereof, unless the directors pursuant to Section 9.05(b) (ii) have already approved such indemnification.

Section 10.05 CONTRACTS, ETC.; HOW EXECUTED

The board of directors, except as otherwise provided in these bylaws, may authorize any officer or officer, agent or agents to enter into any contract or execute any instrument in the name of and on behalf of this corporation, and such authority may be general or confined to specific instances; and unless so authorized by the board of directors, no officer, agent or employee shall have any power or authority to bind this corporation by any contract or engagement or to pledge its credit or to render it liable for any purpose or in any amount.

Section 10.06 REPRESENTATIONS OF SHARES OF OTHER CORPORATIONS

The chief executive officer and the secretary or any assistant secretary are authorized to vote, represent and exercise on behalf of this corporation all rights incident to any and all shares of any other corporation or corporations standing in the name of this corporation. The authority herein granted to said officers to vote or represent on behalf of this corporation any and all shares held by this corporation in any other corporation or corporations may be exercised either by such officers in person or by any person authorized so to do by proxy or power of attorney duly executed by such officers.

ARTICLE XI

CONSTRUCTION AND DEFINITIONS

Unless the context requires otherwise, the general provisions, rules of construction and definitions in the California Nonprofit Corporation Law shall govern the construction of these bylaws. Without limiting the

generality of the above, the masculine gender includes the feminine and neuter, the singular number includes the plural, the plural number includes the singular and the term "person" includes a natural person, corporation, partnership, joint venture, trust or other entity.

ARTICLE XII

AMENDMENTS

Except as otherwise provided in these bylaws, the board of directors may adopt, amend or repeal bylaws, provided that, if any provision of these bylaws requires the vote of a larger proportion of the directors than otherwise required by law, such provision may not be altered, amended or repealed except by vote of such larger number of directors.

CERTIFICATE OF SECRETARY

I, the undersigned, certify that I am the presently elected and acting Secretary of The Digital Distributed Community Archive, a California nonprofit public benefit corporation, and the above bylaws, consisting of 15 pages, are the bylaws of this corporation as adopted at a meeting of the board of directors held on October 6, 2008.

Dated

May 12, 2009

Secretary

Victoria Reich