

BYLAWS OF HATHITRUST

adopted 12 February 2013

ARTICLE I - Purposes

HathiTrust is a collaborative of colleges, universities, and libraries working for educational, administrative, scientific, and charitable purposes, including, but not limited to collecting, organizing, preserving, communicating, and sharing the record of human knowledge. More specifically, HathiTrust is organized to:

- Build a reliable and increasingly comprehensive co-owned and managed digital archive of library materials converted from the print collections of the member institutions;
- Improve access to these materials in ways that, first and foremost, meet the needs of the member institutions;
- Help preserve these important human records by collecting reliable and accessible electronic representations;
- Enable the digital archive to be accessible to persons who have print disabilities;
- Stimulate redoubled efforts to coordinate shared storage strategies among libraries, thus reducing long-term capital and operating costs of libraries associated with the storage and care of print collections;
- Create a technical framework that is simultaneously responsive to members through the centralized creation of functionality and sufficiently open to the creation of tools and services not created by the central organization; and
- Create and sustain HathiTrust as “public good” while at the same time defining a set of services that benefits member institutions.

Section 1 - Registration

HathiTrust is legally constituted as part of the University of Michigan. The activities and bylaws of HathiTrust are subject to the rules and policies of the University of Michigan, and the contracts between individual member institutions and the University of Michigan; in case of conflicts between HathiTrust’s bylaws and member institution contracts, contracts take precedence.

Section 2 - Powers and Authorities

HathiTrust may exercise all power or authority granted to it, including, but not limited to, the power to accept donations of money, property, or any interest therein, or any other thing of value, and to own or lease property, whether real or personal, subject to the authority of and contracts with the University of Michigan.

No part of HathiTrust's income, corpus or principal assets shall ever inure to the benefit of, or be distributable to, directly or indirectly, any private individual, and no director or officer of HathiTrust may or shall receive any pecuniary benefit from the same; however, private individuals may be paid such reasonable compensation for services actually rendered and that are necessary to organize HathiTrust and to carry out the purposes of HathiTrust, as may be fixed in the manner provided by the Board of Governors, as defined in Article V. No individual shall be precluded from taking such employment and compensation by reason of the fact that she or he is a director or officer of HathiTrust.

ARTICLE II - Offices

The Central Administrative Offices shall be located at the University of Michigan.

ARTICLE III – Member Institutions and Member Representatives

Member Institutions (hereafter “Members”) are:

- The founding institutions: the University of California and the then extant members of the Committee on Institutional Cooperation [CIC] (i.e., University of Chicago, Indiana University, University of Illinois at Urbana-Champaign, University of Iowa, University of Michigan, Michigan State University, University of Minnesota, Northwestern University, Ohio State University, Pennsylvania State University, Purdue University and University of Wisconsin-Madison).
- Those institutions that were accepted Members at the time of the Constitutional Convention of October 2011.
- And those institutions that are approved after meeting the requirements for membership.

Members shall designate a member representative from the executive leadership of the Member Institution.

Section 1 - Qualifications for membership

Qualifications for membership and a process for reviewing applications for membership shall be proposed by the Board of Governors and established by an affirmative majority of weighted Member votes (see Section 3 – Voting Rights). This process shall be reviewed at least every five years.

Section 2 - Approval of Members

The Board of Governors, or the Executive Committee acting on behalf of the Board of Governors, shall approve members. An affirmative vote of a majority of the governors or of all Executive Committee members participating shall be required for approval.

Section 3 - Voting Rights

For the purposes of Member voting, HathiTrust employs a weighted voting to reflect the level of member investment in HathiTrust. This system ensures that each Member has a vote that is weighted according to a published formula approved by the Board of Governors.

Members of the Board of Governors and the Executive Committee each have a single, unweighted vote for decisions being made in those groups.

Section 4 - Termination of Membership

The Board of Governors, by affirmative vote of two-thirds of the Board, may terminate the membership of any Member that becomes ineligible, or suspend/expel any Member that shall be in default in the payment of dues, fees, or charges fixed and levied in accordance with these bylaws. Terms governing content deposited and long-term access to content are determined by the Member's contract.

Any Member may resign by filing with the Chief Executive Officer of HathiTrust a written notice of resignation signed by the president, library dean or other authorized agent of the Member. Such notice must be filed with the Chief Executive Officer at least six months prior to the effective date of resignation stated on the notice, and the effective date of such resignation must coincide with the end of the fiscal year of HathiTrust.

The termination of membership of any institution, whether by resignation or by vote of the Board of Governors, shall not relieve such institution of the obligation to pay any dues, fees, or other charges accrued and unpaid before the date on which membership is terminated by vote of the Board of Governors. When the membership of a Member is terminated, the Member's representatives shall cease to serve HathiTrust in any capacity to which they may have been elected or appointed.

Section 5 - Reinstatement

Upon written request filed with the Chief Executive Officer of HathiTrust, any former Member may be reinstated to membership by the affirmative vote of two-thirds of the Board of Governors on such terms as the Board of Governors may deem appropriate.

Section 6 - Transfer of Membership

Membership in HathiTrust is not transferable or assignable.

ARTICLE IV - Meeting of Members

Section 1 - Annual Meeting

An Annual Meeting of the Members shall be held for the transaction of such business as may come before the meeting. The Board of Governors shall determine the location of Annual Meetings. If the election of governors is not held on the day designated for the Annual Meeting, or at any adjournment thereof, the Board of Governors shall cause the election to be held electronically.

Section 2 - Special Meetings

Special meetings of the Members may be called upon due notice by the chair of the Board of Governors, a majority of the Board of Governors, or twenty percent of all Members. The Board of Governors shall determine the location of Special Meetings.

Section 3 - Notice of Meetings

Written notice stating the place, day, and hour of the Annual Meeting or any Special Meeting of the Members shall be delivered electronically to each Member not less than thirty days before the date of such meeting. Neither the business to be transacted at, nor the purpose of, any regular or special meeting of the Members need be specified in the notice or waiver of notice of such meeting unless specifically required by law or by these bylaws.

Section 4 - Manner of Acting

At a meeting at which a quorum is present, the act of a two-thirds majority (using weighted voting) of the Members present shall be understood to be the act of the Members, except where otherwise provided by law or by these bylaws. The Members may take action on matters submitted to the Members electronically, such action to become effective upon receipt by the Chief Executive Officer [cf. Article VI, Section 1] of approval thereof by a weighted majority of the Members.

Section 5 - Quorum

A simple majority of the Members (i.e., not determined through weighted votes) shall constitute a quorum at any meeting of the Members. If a quorum is not present at any meeting, a majority of the Members present may adjourn the meeting from time to time, and no further notice of the time and place of re-convening is required.

Section 6 - Proxies

A representative may vote by proxy at any meeting of the Members. The Member must execute proxies in writing or electronically. No proxy shall be valid except for the meeting for which it is executed.

Section 7 - Powers Reserved to the Members

The powers reserved to the Members are the following:

- a. To approve the criteria for eligibility for membership as proposed by the Board of Governors.
- b. To elect the Board of Governors of HathiTrust as provided in Article V of these bylaws.
- c. To approve, except as provided in Article V, Section 1, the total of the budget of HathiTrust and the total amount of dues, fees, or other charges to be levied against the Members.
- d. To approve, in accordance with Article XI, Section 1 of these bylaws, the formula or principle proposed by the Board of Governors by which the dues, fees, or other charges are to be levied against the Members.
- e. To alter, amend, or repeal the bylaws of HathiTrust, and to adopt new bylaws as provided in Article XII of these bylaws.
- f. To advise the Board of Governors on matters referred to the Members by the Board of Governors for advice, and on matters that the Members may originate.

ARTICLE V - Board of Governors

Section 1 – Powers and Composition

The management of the property, affairs, business, and activities of HathiTrust, except as provided in Article IV of these bylaws, shall be vested in the Board of Governors consistent with the rules and policies of the University of Michigan as interpreted by its General Counsel. The Board of Governors shall be empowered to adjust the detail of the budget approved by the Members. The Board of Governors shall not alter the total amount of the dues, fees, or other charges to be levied against the Members without approval of the Members.

The Board of Governors shall be composed of twelve members, appointed and elected, in addition to the Chief Executive Officer, who shall serve as an ex-officio, non-voting member. The composition of the Board shall be as follows: in recognition of their special roles in founding HathiTrust, providing significant leadership, and contributing and hosting digital content, the University of Michigan and Indiana University are each allocated one appointed seat. The University of California system and the remaining founding institutions of the CIC (i.e., University of Chicago, University of Illinois at Urbana-Champaign, University of Iowa, Michigan State University, University of Minnesota, Northwestern University, Ohio State University, Pennsylvania State University, Purdue

University and University of Wisconsin-Madison) as a consortium are each allocated two appointed seats. In addition, six members shall be elected by the membership at large. Only member representatives may stand for election to the HathiTrust Board of Governors.

Section 2 - Responsibilities

The Board of Governors bears final responsibility for the activities, functions, and operations for HathiTrust, as well as for the long-term integrity and accessibility of deposited materials. This responsibility includes:

- Defining HathiTrust’s mission, goals, and objectives and helping guide their fulfillment.
- Ensuring the alignment of HathiTrust’s mission, goals, and objectives with those of its member institutions.
- Determining strategic directions for HathiTrust.
- Reviewing recommendations of the Program Steering Committee and making final decisions regarding policy, repository development, and planning initiatives.
- Managing HathiTrust’s budget and finances.
- Electing four officers of a five-member Executive Committee, empowered to act on behalf of the Board as specified below.
- The Board of Governors shall review the formula for determining appointed seats at least every three years.
- Overseeing HathiTrust operations through the selection of a Chief Executive Officer.
- Evaluating the performance of the Chief Executive Officer.
- In coordination with the Chief Executive Officer, creating committees and working groups to carry out HathiTrust’s work and to develop strategies and priorities.
- Maintaining written Bylaws.
- Overseeing the development, implementation, and ongoing management of the HathiTrust Research Center and other officially affiliated projects.
- Communicating about HathiTrust—including its value, activities, plans, and strategic initiatives—to members, potential members, and other relevant communities.
- Demonstrating leadership among member institutions and in the cultural heritage and higher learning sectors in community-wide efforts to ensure the long-term preservation and availability of the scholarly record.

Section 3 - Terms of Office

Board members shall serve three-year terms.

Section 4 – Removals

Any governor may be removed, with or without cause, by a two-thirds vote of the governors present and entitled to vote at any meeting at which a quorum is present. Should removal be approved, the Board shall fill the vacancy through the procedure specified in Article V, Section 5.

Section 5 - Vacancies

Any elected vacancy arising in the Board of Governors shall be filled via appointment by the Board of Governors. The appointee will serve until the next annual election when a successor for the unexpired term shall be nominated and elected by the Members. Vacancies in appointed representatives shall be filled by the organization that made the original appointment.

Section 6 - Compensation

Governors shall not receive any salary for their services as governors, but this shall not be construed to preclude any governor from serving HathiTrust in any other capacity and receiving compensation for such other services.

Section 7 - Regular Meetings

At least two regular meetings (either in-person or virtual) of the Board of Governors shall be held each year.

Section 8 - Special Meetings

Special meetings of the Board of Governors may be called by or at the request of the chair or any four governors. The person or persons authorized to call special meetings of the Board may fix any reasonable place as the venue for holding any special meeting of the Board called by them.

Section 9 - Notice

Notice of any Special Meeting by the Board of Governors shall be given at least ten days previously thereto by written notice delivered electronically. Any governor may waive notice of any meeting. The attendance of a governor at any meeting shall constitute a waiver of notice of such meeting, except where the governor attends a meeting for the express purpose of objecting to the transaction of any business because the meeting is not lawfully called or convened. Neither the business to be transacted at, nor the purpose of, any regular or special meeting of the Board need be specified in the notice or waiver of notices of such meeting unless specifically required by law or by these bylaws.

Section 10 - Quorum

A majority of the entire Board shall constitute a quorum for the transaction of business at any meeting of the Board. If less than a majority of the governors are present at a meeting, a majority of the governors present may adjourn the meeting from time to time without further notice.

Section 11 - Manner of Acting

The act of a majority of the governors entitled to vote and present at a meeting at which a quorum is present shall be the act of the Board of Governors except where otherwise provided by law or by these bylaws. The Board may take action on matters submitted to the governors electronically, such action to become effective upon receipt by the CEO of electronic written approval thereof by majority of the governors, or by such other number of them as may be required by the matter being voted upon.

ARTICLE VI - Officers

Section 1 - Officers

The officers of HathiTrust shall be a chair, a chair-elect/treasurer, a past-chair and a chair of the Program Steering Committee, who shall be selected by the Board of Governors, and such other officers as the Board shall deem desirable. Such officers shall have the authority and perform the duties prescribed from time to time by the Board of Governors. All officers shall come from the Board of Governors. The Chief Executive Officer shall be an ex officio, non-voting member of the Board of Governors.

Section 2 - Election and Terms of Office

The Board of Governors shall elect the officers of HathiTrust annually at a meeting of the Board. If the election of officers shall not be held at such meeting, such election shall be held as soon thereafter as may be convenient. Vacancies may be filled or new offices created and filled at any meeting of the Board of Governors. Each officer shall hold office until the officer's successor shall have been duly elected and shall have qualified.

Section 3 - Vacancies

A vacancy in any office because of death, resignation, removal, disqualification, or otherwise, may be filled by the Board of Governors for the unexpired portion of the term.

Section 4 - Removal

Any officer or agent elected or appointed by the Board of Governors may be removed by the Board of Governors whenever, in their judgment, the best interests of HathiTrust would be served thereby, but such removal shall be without prejudice to the contract rights, if any, of the person so removed.

Section 5 - Chair

The chair shall be responsible for the execution of the policies and decisions of the Board of Governors, consistent with rules and policies of the University of Michigan. The chair shall preside at all meetings of the Members, the Board of Governors, and the Executive Committee, and will collaborate with the Chief Executive Officer in his or her role in supervising and controlling the business and affairs of HathiTrust. In general, the chair shall perform all

duties incident to the office and such other duties as may be prescribed by the Board of Governors from time to time.

Section 6 – Chair-Elect/Treasurer

In the absence of the chair, or in the event of the chair's inability or refusal to act, the chair-elect/treasurer shall perform the duties of the chair and, when so acting, shall have all the powers of, and be subject to all the restrictions upon, the chair. In conjunction with the Chief Executive Officer, the chair-elect/treasurer shall review all funds and securities of HathiTrust. The chair-elect/treasurer shall perform such other duties as from time to time may be assigned to the chair-elect/treasurer by the chair or by the Board of Governors.

Section 7 – Past Chair

In the absence of the chair and chair-elect, or in the event of their inability or refusal to act, the past chair shall perform their duties and, when so acting, shall have all their powers, and be subject to all the restrictions upon them. The past chair shall chair the Nominating Committee and oversee the election processes for the Board of Governors and the Program Steering Committee. Oversight shall include notifying candidates of election rules and deadlines; preparing ballots; distributing, receiving, and counting ballots; and delivering the results to the Board of Governors. The past chair shall perform such other duties as from time to time may be assigned to the past chair by the chair or by the Board of Governors, including evaluation of the Chief Executive Officer.

Section 8 – Chair of the Program Steering Committee

There shall be a chair of the Program Steering Committee, selected by the Board of Governors, who shall direct the activities of the Program Steering Committee, as described in Article VII, Section 3.

Section 9 - Chief Executive Officer

There shall be a Chief Executive Officer of HathiTrust, appointed by the Board of Governors, who shall serve at its pleasure. The Chief Executive Officer shall serve as Director of HathiTrust and as an ex-officio, non-voting member of the Board of Governors, the Executive Committee and the Program Steering Committee.

Section 10 - Duties of the Chief Executive Officer

The Chief Executive Officer shall be in charge of the principal office of HathiTrust and its personnel; shall conduct the administrative affairs of HathiTrust; shall be responsible for executing orders of the Board of Governors; shall prepare an annual budget and carry out the activities provided for in the budget as adopted by the Board of Governors; and shall perform such other duties as may be assigned by the Board of Governors.

ARTICLE VII - Committees

Section 1 - Executive Committee

There shall be an Executive Committee composed of five members, which shall be empowered to act for the Board of Governors during the interim periods between meetings of the Board and subject to its ratification. The members of the Executive Committee shall be the chair, chair-elect/treasurer, past chair, chair of the Program Steering Committee, and the Chief Executive Officer, who shall serve as an ex-officio, non-voting member.

Section 2 - Nominating Committee

There shall be a Nominating Committee to solicit nominees (drawn from the member representatives) for the Board of Governors and candidates for Program Steering Committee. The Nominating Committee shall consist of five persons with the past chair serving as chair of the Nominating Committee. The remaining four members shall be appointed by the Executive Committee and shall come from the general membership. For the year in question, members of the Nominating Committee shall be excluded from nomination.

Section 3 - Program Steering Committee

The Program Steering Committee serves at the direction of the Board of Governors in the following manner:

- Reviews HathiTrust's development agenda, shaping initiatives and strategies for Board discussion and decision-making, and considering the implications of those initiatives for the future. Working Groups can be appointed and charged by the Chair of the Program Steering Committee to assist with its work.

- Reports to the Board of Governors recommended alterations in the development agenda based on such reviews.
- Based on its reviews, develops position papers for the member community to encourage debate or mobilize discussion with regard to particular issues.
- Works with the Board of Governors to develop policies for HathiTrust and its members.

The Program Steering Committee shall be made up of no fewer than eight and no more than twelve appointees. The Board shall appoint members after a nomination process managed by the past-chair of the Board of Governors, and the Board of Governors shall select the chair of the Program Steering Committee. The chair of the Program Steering Committee also shall serve on the Board of Governors and its Executive Committee.

Nominees should be at the AUL or senior management level to ensure an appropriate level of experience in the issues at hand. HathiTrust's Chief Executive Officer participates as an ex officio member of the Program Steering Committee.

Section 4 - Other Committees or Working Groups

HathiTrust employs a number of committees and working groups, some of which are standing and have long-term appointments, while others may be devoted to finite tasks with a specific timeline.

Section 5 - Term of Office

Each member of an appointed committee shall continue for the term designated by the chair or by the Board of Governors, or if no term is stipulated, until the committee has completed its work and or reported, unless removed from the committee by the chair of the Board, or unless the committee member resigns. Each member of an elected committee shall serve for the term for which the person was elected, unless the person resigns.

Section 6 - Vacancies

Vacancies in the membership of any committee may be filled by appointments made in the same manner as provided in the case of the original appointment or election.

Section 7 - Quorum

Unless otherwise provided in the resolution of the Board of Governors designating a committee, a majority of the whole committee shall constitute a quorum, and the act of a majority of the members at a meeting at which a quorum is present shall be the act of the committee.

ARTICLE VIII - Checks, Funds, and Gifts

Section 1 - Checks, Drafts, etc.

All checks, drafts, or other orders for the payment of money, notes, or other evidences of indebtedness issued in the name of HathiTrust shall be handled consistent with the financial policies and practices of the University of Michigan.

Section 2 - Deposits of Funds

All funds of HathiTrust shall be deposited from time to time to the credit of HathiTrust in such banks, trust companies, or other depositories as the Board of Governors may elect and that conform to University of Michigan practice.

Section 3 - Gifts

The Board of Governors may accept, on behalf of HathiTrust, any contributions, gifts, bequests, or devises for the general purposes or for any special purpose of HathiTrust.

ARTICLE IX - Books and Records

HathiTrust shall keep correct and complete books and records of account, and shall also keep minutes of the proceedings of the Members, Board of Governors, Executive Committee, and other committees having any of the authority of the Board of Governors. It shall keep at the registered or principal office a record giving the names and addresses of the Members, Member representatives, and governors. Any Member, or the agent or attorney of the Member, may inspect all books and records of HathiTrust for any proper purpose at any reasonable time.

ARTICLE X - Fiscal Year

The fiscal year of HathiTrust shall begin on the first day in January of each year and end on the thirty-first day of December next succeeding.

ARTICLE XI - Dues and Service Charges**Section 1 - Annual Dues and Charges**

The Board of Governors may determine from time to time the amount of annual dues, fees, and other charges, payable to HathiTrust by the Members. If so determined by the Board of Governors, the dues and service charges payable by the Members may be graduated or varied according to some formula or principle. The total amount of dues or service charges, or both, levied upon the Members, and the formula or principle by which the amount of such dues or charges paid by them is determined, must be approved by two-thirds of the Members present at a meeting of the Members at which a quorum is present.

Section 2 - Payment of Dues and Charges

The budget of HathiTrust is a separately maintained budget, held within the University of Michigan budget system and managed by the Board of Governors. Some additional financial components of the operation are represented by commitments in kind by participating Members. The University of Michigan Library's financial procedures are subject to audits by the University of Michigan Office of University Audits.

The dues, fees and other charges, assessed by the Board of Governors on the Members shall be payable on the fifteenth day of January in each year unless otherwise provided by resolution of the Board of Governors. The dues, fees, and other charges so assessed on a new Member shall be pro-rated from the first day of the month following which such new institution is elected a Member for the remainder of the fiscal year of HathiTrust. Other charges for the use of HathiTrust or its services shall be paid as directed by the regulation of HathiTrust relating thereto.

Section 3 - Default and Termination of Membership

When any Member shall be in default in the payment of dues or charges for a period of six months, its membership in HathiTrust may thereupon be terminated by the Board of Governors in the manner provided for in Article III of these bylaws.

ARTICLE XII - Amendments to Bylaws

These bylaws may be altered, amended, or repealed and new bylaws may be adopted by a two-thirds majority of weighted Member votes (i.e., a total of two-thirds or more in weighted voting), provided that at least fifteen days prior written notice is given of intention to alter, amend, or repeal, or to adopt new bylaws.

ARTICLE XIII - Conflicts of Interest

The Board shall adopt a policy on dealing with conflicts of interest.

ARTICLE XIV - Dissolution

Upon dissolution of HathiTrust, the assets of HathiTrust shall be applied and distributed as follows:

- a. All liabilities and obligations of HathiTrust shall be paid, satisfied, and discharged, or adequate provision shall be made therefor.
- b. Assets held by HathiTrust upon condition requiring return, transfer, or conveyance, which condition occurs by reason of the dissolution, shall be returned, transferred, or conveyed in accordance with such requirements.
- c. Assets received and held by HathiTrust subject to limitations permitting their use only for educational, scientific, or similar purposes, but not held upon a condition requiring return, transfer, or conveyance by reason of the dissolution, shall be transferred or conveyed to one or more organizations exempt from income tax such as those organizations described in section 501(c)(3) of the Internal Revenue Code, having and pursuing purposes substantially similar to those of the HathiTrust, pursuant to a duly adopted plan of distribution.

- d. Any remaining assets shall be distributed to one or more organizations exempt from income tax such as organizations described in section 501(c)(3) of the Internal Revenue Code for any one or more literary, educational, or scientific purpose or purposes, or to the federal government, or to a state or local government, for a public purpose, pursuant to a duly adopted plan of distribution, or by a court to one or more such organizations to be used in such manner as in the judgment of the court will best accomplish the purposes for which HathiTrust was organized.