

# Articles of Association Bitkom e.V.

As amended on 1 July 2021

The original Articles of Association are in German.

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## § 1 Name, registered office, legal form and fiscal year

The association bears the name "Bitkom e.V." hereinafter referred to as "Bitkom". It is entered in the register of associations at the Charlottenburg Local Court under the number 19542NZ.

1. Bitkom is an association (Verein) in accordance with § 21 of the German Civil Code (BGB).
2. Bitkom has its registered office in Berlin.
3. The fiscal year is the calendar year.

## § 2 Purpose and tasks

1. Bitkom represents the common economic, legal, technical and scientific interests of companies and organisations in the digital economy, IT and telecommunications vis-à-vis politics, administration and society on a German, European and global level.
2. The overarching goal of Bitkom is to make Germany a leading digital location, to promote the digital transformation of the German economy and administration, to strengthen digital sovereignty and to achieve broad social participation in digital developments.
3. The core activities of Bitkom are
  - the political representation of interests at federal and state levels,
  - the representation of interests vis-à-vis the European Union and other European and international organisations and associations,
  - representing its members in the public through active communication and press work within all relevant channels,
  - the representation of its members towards trade fair companies, other associations and social actors,
  - the organisation of a continuous exchange between specialists and executives and the provision of cooperation platforms for members,
  - informing members about relevant developments, promoting technological development and standardisation,
  - the promotion and development of relevant markets,
  - the development and implementation of initiatives and campaigns, the organisation of events and competitions as well as practical assistance in the most standardised form possible.
4. Bitkom ensures a balanced representation of the membership with special emphasis on the interests of medium-sized and young companies.
5. Bitkom can provide individual, paid services and advisory services through its subsidiaries for its members or for the members of the associations or institutions belonging to it within the scope of its statutory scope of duties.

6. Bitkom does not pursue any economic business operations or party-political purposes. Bitkom does not pursue a profit-making objective.

## § 3 Membership

1. Companies which provide essential services directly as their own sales with digital technologies may become full members of Bitkom. The full membership can also be acquired by companies and organisations whose products or services are substantially supported by digital technologies without actually generating genuine revenue from digital technologies. Business associations nationwide active in the digital economy may also become full members of Bitkom.
2. Membership requires companies and organisations have a registered office or business facilities in Germany in accordance with of § 12 of the German Fiscal Code (Abgabenordnung) in Germany.
3. Membership is voluntary.
4. Companies associated with a Bitkom member company as described below may become full members of Bitkom in the framework of a group membership. A company is entitled to group membership if:
  - a) a company holds directly or indirectly at least 50 % of the shares of one or several Bitkom member companies.

If a parent company itself does not apply for membership, the group membership can, upon request, be used without the company's membership via the associate company in which the parent company directly or indirectly owns a share of at least 50 %.
  - b) a Bitkom member company directly or indirectly has a share of at least 50 % of the other company. Companies may only join Bitkom as group members if this was expressly requested during the admission process into the association. Upon request, a current membership can be converted into a group membership at any time if the member meets the requirements.
  - c) two Bitkom member companies each directly or indirectly own a share of 50 % of a joint venture company and have stated this in writing or in text form.
5. Upon request, the Steering Committee can also grant an associated membership to companies and organisations which do not meet the requirements of a full membership according to the Articles of Association, to regional associations which do not operate nationwide and to individual natural persons who are merchants or freelancers (independent entrepreneurs) and do not simultaneously hold a position in a company, but who would be eligible to membership in accordance with § 3 clause 1. If a company no longer fulfils the qualification criteria for full membership it will be transferred into an associated membership at the beginning of the following calendar year. When an associated member fulfils the qualification requirements for full membership, on request the membership can be converted into full membership at the beginning of the next calendar year. The Steering Committee will decide whether to allow the application.
6. Start-up companies that meet the admission criteria for full membership are given the opportunity to apply for Get Started membership as an associated membership instead of full membership for a maximum period of six full calendar years since their foundation. If the application is made in the sixth year after the foundation, the Get Started membership is valid until the end of the following calendar year. The qualification criteria as well as the rights and obligations of the Get Started membership shall be determined by the Steering Committee,

insofar as these do not already result from these Articles of Association. Once the qualification criteria are no longer met, Get Started membership changes into full membership at the beginning of the following calendar year.

7. Interested parties shall submit an application for membership to the management. The Steering Committee decides on the admission.
8. As founding members, the following persons are also full members:  
  
Heinz Bäurer, Hüfingen/Behla  
Eberhard Färber, München  
Jörg Menno Harms, Stuttgart  
Werner Schmücking, München  
Erwin Staudt, Leonberg.
9. Furthermore, the Steering Committee may establish personal memberships at its own discretion, provided that the respective person agrees to the proposal of the Steering Committee. Personal members are distinguished by special services to the branch. Their membership rights may be restricted by the Steering Committee. In particular, they do not have voting or electoral rights.
10. Personalities who have rendered outstanding services to digitisation may be awarded an honorary membership by the Management Board. Honorary members do not have voting or electoral rights, with the exception of the rights mentioned in § 9 clause 1.
11. For the applications referred to in § 3 the notification must be submitted in writing or in text form (e-mail, online form).

## § 4 Members' rights and obligations

1. Every full member is entitled to use Bitkom's facilities and services through its owners, board members, managing directors, board of directors and permanent employees. Member associations of Bitkom may exercise this right exclusively through employees of their branch office or members of their board of directors or steering committee. Owner within the meaning of these Articles of Association is anyone who has a majority shareholding in a member or otherwise has significant influence on its management. Permanent employee or employee of the branch office within the meaning of these Articles of Association is anyone who works for the member on a permanent and full-time basis in the field defined in § 2 clause 1. The rights and obligations of use for associated and personal members are defined by the Steering Committee and can be adjusted in individual cases.
2. The members are bound by the resolutions made by Bitkom in accordance with the Articles of Association. They are also obliged to pay the designated membership fees and contributions and to provide the management and the bodies of Bitkom with relevant information truthfully and on time in order to carry out their tasks. Confidential information may not be passed on by members to third parties.
3. Members may delegate owners, board members, managing directors, supervisory board members and permanent employees to working groups, technical and steering committees and other types of committees and subdivisions according to the framework by-laws or by-laws of the respective committee or subdivision. The work results developed in the committees or subdivisions shall be made available to Bitkom. Bitkom shall be granted an irrevocable, non-exclusive, perpetual, royalty-free, worldwide, transferable, sub-licensable right to use all such work results for the purposes and tasks specified in § 2.

4. For Voting rights and representation in all committees and subdivisions mentioned under § 4 clause 3, § 8 clause 5 shall apply accordingly. A full member may also be represented in these committees and subdivisions in the same way by an associated member; each associated member may represent only one full member.

## § 5 Membership period

1. Membership begins with the decision on admission by the Steering Committee; this shall have retroactive effect to the date of application. The Steering Committee is entitled to allow a different time of admission upon request. If admission is retroactive, this does not include voting and election rights. The Steering Committee can delegate these rights.
2. Membership shall end by voluntary resignation, by dissolution of the member's organisation, by cessation of business activities, by exclusion of the member or by death. Membership also ends if proceedings are instituted against a member's assets in accordance with the Insolvency Code or if the institution of such proceedings has been refused for lack of assets.
3. The Management Board may exclude a member if it violates the terms of the Articles of Association or if the member grossly damages Bitkom's reputation. The Management Board may delegate this right. Before exclusion, the member must be given the opportunity to comment. If a member does not comply with its obligation to pay fees and contributions, the Executive Board may also decide on exclusion.
4. Every member can resign from Bitkom with a notice period of six months to the end of the year. After expiry of the period of notice, the Executive Board may shorten it upon request if the termination is due to a proven decline in turnover of more than 20 percent of the member company in the current business year. Notice of termination of membership shall be given to Bitkom management in writing or in text form (e-mail). The member shall remain bound by the Articles of Association, the membership fee regulations and any other obligations such as contributions until he/she resigns. The member may withdraw its resignation up to the time the resignation becomes effective.
5. Members who resign from Bitkom or leave in any other way, lose any claim to the association's assets on the day of their resignation or departure. Contributions paid in and other benefits shall not be refunded.

## § 6 Fees

1. The fees shall be levied on all members, with the exception of personal members, founding members and honorary members, according to the membership fee regulation, which shall be adopted by the General Assembly on the proposal of the Steering Committee.
2. To cover the costs of certain projects within the scope of the purpose and tasks of Bitkom, the General Assembly can resolve extraordinary contributions or allocations. Bitkom apportions the contribution which it has to pay to the BDI (Federation of German Industries) as a member of the BDI to its ordinary members with the exception of personal members, founding members and honorary members.

## § 7 Committees

The committees of Bitkom are the General Assembly, the Management Board, the Steering Committee and the Executive Board.

## § 8 General Assembly

1. The General Assembly is the supreme body and decides on all fundamental issues concerning Bitkom or, at the request of the Executive Board, Steering Committee, or the Management Board, vis-à-vis the President of Bitkom. The General Assembly is also responsible for the election of the Management Board, amendments to the Articles of Association, the membership fee regulations, the dissolution of Bitkom and the discharge of the Management Board, Steering Committee, Executive Board and management of Bitkom.
2. The General Assembly shall be summoned:
  - a) when Bitkom's interests require it, but at least every other financial year,
  - b) within a period of eight weeks if at least 10 % of the members file a written request addressed to the President of Bitkom, stating the purpose and the reasons.
3. Invitations to general assemblies shall be sent by electronic communication, stating the time and place of the meeting and the agenda. The invitations may additionally be sent in text form. They shall be announced at least four weeks before the date of the meeting. The invitation shall be deemed to have been received when it has been published in the member portal or sent to the last address provided by the member. Convocation in text form does not require the handwritten signature of the persons authorised to issue invitations referred to in clause 4. Each full member may request an addition to the agenda in text form no later than two weeks before the meeting; § 14 clause 1 remains unaffected. It remains to the Steering Committee's due discretion whether this proposed addition will be considered. However, it shall be made if the request is supported by at least one tenth of the members.
4. The General Assembly shall be convened and chaired by the President of Bitkom and, if he or she is prevented from doing so, by the oldest available Vice-President. At the request of at least two thirds of the participating members, the General Assembly may appoint another chairperson.

Each full member shall have one vote in the General Assembly. Representation by another full member is permitted on the basis of a simple power of attorney in text form. A member may represent a maximum of three additional members.

5. In principle, the General Assembly has a quorum regardless of the number of participants and passes resolutions with a simple majority of the votes cast. Resolutions on amendments to the Articles of Association and the dissolution of Bitkom require the approval of at least 2/3 of the votes cast. Abstentions or votes not cast or invalid votes shall in no case be counted in the calculation of majorities, irrespective of the voting procedure chosen. The result of the resolution shall be determined by the chairperson of the meeting.
6. Resolutions and elections (hereinafter collectively referred to as "resolutions") of the General Assembly may be passed either by those present or, instead, without holding a physical meeting, on the basis of voting by means of electronic communication or in text form. A resolution passed by means of telephone or video conference shall also be deemed to be a resolution passed among those present. In the event of a resolution being passed by way of voting by electronic communication, the person who would have to chair the General Assembly replaced thereby in accordance with clause 4 (hereinafter referred to as the "Voting Chairperson") shall make the draft resolution available to all members entitled to vote by way of electronic communication, indicating the voting method determined by him or her. In the case of a resolution by text voting, the draft resolution shall be sent in text form to the last address provided by the member. At the same time, the members shall be given a period of one week within which to object to the adoption of the resolution by electronic communication or in text form, and at the same time a further period of two weeks within which the vote on the matter must be

received by the recipient named in the draft resolution. Votes received after the deadline shall not be considered. If at least 1/10 of the members object to the adoption of a resolution by means of electronic communication or in text form within the one-week period, the resolution shall be inadmissible.

7. In elections, each full member participating in an election shall have one vote for each mandate to be awarded and in no case more votes than mandates to be awarded. A combination of votes on one candidate is not permitted. The election may be conducted by negative votes and as a list election by decision of the chairperson of the meeting. The candidate who receives the most votes cast shall be elected. In the event of a tie, a run-off election shall decide. Clause 5 shall apply accordingly. If the second ballot in the first round of voting does not produce a result because of another tie, the election shall be decided by drawing lots. In elections to the Management Board, every full member and every Get Started member has the right to propose candidates for election to the Management Board. Nominations must be received by the management within two weeks of the announcement of the election to the Management Board. The announcement on the Bitkom website is sufficient for this purpose.
8. Meeting minutes shall be taken of elections and resolutions at physical General Assembly and shall be signed by the chairperson of the meeting. In the event of a resolution being passed by voting via electronic communication or in text form, the voting chairperson shall determine the result of the resolution and communicate it to all Bitkom members via electronic communication, as well as prepare minutes. He or she may also communicate the result in text form.
9. Insofar as electronic communication is provided for in these Articles of Association meetings or resolutions, the voting chairperson shall determine the further details. In particular, he/she may determine that the vote can be cast via an internet portal or other electronically suitable voting platforms. He or she shall also determine the technical and security requirements for electronic communication.

## § 9 Management Board

1. The Bitkom Management Board consists of at least 5 and at most 100 elected persons, who must be owners, board members, managing directors and chairpersons of supervisory or administrative boards or, in their function comparable supreme control bodies of full member companies or Get Started members or board members of member associations. They are elected by the General Assembly and should, as far as possible, represent the members of Bitkom appropriately in professional and structural terms. The Executive Board, the Steering Committee and the management can propose candidates for the Management Board to the President of Bitkom. In addition to the elected persons, the Management Board has the right to co-opt up to 40 representatives of Bitkom members for the respective term of office. Furthermore, former presidents of Bitkom and honorary members appointed by Bitkom may be given a seat on the Management Board for the respective term of office on the basis of an individual Steering Committee resolution. They have the same rights as the other members of the Management Board, but do not have the right to stand for election.
2. Membership of the management board shall be personal and honorary.
3. The term of office of the elected members of the Management Board shall be two years. The term of office of the Management Board shall begin and end with the announcement of the election result by the voting chairperson. If a run-off election is necessary, this shall already apply from the announcement of the election result for those elected in the first ballot. Re-election shall be permitted. The office of a member of the Management Board shall expire by resignation, death, election of a successor, termination of membership of the respective member organisation, transfer of the office bearer to a non-member organisation or by dismissal on the basis of a resolution of the General Assembly. If, at the end of the two-year term of office, no new Management

Board has been elected, the current members of the Management Board shall continue in office on an interim basis until a new election is held. If a member of the Management Board loses his or her position as managing director or board member in the company, but is still entitled to represent the respective Bitkom member, the Management Board mandate is retained. If a Management Board member resigns during his term of office, the Management Board may appoint a Management Board member for the remaining term of office.

4. The main board is responsible for all Bitkom matters, unless they are reserved for other bodies by statutory provisions or the Articles of Association. In particular, it is responsible
  - a) to elect the members of the Steering Committee,
  - b) to elect the President of Bitkom in the event of a second re-election,
  - c) to decide on the budget prepared by the Steering Committee,
  - d) to approve the annual financial statement based on the Steering Committee's report,
  - e) to decide on the exclusion of members on the Steering Committee's proposal,
  - f) to perform the duties assigned to it by the membership fee regulations.
5. Each member of the Management Board has the right to propose candidates from among the members of the Management Board for election to the Steering Committee. The nominations shall be submitted to the chairperson of the meeting at the constituent meeting of the Management Board.
6. Meetings of the Management Board shall be convened on behalf of the President of Bitkom with at least one week's notice. The form and content of the convocation shall be governed accordingly by § 8, clause 3 and 7. The meeting shall be chaired by the President of Bitkom or, if the President is unable to attend, by the oldest available Vice President. The Management Board has a quorum if half of its members participate in the decision-making process. Resolutions shall be taken by a simple majority of the votes cast. If at least 1/4 of the members of the Management Board object to the adoption of a resolution by means of electronic communication or in text form within the one-week period according to § 8 clause 7, the resolution shall be inadmissible. In all other respects, § 8 clause 4, clause 5, clause 6 sentence 3, clause 7, clause 8 sentences 1–6 and clause 9 of the Articles of Association shall apply mutatis mutandis with the proviso that each member of the Management Board participating in a resolution shall have one vote and the result of the resolution shall be communicated to the members of the Management Board by way of electronic communication and, if necessary, also in text form.

## § 10 Steering Committee

1. The Steering Committee consists of the President, up to three Vice-Presidents, the Treasurer and other members of the Bitkom Management Board. The Steering Committee has a maximum of 16 members, of which 13 can be elected and up to three more can be co-opted by the Steering Committee from among the members of the Management Board. Its composition should reflect the structure of the membership. If a member of the Steering Committee resigns during his or her term of office, the Steering Committee may also co-opt a member of the Steering Committee from among the members of the Management Board for the remainder of the term of office. § 9 clause 2 shall apply analogously.
2. The term of office of the President, the Vice-Presidents and the Treasurer shall be two years. It ends with the election of a successor. Re-election is permitted; for the President it is limited to one re-election. In exceptional



cases, the Steering Committee may allow a second re-election of the President. A second re-election takes place by resolution of the Steering Committee by the Management Board. It requires a majority of three quarters of the votes cast by the Management Board. Candidate proposals shall be submitted by the members of the Steering Committee to the chairperson of the meeting at the constituent meeting of the Steering Committee.

3. The President, the Vice-Presidents and the Treasurer are the Executive Board in the sense of § 26 BGB (German Civil Code). They shall remain in office until new elections have taken place. In deviation from § 9 clause 3 sentence 5, the termination of membership of the member organisation as well as the transfer to a non-member organisation does not automatically lead to the termination of the office of the President. Unless the Steering Committee decides to dismiss the President in this case. Bitkom is represented in and out of court by two members of the Executive Board jointly. The following applies internally: Representation shall be by the President and another member of the Executive Board; the President may delegate this right to one of the Vice-Presidents if he or she is prevented from doing so.
4. The Steering Committee shall be responsible in particular
  - a) To elect the Chairperson (President), the Vice-Chairpersons (Vice-Presidents) and the Treasurer,
  - b) in exceptional cases, to decide on a second re-election of the President by the Management Board,
  - c) to make final decisions on important issues whose particular significance for the purposes and tasks of Bitkom has been determined by the Executive Board in accordance with § 2, unless the decision is expressly reserved for the General Assembly or the Management Board,
  - d) to prepare by-laws and guidelines for the association's committees, if necessary, to decide on membership applications, or recommend members to the management board for expulsion,
  - e) to prepare the items for discussion and the motions for the General Assembly,
  - f) to propose to the General Assembly membership fee regulations and to perform the duties assigned to it by the membership fee regulations,
  - g) to establish and dissolve working groups as well as technical and steering committees and to decide on their by-laws,
  - h) to take a final decision on the questions submitted to the committees mentioned under f) at the request of the chairperson of a respective committee,
  - i) to carry out such tasks and work as may be entrusted to it independently by the Management Board or the General Assembly,
  - j) to prepare the budget and submit it to the Management Board for resolution,
  - k) to prepare the annual financial statement and present it to the Management Board for resolution,
  - l) to prepare resolutions of the Management Board and the General Assembly,
  - m) to establish a seat on the Management board for former presidents of Bitkom and honorary members in accordance with § 9 clause 1 sentence 7,
  - n) to decide on members' applications in accordance with § 3 clause 5 sentence 4,

- o) to appoint and dismiss the managing directors and, if necessary, to prepare by-laws for the managing directors.
- 5. In addition, § 8 clause 4, clause 5, clause 6 sentences 1 and 3, clause 7, clause 8 sentences 1–6 and clause 9 as well as § 9 clause 3 shall apply mutatis mutandis to the Steering Committee and Executive Board with the proviso that each member of the Steering Committee participating in a resolution shall have one vote and the result of the adoption of a resolution shall be communicated to the members of the Steering Committee or the Executive Board by means of electronic communication and, if necessary, also in text form. In deviation from § 8 clause 7, the Chief Executive Officer shall be the voting leader for a resolution of the Steering Committee and the Executive Board by way of electronic communication or in text form; this shall be inadmissible if 1/4 of the members of the Steering Committee or the Executive Board object to the voting method within the one-week period. The voting chairperson may set shorter voting deadlines in derogation of § 8 clause 7.
- 6. The Steering Committee may adopt by-laws.

## **§ 11 Bitkom management**

For the processing of the current tasks of Bitkom and for the administration of its assets, a management is appointed, which works according to the instructions of the Executive Board, in particular the Chairperson, and is employed by the Association. The Executive Board decides on the appointment as well as on the dismissal.

## **§ 12 Amendments to the Articles of Association and dissolution of Bitkom**

- 1. Motions to amend the Articles of Association or to dissolve Bitkom may be submitted in writing to the President of Bitkom by the Steering Committee or by at least 1/4 of the members, stating the purpose and the reasons, with four weeks' notice.
- 2. In the event of the dissolution of Bitkom, the last General Assembly shall dispose of the existing assets of Bitkom after all liabilities have been discharged. The association's assets shall be used for purposes in accordance with these Articles of Association. The corresponding resolutions of the General Assembly may only be carried out after approval by the responsible tax office.