

Statute of the Foundation Institut für Sonnenphysik (KIS)¹, Freiburg

I. GENERAL PROVISIONS

ARTICLE 1

Legal Form, Domicile

The “Institut für Sonnenphysik (KIS)” is a public foundation with legal capacity, governed by the public law of the federal state of Baden-Württemberg (hereinafter, the “Foundation”). It is domiciled in Freiburg.

ARTICLE 2

Purpose of the Foundation

- (1) The purpose of the Foundation shall be to conduct basic research in astronomy and astrophysics with a special focus on solar physics. For this purpose and among other activities, the Foundation shall, both on its own and jointly with third parties, operate observation facilities for its own research activities and those of others.
- (2) The Foundation may perform additional tasks associated therewith, e.g. it may promote education and training, in particular the education of young scientists.
- (3) Research results are to be published.

ARTICLE 3

Non-profit Status

- (1) The sole and immediate objective of the Foundation shall be non-profit purposes, in particular scientific purposes in terms of the German fiscal law section on “tax-privileged purposes”. The Foundation shall act altruistically, not primarily pursuing its own economic benefit.
- (2) The funds of the Foundation may be used for statutory purposes only. The Foundation may not benefit any person by making expenditures not related to the purpose of the Foundation or by paying fees that are disproportionately high.

ARTICLE 4

Assets of the Foundation

- (1) The Foundation assets shall consist of, on the one hand, items assigned to the Foundation pursuant to a separate agreement with the federal state of Baden-Württemberg.
- (2) On the other hand, the Foundation assets shall consist of allocations granted by the Federal Republic of Germany (hereinafter, the “Federal Government”), the federal state of

¹ On 5 December 2023, the Foundation Council resolved to amend the name of the Foundation as from 1 January 2024. The new name is “Institut für Sonnenphysik (KIS)”.

Baden-Württemberg and the other federal states (hereinafter, the “Federal States”) in accordance with the framework agreement signed by the Federal Government and the Federal States to jointly promote research, as provided under Art. 91b of the German Constitution, as well as of allocations made by third parties.

- (3) In addition, the assets of the Foundation shall include any items created or acquired through the items of property referred to in sections (1) and (2).

ARTICLE 5 ***External Funds***

The Foundation is expected to raise third-party funds.
The Foundation must follow the German fiscal law provisions concerning non-profit status and the respective rules for their implementation.

ARTICLE 6 ***Foundation Budget***

- (1) The provisions of Articles 105 ff. of the financial regulation for Baden-Württemberg (“LHO”) shall apply in accordance with Article 19 of the law on foundations for Baden-Württemberg (“StiftG”).
- (2) The Foundation budget shall include the entire revenue, expenditure and commitment appropriations expected for the budget year. Revenue and expenditure shall be balanced. Revenue and expenditure shall be transferable and mutually eligible for cover.
- (3) The Foundation budget shall be assessed by the Foundation Council. It shall require the endorsement by the funding bodies and the approval of the Ministry of Science in its capacity as foundation authority. Once endorsed and approved, the budget shall be binding.

II. BODIES OF THE FOUNDATION

ARTICLE 7 ***Bodies***

The bodies of the Foundation shall be:

1. Foundation Council,
2. Board of Directors,
3. Scientific Advisory Committee.

ARTICLE 8 ***Duty of Confidentiality***

- (1) The members of the Foundation bodies shall treat as confidential and not disclose to others any of the Foundation’s secrets or classified business information of which they gain knowledge through their activity. This obligation shall continue to apply even after the assignment ends.

- (2) Any documents, files or other records, including copies and data carriers, containing the information referred to in section (1), and which are provided to or produced by members of a body during the exercise of their duties on behalf of the Foundation, shall be returned to the Foundation not later than at the time at which the assignment ends, or shall then be destroyed if so agreed with the Foundation. The person concerned shall not be entitled to copy or withhold any of such documents, files or records.
- (3) The preceding sections (1) and (2) shall apply accordingly to other persons who participate in meetings of the Foundation bodies. At the beginning of meetings, the chairperson shall inform such other participants of this duty.

ARTICLE 9

Foundation Council

- (1) The Foundation Council shall be composed of:
 1. One representative of the Ministry of Science, Research and the Arts of the state of Baden-Württemberg who shall act as chairperson,
 2. One representative of the Federal Ministry of Education and Research who shall act as deputy chairperson,
 3. Rector of the university to whose faculty the directors belong.
 4. One Foundation staff member who is not a member of the Foundation Council and who is elected by the Foundation staff. Further details shall be provided under electoral regulations to be issued by the Foundation Board with the consent of the Foundation Council.
 5. Chairperson of the Scientific Advisory Committee, in advisory capacity.
- (2) The delegating bodies shall guarantee the equal participation of women and men in the Foundation Council.
- (3) The Foundation Council shall be called by the chairperson at least once every calendar half-year. The Foundation Council shall be called if this is requested by at least two of its members or by the Board of Directors.
- (4) The Foundation Council shall be called by the chairperson or by the Board of Directors on behalf of the chairperson, at least three weeks prior to the meeting. The invitation shall include the meeting documents together with the draft resolutions, stating the agenda items with sufficient accuracy to enable the Foundation Council members to adequately prepare for the discussions and voting.
- (5) The Foundation Council shall constitute a quorum if three of its voting members are present or represented in accordance with section (6). The chairperson or the deputy chairperson of the Foundation Council must be present. If the Foundation Council cannot adopt resolutions due to lack of quorum, it shall be called again within 14 days. At this meeting, the Foundation Council shall constitute a quorum regardless of the number of voting members present, provided this fact was pointed out in the invitation to the meeting.
- (6) If the Foundation Council members appointed by the Federal Government and by the state of Baden-Württemberg are prevented from attending a meeting, they shall be represented by other staff members of the respective authority. Other members may be represented by other Foundation Council members, for which purpose they must grant respective powers of attorney, thus increasing the number of votes of the representative. These powers must be in writing and must be granted each time. The member referred to in

paragraph (1) number 3 may also be represented by a member of the rector's office duly empowered for such purpose.

- (7) In exceptional cases, the Foundation Council may adopt resolutions without the formal and deadline requirements provided under section (4) or outside meetings by way of the circulation procedure. This shall require the consent of all voting members.
- (8) The Foundation Council shall adopt resolutions with the majority of the votes cast, unless provided otherwise under this statute. In the event of a tie, the chairperson shall have the casting vote.
- (9) Minutes of the Foundation Council meetings shall be provided promptly and in writing and they must be signed by the chairperson or by the deputy chairperson. The minutes shall state the place, time and participants of the meeting, agenda items, the basic content of the discussions, resolutions adopted by the Foundation Council, and the voting results. A copy of the minutes shall be provided to each member of the Foundation Council and to the Ministry of Science in its capacity as foundation authority, not later than four weeks after the respective meeting. In the case of resolutions adopted outside meetings, the respective minutes shall be provided including the consent of all voting Foundation Council members to the chosen procedure and stating the vote of each Foundation Council member. A copy of the minutes shall be provided to each member of the Foundation Council and to the Ministry of Science in its capacity as foundation authority, not later than two weeks after the resolutions are passed.
- (10) The Foundation Council may invite other persons to its meetings, in particular the Board of Directors and the chairperson of the Staff Council. Upon the request of any Foundation Council member, specific agenda items may be discussed in the absence of such invited persons.
- (11) Foundation Council members shall act in an honorary capacity. Expense allowances may be granted according to the relevant directives of the state of Baden-Württemberg.
- (12) The Foundation Council may form committees and define their tasks and powers.
- (13) Further details may be provided under rules of procedure adopted by the Foundation Council.

ARTICLE 10

Tasks of the Foundation Council

- (1) The Foundation Council shall monitor the lawfulness, suitability and economic efficiency with which the business of the Foundation is conducted by the Board of Directors, advising the Board of Directors accordingly. At any time, the Foundation Council may request a report on the affairs of the Foundation. It may consult and review records, files and other documents, or instruct individual members or third parties to do so.
- (2) The Foundation Council shall assess the annual financial statement and shall decide whether to grant or refuse discharge to the Board of Directors, based on the auditor's report prepared on behalf of the Foundation Council.
- (3) In addition, the Foundation Council shall resolve on all affairs of fundamental importance, in particular on any of the following matters:
 1. Medium-term and long-term goals of the Foundation research policy,

2. Medium-term and long-term financial planning, including expansion and investment programmes,
3. Annual budget, including annual scientific work programmes,
4. Appointment of members to the Scientific Advisory Committee,
5. Appointment, employment and, in duly justified exceptional circumstances, removal of Board Members, and other matters of fundamental importance related with human resources and personnel policies (e.g. the conclusion, amendment and termination of employment contracts not subject to collective-bargaining agreements, the granting of other benefits in addition to, or not subject to, collective-bargaining agreements under Art. 44 of the federal budget code (BHO)/the corresponding regulation for the State of Baden-Württemberg (LHO)).
6. Conclusion of fee-based contracts exceeding an amount defined by the Foundation Council,
7. Organisational structure of the Foundation,
8. Appointment of auditors to audit the presented annual report and statement of accounts,
9. Acquisition, disposal and encumbrance of real estate and other property rights and participations,
10. Pledges and other rights on moveable assets,
11. Approval of loans,
12. Acceptance of conditional donations and allocations,
13. Recruitment of staff outside the budget plan already approved by the Foundation Council,
14. Deviations from the binding budget plan exceeding €50,000 in each case, with any deviation being subject to the budgetary consent of the funding authorities,
15. Other legal transactions and measures subject to the previous approval of the Foundation Council.
16. When entering into agreements between the Foundation and members of the Board of Directors, the Foundation shall be represented by the chairperson of the Foundation Council.
17. Resolutions of the Foundation Council related to matters that are significant with respect to research and science policies and that have a major financial impact on, or are related to, the management staff or to the appointment of the Scientific Advisory Committee (section (3), No. 4) shall be subject to the consent of the members pursuant to article 9, first paragraph, Nos. 1 and 2.

ARTICLE 11 ***Board of Directors***

- (1) The Board of Directors shall be comprised of the two scientific directors one of which shall act as managing director, and one director who shall act as director of administration and technical services.
- (2) The managing director shall represent the institute in relation to third parties. If the managing director is prevented from doing so, each of the other directors shall have the right to individually represent the managing director.
- (3) The director of administration and technical services shall be involved from the beginning in all significant financial operations.
- (3) Each division of the institute shall independently manage its own day-to-day operations.

ARTICLE 12 ***Responsibilities and Allocation of Duties of the Board of Directors***

- (1) The Board of Directors shall be responsible for the management of the Foundation and it shall conduct its operations. Among other things, the Board of Directors shall make sure that the Foundation fulfils the tasks provided in this statute. With respect to all medium-term and long-term research and development strategies, it shall seek the advice of the Scientific Advisory Committee.
- (2) Each of the board members shall be responsible for managing the daily operations within such board member's field of competence. Each director shall also prepare the decisions of the Board of Directors and of the Foundation Council and shall be responsible for the implementation of such decisions. The Board of Directors shall report to the Foundation Council at each of its meetings.
- (3) Each of the two scientific board members shall be responsible for one of the institute's scientific foci. On a rotating basis, they shall act as managing director with the duty to represent and act on behalf of the institute in relation to third parties.
- (4) The director of administration and technical services shall be responsible for the entire non-scientific area, for administrative tasks, finances, human resources and other operational services. The director of administration and technical services shall act as budget officer in the terms provided under article 9 of the financial regulation for Baden-Württemberg ("LHO").
- (5) Any matter concerning more than one division of the institute or exceeding current administrative affairs, shall be discussed and resolved by the Board of Directors according to the principle of collective responsibility ("Kollegialitätsprinzip"). In particular, this shall include the preparation of annual budget plans or programme budgets, medium-term and long-term research and development strategies, internal guidelines, and HR or organisational decisions of strategic relevance.
- (6) The Board of Directors shall draw up its own rules of procedure, in particular the details of how responsibilities will be allocated, voting rules and the rules for mutual representation in the case of temporary absence. The rules of procedure shall be submitted to the approval of the Foundation Council.
- (7) The directors' liability towards the Foundation shall be limited to intent and gross negligence.
- (8) The director of administration and technical services shall be entitled to object to any decision adopted by the other directors that is unlawful or not justifiable according to the principles of sound financial management. Such objection shall have suspensory effects until a decision is adopted by the Foundation Council upon the request of any of the board members.
- (9) If a board position is temporarily vacant, the duties and obligations assigned to the vacant position shall be performed by leading scientists of the institute until the vacant position is filled. The board rules of procedure shall stipulate the details of the procedure.

ARTICLE 13
Scientific Directors

- (1) The scientific board members shall be appointed and employed, where applicable, pursuant to the provisions of the Baden-Württemberg higher education act on the appointment of university professors. If the appointment procedure involves universities of the state of Baden-Württemberg, it shall be governed by an agreement entered into by and between the Ministry of Science, the respective university and the Foundation.
- (2) The scientific board members shall by mutual agreement assume the role of managing director, on a rotating basis and generally for a time period of three years at a time.
- (3) The scientific board members may not be members of the Scientific Advisory Committee or of the Foundation Council.

ARTICLE 14

Director of Administration and Technical Services

- (1) The director of administration and technical services should be qualified for higher civil-service positions or have equivalent qualifications, with experience in science management. The director of administration and technical services shall be initially appointed for a 5-year tenure with the option to be re-appointed.
- (2) In the event that the director of administration and technical services is prevented from exercising such director's functions, the managing director shall designate a representative from among the administrative staff of the institute, following a suggestion made by the director of administration and technical services.
- (3) The director of administration and technical services may not be a member of the Scientific Advisory Committee or of the Foundation Council.

ARTICLE 15

Scientific Advisory Committee

- (1) The Scientific Advisory Committee shall be composed of six to eight members who shall be appointed and removed by the Foundation Council. Both the Board of Directors and the Scientific Advisory Committee may suggest potential candidates to be appointed as members.
- (2) As a general rule, members shall be appointed for a period of four years. Appointments may be renewed once and for consecutive terms only. Terms of tenure should be staggered in time. Members leaving the committee shall remain in office until a new member is appointed or until the Foundation Council declares that it will not appoint a new member to fill the vacancy.
- (3) As members shall be appointed internationally renowned, professionally active, external scientists and, if necessary, other experts in the research field of the Foundation known for their scientific expertise in the fields that are of importance for the Foundation to meet its purpose. The Scientific Advisory Committee should also have members from foreign countries. The composition of the Scientific Advisory Committee should consider the main fields of activity of the Foundation. The Foundation Council shall guarantee the equal participation of women and men in the Scientific Advisory Committee.
- (4) From among its members, the Scientific Advisory Committee shall elect a chairperson and a deputy chairperson for the period of four years. Members of the Scientific Advisory

Committee may not simultaneously be voting members of the Foundation Council.

- (5) The Scientific Advisory Committee shall meet at least once every calendar year. Resolutions shall be adopted with the majority of the votes cast. In the event of a tie, the chairperson shall have the casting vote. The Scientific Advisory Committee may adopt rules of procedure subject to the consent of the Foundation Council.
- (6) Representatives of the Ministry of Science, Research and the Arts of the state of Baden-Württemberg and of the Federal Ministry of Education and Research may attend the meetings of the Scientific Advisory Committee, unless the Scientific Advisory Committee decides otherwise on a case-by-case basis.
- (7) The members of the Scientific Advisory Committee shall act in an honorary capacity. Expense allowances may be granted according to the relevant directives of the state of Baden-Württemberg.

ARTICLE 16

Duties of the Scientific Advisory Committee

- (1) The Scientific Advisory Committee shall advise the Foundation Council and the Board of Directors on essential matters concerning the institute's specific expertise and interdisciplinary questions in connection with the scientific and technical work programmes and national and international cooperations.
- (2) In particular, the Scientific Advisory Committee shall have the following duties:
 1. Advise the Board of Directors on the planning of research and development in the medium and long-term research and on the annual scientific work programme;
 2. In dialogue with the Board of Directors and the scientific staff, periodically assess the research and service achievements of the different organisational units of the Foundation, consulting additional experts, if necessary;
 3. Report to the Foundation Council on these assessments.
 4. Advise the Foundation Council on the procedure for the appointment of scientific directors.

III. ADMINISTRATION AND HUMAN RESOURCES

ARTICLE 17

Budget Implementation

- (1) The financial year shall be the calendar year.
- (2) Records and accounting shall be kept of all current income and expenses. The entire budget, cash management and accounting shall be subject to the pertinent provisions of the state of Baden-Württemberg. Every year, the annual financial statement must be audited by an auditor for the purpose of approving the actions of the Board of Directors, without prejudice to the auditing rights granted by law to the federal audit office and to the Baden-Württemberg audit office.

- (3) At the end of each calendar year, annual and accounting reports shall be submitted to the Foundation Council, funding bodies, foundation authority and to the auditing authorities.

ARTICLE 18 ***Scientific Staff***

For the purposes of this statute, scientific staff shall refer to all Foundation staff members with either a university degree and who primarily perform scientific duties, or staff members with equivalent skills and experience who perform equivalent duties in the scientific area pursuant to an employment or work relationship with the Foundation or who otherwise work for or are part of the Foundation.

ARTICLE 19 ***Human Resources***

- (1) The Foundation shall be subject to the collective bargaining law applicable to employees of the state of Baden-Württemberg. Employees not subject to collective bargaining agreements shall be subject to the directives applicable to employees of the state of Baden-Württemberg who are not subject to collective bargaining agreements and to other general provisions.
- (2) Upon the coming into effect of this statute, employment relationships with the Institut für Sonnenphysik (KIS) shall continue as employment relationships with the Foundation. The Foundation shall take over the rights and obligations of the employment relationships effective at that time. Further details of the transition shall be governed by an agreement with the Staff Council of the Institut für Sonnenphysik (KIS) and the main staff council of the Ministry of Science, Research and the Arts of the state of Baden-Württemberg. The Foundation shall be obliged to also employ all those staff members who object to being transferred, based on a corresponding communication issued in writing by the state, and the Foundation shall bear or reimburse the costs thereof.
- (3) The provisions contained in sections (1) and (2) shall apply accordingly to apprentices.
- (4) The Foundation shall immediately apply to be registered with the Federal and State Government employees' retirement fund for all employees who are eligible for insurance under the statute of Federal and State Government employees' retirement fund, creating and maintaining the factual premises and legal requirements for such affiliation.
- (5) The highest administrative authority of the civil servants who work at the Foundation shall be the Baden-Württemberg Ministry of Science.

ARTICLE 20 ***Amendment of the Statute and Dissolution of the Foundation***

- (1) This statute may be amended by a resolution adopted by the Foundation Council. The resolution shall be subject to the consent of the representatives of the funding bodies sitting on the Foundation Council.
- (2) The Foundation may be dissolved by a Foundation Council resolution. The resolution shall be subject to the consent of the representatives of the funding bodies sitting on the Foundation Council.

ARTICLE 21

Destination and further use of assets

In the event that the purpose of the Foundation can no longer be fulfilled or that the Foundation is dissolved, the Foundation assets shall go to the public funding bodies in proportion with the value of the funds granted to the Foundation by such bodies, provided that, at the time of dissolution, such assets do not exceed the value of the funds or any assets in kind provided by the funding bodies. Should there still be a surplus, it shall be used for non-profit purposes in the terms of the section headed "tax-privileged purposes" in the German fiscal law, after consultations with the funding bodies. The Foundation Council shall decide on the future use of the assets. Decisions on this matter shall be subject to the approval of the competent tax authority. The same shall apply in the event that tax-privileged purposes are eliminated.

ARTICLE 22

Final Provisions

- (1) The participation rights of the Federal Government under this statute shall no longer apply if the Foundation ceases to be subject to the framework agreement aimed at promoting research pursuant to Art. 91b of the German Constitution.
- (2) Current versions of this statute shall use gender-sensitive language. For such purpose, the Board of Directors shall adjust the wording in a way that does not distort the meaning of the text, following the recommendations of the state of Baden-Württemberg for legal and official language.

ARTICLE 23

Effective Date

This statute shall become effective as of January 1, 2002, last amended on October 25, 2021.