

INCORPORATION FOUNDATION

April 3, 2023

ARTICLES OF ASSOCIATION

Article 1. Definitions

- 1.1. In these articles of association the following terms have the following meaning:
- **ANBI** (*algemeen nut beogende instelling*): a foundation for the public benefit as referred to in Article 5b of the General Law on State Taxes (*Algemene wet inzake rijksbelastingen*);
 - **ANBI requirements** (*ANBI-vereisten*): the requirements, as amended from time to time, which are imposed by Dutch law and the Dutch tax authorities on an ANBI;
 - **board** (*bestuur*): the board of the foundation consisting of the directors;
 - **conflict of interest** (*tegenstrijdig belang*): a direct or indirect personal interest which conflicts with the interest of the foundation and its organisation;
 - **director(s)** (*bestuurder(s)*): the director(s) as referred to in Dutch law; and
 - **in writing** and **written** (*schriftelijk*): a readable and reproducible message sent by way of letter, fax, email or any other means of electronic communication, unless otherwise stated in Dutch law or these articles of association;
 - **participant(s)** (*aangeslotene(n)*): the participants of the foundation as described in article 6;
 - **participants' meeting** (*vergadering van aangeslotenen*): the meeting composed of the participants as described in article 17.

Article 2. Name and seat

- 2.1. The name of the foundation is: **Stichting COAR**.
The applied acronym stands for "Confederation of Open Access Repositories".
- 2.2. The foundation has its seat in Amsterdam.

Article 3. Objectives

- 3.1. The objectives of the foundation are to enhance science and research, in particular to enhance the visibility, reliability, and impact of research outputs through a global network of open repositories based on international collaboration and interoperability, as well as to carry out all which is incidental or conducive to the above, all in the broadest sense.
- 3.2. The foundation's objectives are exclusively and directly pursued in a not-for-profit manner.

Article 4. Assets

- 4.1. The foundation's assets shall consist of:
- a. contributions paid by the participants;

- b. subsidies, grants and donations;
 - c. acquisitions by inheritance or legacy; and
 - d. any other receivables and benefits.
- 4.2. Testamentary dispositions (*erfstellingen*) are accepted by the foundation under the benefit of inventory (*beneficiaire aanvaarding*).

Article 5. ANBI requirements. Non-profit

- 5.1. The foundation aims to be an ANBI and will comply with the ANBI requirements.
- 5.2. The foundation does not have a profit motive.
- 5.3. The foundation acts selflessly; it does not pursue aims which primarily serve its own interests.
- 5.4. Finances of the foundation may be used in accordance with the objectives of the foundation only. No person accrues any benefit from the assets of the foundation.
- 5.5. No person may benefit from reimbursement contrary to the objectives of the foundation or disproportionately high salary.

Article 6. Participants

- 6.1. The foundation has participants. Participants are non-profit legal entities, comprising institutions of higher education, research, infrastructure and technology, and governmental, intergovernmental and non-governmental organisations who have, at their request, been granted the status of participant by the board. The board may, by way of exception, grant the status of participant to other legal entities.
- 6.2. The conditions for participation, as well as possible categories of participants, will be specified in the foundation rules adopted by the board.
- 6.3. The status of participant implies a commitment to the foundation, with the rights and obligations as set out in these articles of association and the foundation rules.

Article 7. Board

- 7.1. The board of the foundation shall consist of eight directors, including at least a chairperson, a vice-chairperson and a treasurer.
Only natural persons may be appointed as director.
- 7.2. Directors shall be appointed by the participants' meeting, by a resolution adopted at a meeting as referred to in article 17 (especially article 17.5).
- 7.3. Directors are appointed for a maximum period of three years and may be reappointed twice, each time for a maximum period of three years, provided that they remain in office until they are reappointed, or a successor is appointed.
- 7.4. Upon the occurrence of a vacancy in the board, the board shall inform the participants.
- 7.5. Directors may be suspended or dismissed at any time by the participants'

meeting, by a resolution adopted at a meeting as referred to in article 17 (especially article 17.5).

- 7.6. The total period of a suspension, including any extensions, may last no longer than three months.
- 7.7. The board may resolve that directors shall be reimbursed for the expenses incurred by them in the performance of their duties, with due consideration of the ANBI requirements. Directors shall not receive remuneration.

Article 8. Termination of directorship

- 8.1. The directorship shall terminate:
 - a. by decease, by placement under legal tutelage (*ondercuratelestelling*) or by a court ruling leading to the loss of the power to dispose of (part of) their property;
 - b. by resignation in writing by the director;
 - c. by dismissal of the director within the meaning of article 7.5;
 - d. by dismissal of the director by the District Court, in such cases as provided for by Dutch law; or
 - e. by lapse of the period for which the director has been appointed.

Article 9. Foundation rules

- 9.1. Subject to article 11.6 and subject to the prior approval of the participants' meeting by a resolution adopted with a two-thirds majority of the votes cast at a meeting as referred to in article 17, the board may adopt and amend rules and regulations for the foundation, allocating duties to one or more directors and regulating any such subjects as deemed necessary or appropriate, including at least those subjects described in article 6.2.
- 9.2. The foundation rules shall not be inconsistent with Dutch law or these articles of association.

Article 10. Board meetings

- 10.1. Board meetings shall be held at the place indicated in the notice convening the meeting, without prejudice to article 10.10.
- 10.2. Annually, at least four meetings shall be held.
- 10.3. Board meetings shall furthermore be held if the chairperson considers this desirable or if another director asks the chairperson to convene a meeting, stating the exact matters to be considered at the meeting.
If the chairperson does not comply with a request, such that the meeting can be held within two weeks of the request, the director who requested the meeting may convene the meeting themselves, with due observance of the applicable formalities.
- 10.4. Without prejudice to the second sentence of article 10.3, notice of the convening of a meeting shall be issued by or on behalf of the chairperson, which notice is to be dispatched no later than the eighth day before the date of

the meeting.

- 10.5. The notice convening a meeting shall be in writing and shall set out the place, date and time of the meeting and the matters to be considered.
- 10.6. The chairperson of the board shall chair the board meetings. In absence of the chairperson, the vice-chairperson shall chair the meeting. In both their absence, the board shall elect a person to chair the meeting.
- 10.7. Minutes of the meeting shall be taken by one of the persons in attendance requested to do so by the chair.
Each director is entitled to a copy of the minutes of the meeting.
- 10.8. Unless a director has a conflict of interest with regard to a proposed resolution, they can be represented in meetings of the board. Such representation can only be made by another director who does not have a conflict of interest and pursuant to a written power of attorney.
- 10.9. The chairperson of the meeting shall decide if other persons than directors are admitted to the meeting.
- 10.10. A director may attend a board meeting by electronic means of communication. The chairperson of the board may determine that a board meeting shall be held and shall be accessible exclusively by electronic means of communication, provided that none of the directors has raised an objection to holding the meeting in this manner.
Attendance of a board meeting by electronic means of communication requires that the directors concerned can be identified through the electronic means of communication and can participate in the deliberation and decision-making process.

Article 11. Adoption of resolutions in a meeting

- 11.1. A director that has a conflict of interest with respect to a proposed board resolution shall immediately report this to the other directors.
- 11.2. A director shall not participate in the deliberation and decision-making process if they have a conflict of interest. If, as a consequence hereof, a resolution cannot be adopted, the preceding sentence shall not apply and all directors with or without a conflict of interest may participate in the deliberation and decision-making process, but the board shall record in writing the reasons for the resolution.
- 11.3. Each director shall have the right to cast one vote. In the event of a tied vote, the chairperson shall have a casting vote.
- 11.4. Unless any larger majority is prescribed by these articles of association, all board resolutions shall be adopted with an absolute majority of the votes validly cast, at a meeting in which the majority of the directors without a conflict of interest is present or represented, or – if all directors have a conflict of interest – at which all directors are present or represented.

- 11.5. If the validity of a board resolution is subject to a number of directors present or represented and this number was not present or represented at a meeting, a new meeting may be convened in which the resolution may be adopted regardless of the number of directors present or represented. Such new meeting shall be held within two weeks of the first meeting. The notice convening such new meeting shall state, besides the matters referred to in article 10.5, that and the reason why a resolution may be adopted regardless of the number of directors present or represented.
- 11.6. The following resolutions are adopted by the board by a board resolution adopted with a two-thirds majority of the votes validly cast, at a meeting in which all directors without a conflict of interest are present or represented, or – if all directors have a conflict of interest – at which all directors are present or represented:
- a. amendment of the articles of association of the foundation;
 - b. adoption, amendment or cancellation of the foundation rules;
 - c. dissolution of the foundation; and
 - d. a legal merger or legal demerger of the foundation.
- The board can only adopt these resolutions if there are no vacancies on the board and there are no persons appointed due to unavailability or inability to act of directors under article 14.
- 11.7. All votes shall be cast orally, unless a ballot is demanded by a director prior to the vote.
Voting by acclamation is permitted if no director objects.
- 11.8. The judgement of the chairperson of the meeting on the result of a vote shall be decisive.
The same shall apply to the substance of a resolution adopted, if the vote related to a proposal not made in writing.
Immediately after the chairperson has pronounced their judgement, should there be a dispute regarding the correctness thereof, another vote shall take place if requested by a majority of the meeting or, if the initial voting did not take place by a roll call vote or by ballot, by a person entitled to vote who is present at the meeting.
This new vote shall invalidate the legal effects of the initial vote.
- 11.9. The board shall keep a record of the adopted resolutions. These recordings shall be available for inspection by the directors upon request.
- 11.10. Valid resolutions can be adopted by the board on all subjects brought up for discussion, including subjects not stated in the notice mentioned in article 10.5, provided that:
- a. all directors – except for the directors who have reported a conflict of interest in accordance with article 11.1, unless all directors have a conflict

- of interest – are present or represented at the board meeting; and
- b. the resolution is adopted with unanimous votes.

Article 12. Adoption of resolutions outside a meeting

- 12.1. The board may also adopt resolutions without convening a meeting, provided that:
 - a. all directors – except for the directors who have reported a conflict of interest in accordance with article 11.1, unless all directors have a conflict of interest – have been consulted; and
 - b. none of them has raised an objection to adopt resolutions in this manner.To resolutions outside of a meeting article 11.1 up to and including 11.6 shall apply.
- 12.2. Resolutions adopted outside of a meeting shall be properly recorded in writing by a person appointed by the board.

Article 13. Board authority

- 13.1. The board shall be charged with the management of the foundation.
- 13.2. The board shall not have power to resolve to enter into any agreements for the acquisition, disposition and encumbrance of registered property.
- 13.3. The board shall not be authorised to enter into any agreements pursuant to which the foundation grants a surety (*borgtocht*) or assumes joint and several liability as a co-debtor, undertakes to become responsible for the debts of a third party or agrees to grant security for the debts of a third party.

Article 14. Unavailability or inability to act

- 14.1. With due consideration of article 14.4, if one or more directors are unavailable or unable to act, the management of the foundation shall be vested in the remaining director(s), (if applicable) together with one or more persons designated for that purpose by the board.
- 14.2. If all directors are unavailable or unable to act, the management of the foundation shall be temporarily vested in one or more persons designated for that purpose by the participants' meeting, by a resolution adopted at a meeting as referred to in article 17.
- 14.3. The provisions in these articles of association regarding the board and the directors shall, to the extent possible, apply *mutatis mutandis* to such designated person or persons, without prejudice to article 11.6.
- 14.4. If, because one or more directors are unavailable or unable to act, fewer than three directors remain, the remaining directors shall – in line with the ANBI requirements – not dispose of the assets of the foundation, until such number of directors is appointed and/or such number of persons is designated under article 14.2 that the number of directors and/or designated persons is at least three.

Article 15. Representation

- 15.1. The foundation shall be represented by:
 - a. the board;
 - b. the chairperson, acting individually; or
 - c. any other two directors, acting jointly.
- 15.2. The board may resolve to grant one or more individuals (proxy holders) a power of attorney to represent the foundation within the limits specified in the power of attorney and to grant them a title.

Article 16. Financial year and annual accounts

- 16.1. The financial year of the foundation shall be concurrent with the calendar year.
- 16.2. The board shall keep such account of the financial position of the foundation, and of everything concerning its activities in accordance with the requirements arising there from, and keep the books, records and other data carriers belonging to the accounts in such a way that the rights and obligations of the foundation can be known at all times.
- 16.3. The board shall prepare and render the balance sheet and the statement of assets and liabilities of the foundation within six months after the end of the financial year.
- 16.4. The board will send all participants a copy of the annual accounts referred to in article 16.3 and these will be discussed at the first participants' meeting held after receipt of the annual accounts by the participants.
- 16.5. The participants' meeting, by a resolution adopted at a meeting as referred to in article 17, shall appoint two of the participants to examine the annual accounts referred to in article 16.3 and to provide a statement to the participants.
- 16.6. The board shall keep the books, records and other data carriers as referred to in article 16.2 and 16.3 for seven years.

Article 17. Participants' meeting

- 17.1. All participants, either in person or by means of a person holding a written proxy, shall be entitled to attend a participants' meeting, to address that meeting and (if applicable) to exercise their voting rights, with due consideration of the foundation rules. The director(s) shall have, in this capacity, the opportunity to provide advice in the participants' meeting and, as set out in article 17.5, to exercise their voting rights.
Participants and directors may attend the participants' meeting, address that meeting and exercise their voting rights by electronic means of communication. This requires that the participant or director can be identified through the electronic means of communication, can take note of the discussions at the meeting and can exercise their voting rights. The board may stipulate further requirements for the use of an electronic means of communication, if these requirements are notified in the notice convening the participants' meeting.

- 17.2. The participants' meeting shall meet at least once each year, whenever this is considered necessary by the board and whenever this is necessary under these articles of association. A participants' meeting shall also be held at the request of one/fifth of the sum of the participants. Participants' meetings shall be convened by the board or by a director.
- 17.3. Notice of the participants' meeting and the agenda for the meeting shall be sent to the participants no later than one month before the date of the meeting. In deviation of the previous sentence, the notice and the agenda shall be sent no later than two weeks before the date of the meeting under extraordinary circumstances, to be determined by the board in its sole discretion, which circumstances shall be stated in the notice.
- 17.4. With respect to resolutions, excepting the resolutions as referred to in article 7.2 and 7.6 (regarding the appointment, suspension and dismissal of directors):
 - a. every participant shall be entitled to cast one vote; and
 - b. resolutions are adopted by an absolute majority of the votes cast, unless a larger majority is required under these articles of association or the foundation rules.
- 17.5. With respect to the resolutions as referred to in article 7.2 and 7.6 (regarding the appointment, suspension and dismissal of directors):
 - a. every participant shall be entitled to cast one vote;
 - b. every director shall be entitled to cast one vote, provided that, with respect to his/her suspension or dismissal, the director concerned cannot exercise his/her voting rights;
 - c. resolutions as referred to in article 7.2 (regarding the appointment of directors) are adopted by an absolute majority of the votes cast, provided that the majority of the directors voted in favour of the proposal;
 - d. resolutions as referred to in article 7.6 (regarding the suspension and dismissal of directors) are adopted by an absolute majority of the votes cast, provided that – unless no director may exercise his/her voting rights in accordance with article 17.5.b – the majority of the directors that may exercise his/her voting rights in accordance with article 17.5.b voted in favour of the proposal.
- 17.6. The votes shall be cast orally, by closed ballot, or by means of electronic communication.
- 17.7. In case of a tie in the vote, the proposal shall be deemed to have been rejected.
- 17.8. The board shall keep a record of the adopted resolutions, which shall be shared with all participants within one month of the participants' meeting. This record shall be made available for inspection by the participants. Each participant shall, upon request, be provided with a copy of or extract from this record at no more than the actual costs.

Article 18. Merger, demerger, amendment to the articles of association and dissolution

- 18.1. The board may resolve to merge or to demerge the foundation, as well as to amend the articles of association of the foundation or to dissolve the foundation, subject to article 11.6 and subject to the prior approval of the participants' meeting by a resolution adopted with a two-thirds majority of the votes cast at a meeting as referred to in article 17.
- 18.2. If a resolution to dissolve the foundation is adopted, the liquidation shall be arranged by the board or by one or more persons appointed by the board, unless the District Court appoints another liquidator or other liquidators.
- 18.3. The articles of association shall, as far as possible, remain effective during the process of liquidation.
- 18.4. The liquidation surplus shall be spent for the benefit of an ANBI, with objectives comparable to the objectives of the foundation, or a foreign institution that exclusively or almost exclusively aims to serve the public interest and has objectives comparable to the objectives of the foundation.
- 18.5. After the liquidation has been completed, the books and records of the dissolved foundation shall remain in the custody of a person to be appointed for that purpose by the board for a period of seven years.

Article 19. Final provision

- 19.1. All cases not provided for by the law and these articles of association shall be decided by the board.

Article 20. Transitional provision: first financial year

- 20.1. The first financial year of the foundation shall end on the thirty-first day of December two thousand and twenty-four.
- 20.2. This article shall lapse after the first financial year of the foundation has ended.

Article 21. Transitional provision: first participants

- 21.1. At the incorporation of the foundation, the foundation has no participants. Until the foundation first has participants:
 - a. articles 7.4, 16.4 and 16.5 do not apply;
 - b. no prior approval of the participants' meeting is required for the board resolutions referred to in article 9.1 and 18.1; and
 - c. article 14.2 shall read as follows:

"If all directors are unavailable or unable to act, the management of the foundation shall be temporarily vested in one or more persons designated for that purpose by the competent Dutch court."
- 21.2. This article shall lapse when the foundation first has one or more participants.