

Note to the reader, not part of the statutes:

As requested by several Council members we clarify again the meaning of two terms:

- the words 'adopt', 'confirm' or 'lay down' are all translated in Dutch as 'vaststellen', which means 'to decide with the right to amend';
- to approve means exactly that: say yes or no, without the right to amend (in Dutch: 'goedkeuren');

## **FOUNDATION**

[As passed on eight February two thousand ten by mr. Leonard Alexander Galman, notary in Amsterdam]

The appearer has declared to establish a foundation with the following

### **STATUTES**

#### **Article 1: Definitions**

|                         |   |
|-------------------------|---|
| Associated Participant: | a associated participant, as described in article 5;  |
| Council:                | supervisory authority consisting of Participants and Associated Participants of the foundation, as described in article 6;  |
| Director                | an officer as described in article 11;  |
| EGI:                    | the European Grid Initiative;   |
| EGI.eu:                 | the legal entity as described in article 2;   |
| EIRO:                   | a European Intergovernmental Research Organisation, as the European Organization for Nuclear Research (CERN); the European Fusion Development Agreement (EFDA); the European Molecular Biology Laboratory (EMBL); the European Space Agency (ESA); the European Organisation for Astronomical Research in the Southern Hemisphere (ESO); the European Synchrotron Radiation Facility (ESRF) and the Institut Laue-Langevin (ILL);   |
| Executive Board:        | the Board of the foundation in the sense of article 291 of Book 2 of the Netherlands Civil Code, as described in article 8;   |
| NGI:                    | National Grid Initiative, an entity fulfilling the following criteria:<br>a) have a mandate to represent its national Grid community in all matters falling within the scope of EGI.eu;<br>b) be the only organization having the mandate described in (a) for its country and thus provide a single contact point at the national level.<br>c) be able to commit to EGI.eu financially i.e. to pay the agreed EGI.eu financial contribution.<br>d) be able to nominate a representative duly authorised to deliberate, negotiate and decide on all matters falling within the mandate of the Council.<br>e) have a sustainable structure or be represented by a legal structure which has a sustainable structure in order to commit to EGI.eu in the long term. |
| Eligible NGI:           | a National Grid Initiative from a Member State of the European Union (EU) or from an Associated Country to the EU; an Associated Country is a country, in which legal entities are eligible for EU framework programme funding on the same footing as legal entities from the Member States;  |
| Participant:            | a participant of the Foundation, as described in article 5.   |

#### **Article 2: Name and seat**

1. The foundation bears the name: **Stichting European Grid Initiative**, also called: The European Grid Initiative Foundation, abbreviated as: EGI.eu.
2. It has its registered seat in the municipality of Amsterdam, the Netherlands.

### **Article 3: Objective**

1. The objective of the foundation is to create and maintain a pan-European grid infrastructure in collaboration with NGIs in order to guarantee its long-term availability for performing research and innovation activities.
2. The foundation seeks to attain said objectives by amongst others:
  - a. coordinating grid activities between European NGIs
  - b. coordinating and participating in grid projects
  - c. encouraging proposals for grid projects
  - d. supporting and facilitating initiatives in the field of grids
  - e. or all which is connected or which could be conducive to the above, in the widest sense of the word.
3. In order to realise the objective, the foundation may participate in and cooperate with other organisations with a similar or related objective. Participation in or incorporation of legal entities is only allowed after approval of the Council by a qualified majority vote as described in article 7 paragraph 5.
4. The foundation is a not-for-profit organisation.
5. With respect to non proliferation issues related to grid computing, the participants will take all necessary measures to comply with the framework set up by the European Union and additional domestic legislation regarding export controls of dual-use items (including software and technology) and technical assistance.

### **Article 4: Capital**

1. The capital of the foundation is formed by:
  - a. financial contributions paid by the Participants and Associated Participants;
  - b. European and (governmental) subsidies;
  - c. other contributions and donations;
  - d. testamentary dispositions, bequests and gifts;
  - e. other revenues.
2. Testamentary dispositions may only be accepted with the benefit of inventory.

### **Article 5: Participants and Associated Participants**

1. The foundation has Participants and Associated Participants.
2. Participants can only be eligible NGIs.
3. Associated Participants can be EIROs, non-eligible NGIs and such other organisations, that contribute to the objective of the foundation.
4. Participants and Associated Participants have to meet the requirements, as laid down in this article and have to be admitted by the Executive Board after approval of the Council.
5. Participants and Associated Participants are required to pay the foundation the financial contributions, to be proposed by the Executive Board and confirmed by the Council by a qualified majority, as described in article 7 paragraph 5.
6. A Participant or Associated Participant will cease to be a Participant or Associated Participant:
  - a. as a result of its dissolution;
  - b. by giving three months written notice of termination;
  - c. if it goes into bankruptcy, or applies for a suspension of payments;
  - d. as a result of its expulsion by the Council; a resolution to this end requires a qualified majority vote as described in article 7 paragraph 5;
7. If a Participant ceases to be a Participant in the course of a financial year, it will nevertheless be required to pay the full financial contribution for that year.

## **Article 6: Council; organisation and tasks**

1. The foundation has a Council, consisting of one representative of each Participant and of each Associated Participant. Representatives are natural persons.
2. The Council monitors the general course of affairs in the foundation. The Council is in particular responsible for appointing the members of the Executive Board as described in paragraph 2 of article 8 below. In the performance of its duties, the Council will be guided by the interest of EGI.eu.
3. The Council will meet at least twice a year, first within six months after the expiry of any financial year in order to adopt the annual account on the past year and then in the second six months period in order to approve the budget for the following calendar year.
4. The Council will furthermore meet whenever this will be deemed necessary by the chairperson, or by two representatives of Participants or a member of the Executive Board.
5. The Executive Board will timely provide the Council with the information necessary for the execution of its duties.
6. The Council or one or several of its members to be designated by it, will have access to all premises of the foundation and will hold the right to inspect all vouchers and accounting records of the foundation at any time. In this respect the Council, after consultations with the Executive Board, may call in the assistance of the (registered) accountant of the foundation, who shall be allowed to peruse the entire administrative records.
7. The Council will be chaired by a chairperson, appointed by it from its members.
8. The convening notices for the meetings will furthermore be sent by the chairperson with due observance of a period of at least twenty-one calendar days, disregarding the date of the convening notice and the day of the meeting. In urgent cases a shorter period will suffice such at the discretion of the chairperson.

## **Article 7 Council; the decision-making process**

1. The voting rights of each Participant and Associated Participant are related to the financial contributions referred to in article 5
2. Unless specified otherwise in these statutes, the Council will take decisions by an ordinary majority of the votes cast.
3. In case of an equality of votes, a new meeting will be convened within twenty-one calendar days. In case votes will be equally divided then, the proposal will have been rejected.
4. The Council may only take valid decisions if the number of members of the Council present or represented collectively hold a majority of the total voting rights.
5. A qualified majority vote requires a majority of at least two-thirds of the votes cast in a Council meeting at which the number of the Council members present or represented collectively hold at least two-thirds of the voting rights.
6. A member of the Council may only have himself or herself represented by a deputy or a proxy through a written power of attorney.
7. The Council may also take decisions without a meeting having been held, provided the opinion of the members of the Council will have been sought in writing and none of the members of the Council will oppose said manner of decision-taking.
8. The meetings of the Council will be attended by the director, unless the Council will express the wish to meet without the director attending.
9. Minutes will be kept of the proceedings at the meetings, which will be signed as soon as possible by the chairperson of the meeting and also by the person who has kept the minutes. It will also be stated in the minutes, which members of the Council have attended the meeting.

## **Article 8: Executive Board**

1. The Council will appoint, suspend and dismiss the members of the Executive Board . The Executive Board shall consist of minimally five (5) and maximally nine (9) members. The members of the Executive Board are natural persons. The Council will determine the number of members of the Executive Board.
2. Members of the Executive Board will be appointed by the Council from their number for a period of at most two years. The chairperson of the Council is in his or her capacity also chairperson of the Executive Board. One third of the members of the Executive Board shall retire by rotation according to a schedule, to be determined by the Executive Board; a member of the Executive Board retiring according to the rotation schedule shall be eligible for reappointment only once.
3. An incomplete Executive Board shall retain its powers. Vacancies shall be filled as soon as possible.
4. In case the sole member or all members of the Executive Board will be absent or unable to attend, the Council will deputise for the Executive Board, without prejudice to its competence to designate one or several persons from its number or otherwise for said purpose.
5. The Executive Board will lay down its procedure and decision-taking process in internal rules and regulations, which shall be approved by the Council.
6. Membership of the Executive Board will end:
  - a. as a result of decease or a written resignation;
  - b. in case a member of the Executive Board will be placed under legal restraint or will lose the free disposal of his or her capital in another manner;
  - c. as a result of dismissal by the District Court, in accordance with the provisions in article 298 of Book 2 of the Netherlands Civil Code;
  - d. as a result of dismissal, effected by the Council: a decision to this end requires a qualified majority vote as described in article 7 paragraph 5.

## **Article 9: Tasks of the Executive Board**

1. The Executive Board is charged with the management of the foundation, for which it is accountable to the Council.
2. Without prejudice to the provisions laid down elsewhere in these statutes, the following resolutions of the Executive Board will be subject to the approval of the Council:
  - a. the adoption of the budget;
  - b. the adoption and amendment of policies and activity plans for any year or a series of years.
  - c. the employment conditions of the personnel employed by the foundation.
  - d. the appointment of the (registered) accountant;
  - e. the application for bankruptcy and for a moratorium on payments of the foundation;
  - f. the termination of the employment of a substantial number of employees simultaneously or within a short period of time;
  - g. the contracting of money loans in excess of a limit determined by the Council, which limit may at all times be changed by the Council within a fixed period.
  - h. litigation, not being debt collections or actions in summary proceedings.
3. The Executive Board will furthermore require the approval of the Council for such managerial resolutions as laid down by the Council in its specifically defined resolution of which the Executive Board will be notified.

## **Article 10: Representation**

1. The Executive Board will represent the foundation. The power of representation will also accrue to two members of the Executive Board acting jointly.
2. The Executive Board may also grant one or more of its members or third parties, either jointly or individually, a power of attorney, permanent or otherwise, to represent the foundation within the restrictions laid down in that power of attorney.
3. The Council will lay down its procedure in internal rules and regulations in the cases it considers to be a conflicting interest between the member(s) of the Executive Board and the foundation.

## **Article 11: Director**

1. The daily management of the foundation may be entrusted to the director.
2. The director is appointed, suspended and dismissed by the Executive Board, after approval of the Council.
3. The director carries out his or her tasks within the competences mandated to him or her by the Executive Board.

## **Article 12: Personnel employed by the foundation**

1. Persons employed by the foundation may not act as members of the Council or the Executive Board.
2. The Executive Board appoints, suspends or dismisses personnel employed by the foundation.
3. The Executive Board determines the salary and arranges the other employment conditions.

## **Article 13: Annual account**

1. The financial year of the foundation will coincide with the calendar year.
2. At the end of each financial year, the accounting records of the foundation will be balanced; within five months after the end of the financial year the Executive Board will compile the annual account, consisting of a balance sheet and a statement of income and expenditure with an explanatory memorandum.
3. The annual account of the foundation will be audited by a (registered) accountant appointed with due observance of the provisions in article 9 paragraph 2, who will report his or her findings to the Council.
4. The Council will adopt the annual account. A decision to this end requires a qualified majority vote. The annual account will be signed by the full Executive Board; in case one or several of them will be lacking, the reason thereof will be stated.

## **Article 14: Amendment of the articles**

1. The articles may only be amended by a resolution of the Council.
2. For this purpose the members of the Council will be called to attend a meeting by the chairperson of the Council within a period of at least twenty-one calendar days, whilst the convening notice will state the proposed amendment of the articles.
3. A resolution for the amendment of the articles may only be adopted by a qualified majority vote as described in article 7 paragraph 5.

## **Article 15: Dissolution of the foundation**

1. The Council will be competent to dissolve the foundation..
2. The provisions in article 14 paragraphs 2 and 3 will be correspondingly applicable in this respect.
3. The foundation will continue to exist after its dissolution insofar as this will be necessary for the liquidation of its assets.
4. The foundation will be liquidated by the Executive Board after approval of the Council.

5. During the liquidation, the provisions of the present articles will continue to be effective as much as possible.
6. Any surplus balance of the dissolved foundation will be spent as much as possible in accordance with the objective of the foundation.
7. After the end of the liquidation, the accounting records and documents of the dissolved foundation will be kept for a period of seven years by the youngest liquidator or by a third party to be designated by the liquidators.

**Final article**

The term "written" will be understood to include any communication transmitted via current means of communication reproduced in writing.

**Final statements**

1. The first financial year will end at the end of two thousand and ten.
2. For the first time the number of Executive Board members will be determined at seven (7) and the following person(s) will be appointed member of the Executive Board:
  - a. Mr. Per Erik Öster
  - b. Mr. Arnold Johan van Rijn
  - c. Mr. Neil Ian Geddes
  - d. Mr. Gert Sverker Hildor Holmgren
  - e. Mr. Michal Turala
  - f. Mrs. Isbal Campos Plasencia
  - g. Mr. Dieter August Kranzmueller