



# SPARC EUROPE REVISED STATUTES

4 April 2016

## **Name, registered office and definitions**

### **Article 1**

1. The name of the Foundation is: **Stichting SPARC Europe**.
2. It has its registered office in the Municipality of Utrecht.
3. The incorporation of the Foundation is an initiative of LIBER, SPARC and the Association of Research Libraries. The use of the name SPARC in public activities is in accordance with the licence issued by SPARC.
4. In these articles of association SPARC means the worldwide alliance of research institutions, libraries and other organizations which stimulate competition in the market of scientific communication.
5. In these articles of association LIBER means the association of scientific libraries in Europe.

## **Objects**

### **Article 2**

1. The Foundation's objects are promoting change in the process of scientific communication, stimulating competition and supporting new models of publications which serve the international research community better, and everything that is related or conducive to the foregoing, all in the widest sense.
2. The Foundation tries to achieve these objects by inter alia:
  - making academics, librarians, university boards and financiers of research more aware of matters related to the objects;
  - supporting these communities in undertaking positive action for changes in scientific communication;
  - entering into joint ventures with universities, societies and publishers who publish new magazines and provide services promoting new business models.

## **Assets**

### **Article 3**

1. The Foundation's assets are formed by contributions from the participating institutions referred to in Article 4, income from capital, moneys from loans, grants, gifts, specific legacies, that which is acquired by testamentary disposition and other income.
2. The contributions referred to in the preceding paragraph are determined by the Board.

## **Participating institutions**

### **Article 4**

1. Participating institutions can be legal persons governed by public and private law in Europe, which can make a substantial contribution to the realization of the Foundation's objects and for this purpose have entered into an agreement with the Foundation.
2. A participating institution may join after approval of the Board.

## **Board**

### **Article 5**

1. The Board of the Foundation consists of a number to be determined by the Board of at least five and at most seven members. In the absence of one or more Board members, the remaining Board members will constitute a competent Board. Vacancies must be filled as soon as possible.
2. One (1) Board member is appointed and dismissed by the SPARC Executive Director.  
Two (2) Board members are appointed and dismissed by LIBER.  
The other Board members are appointed by the participating institutions, with due observance of the following:
  - the Board members to be appointed must be representatives of national consortia and other supporting institutions;
  - both the university and the library community must be represented;
  - there must be a regional spread;
3. The Board will appoint a chairman, a secretary and a treasurer from their number, or, instead of the two last-mentioned persons, a secretary/treasurer.
4. Board members are appointed for a period of three years.
5. Board members will retire by rotation in accordance with a schedule to be determined by the Board. A Board member will take the place on the rotation schedule of his or her predecessor, if any.

6. Subject to the provisions of paragraph 2, the membership ends:
  - a. by resignation;
  - b. by death;
  - c. by dismissal by the Board; this resolution may only be adopted unanimously by all other Board members holding office;
  - d. by resignation in accordance with the schedule referred to in paragraph 5.

## **Article 6**

1. The Board is charged with managing the Foundation, and in this respect engages particularly in strategic management and strategic cooperation.
2. The Board is not authorized to conclude agreements to acquire, alienate and encumber property subject to registration, or to conclude agreements in which the Foundation binds itself as surety or joint and several debtor, warrants performance by a third party or provides security for the debt of a third party or to represent the Foundation with respect to these acts.
3. Testamentary dispositions may only be accepted under the benefit of inventory.
4. The Board is obliged to keep records of the Foundation's financial position and the papers and documents concerning the Foundation's activities in such a way that the Foundation's rights and obligations can be known from them at any time.

## **Representation**

### **Article 7**

1. The Foundation is represented at law and otherwise by either the Board, or the chairman together with the secretary or the treasurer, or, if their offices are not fulfilled by one person, by the secretary together with the treasurer.
2. The Board may resolve to grant authority to one or more Board members, as well as to third parties, to represent the Foundation within the limits of this authority.

## **Meetings and resolutions**

### **Article 8**

1. Board meetings are held as often as the chairman or two other Board members convene a Board meeting, but at least twice a year.
2. Board meetings are convened by the chairman or the two other Board members referred to in the preceding paragraph, or on his/her or their behalf by the secretary, in writing, stating the matters to be

handled, with due observance of a period of at least seven days. If the meeting is not convened in writing, or if it is convened within a period of seven days, resolutions may nevertheless be adopted provided that all the Board members are present and none of them then opposes this manner of adopting resolutions.

3. Board meetings are held at the venue to be determined by the person convening the meeting.
4. The Board members have access to the meeting as well as those who are admitted by the Board members present at the meeting. A Board member may arrange to be represented at the meeting by a fellow Board member authorized by him in writing. In these articles 'writing' means any message transmitted via customary communication channels and received in writing. A Board member may not represent more than one fellow Board member at a meeting.
5. Each Board member has one vote. Unless stipulated otherwise in these articles, all resolutions are adopted by an absolute majority of the votes cast. Blank votes are deemed not to have been cast. In the event of a tie, the motion will be rejected.
6. Resolutions may only be adopted at a meeting if at least half of the Board members  
are present, unless these articles stipulate otherwise.
7. All votes are oral. However, the chairman may decide that voting is by ballot. If it concerns an election of persons, a person attending the meeting who is entitled to vote may require voting to be by ballot. Written votes are cast by means of unsigned ballot papers.
8. Meetings are led by the chairman; in his or her absence the meeting itself will provide for the chairmanship.
9. Minutes must be kept of the proceedings at each meeting by a person appointed by the chairman of the meeting for that purpose. These minutes must be adopted at the same or the next meeting.
10. The Board may also adopt resolutions without holding a meeting, provided that all the Board members are given the opportunity to cast their vote, and they have all declared in writing or by electronic data carrier that they do not oppose this manner of adopting resolutions. A resolution will be adopted as soon as the required majority of all the Board members have expressed themselves in favour of the motion. The secretary will make a record of a resolution adopted without holding a meeting, which must be adopted at the next meeting. The record thus adopted will be added to the minutes together with the documents referred to in the first sentence of this paragraph.
11. All disputes concerning voting not provided for in these articles will be decided by the chairman.

## **Management**

### **Article 9**

1. The Board will appoint a managing director who will be charged with matters including the following:
  - drawing up policy plans and budgets;
  - their implementation following approval by the Board.
2. When making the appointment the Board will determine the authority of a managing director as well as his or her employment conditions.
3. The managing director can be dismissed by the Board.

## **Council of participating institutions**

### **Article 10**

1. General meetings of participants are held as often as the Board considers this desirable or this is necessary pursuant to the articles.
2. The Board is also obliged to convene a meeting of participants within two months of a written request by at least such a number of participants as are authorized to cast one-tenth of the votes. If no action is taken on the request within fourteen days, those requesting the meeting can convene it in accordance with the following article.

## **Manner of convening meetings and access**

### **Article 11**

1. General meetings of participants are convened by the Board. Meetings must be convened by sending notices to the addresses of the members as contained in the register of participants. Meetings must be convened at least fourteen days in advance, not counting the day of the convocation and that of the meeting.
2. The notices convening the meeting must state the matters to be handled at the meeting.
3. General meetings of participants may be attended by all the participants and officers of the Foundation. The General Meeting of participants will decide on the admission of persons other than the aforementioned persons.

## **Voting rights and manner of adopting resolutions**

### **Article 12**

1. All participants have the right to vote at meetings. Each affiliated party can cast one vote. Each affiliated party is entitled to have its vote cast by another affiliated party authorized for that purpose in writing.
2. Resolutions are adopted by absolute majority of the votes validly cast,

unless these articles determine otherwise. Blank votes are considered as not having been cast.

3. If there is a tie in the voting on a motion other than the appointment of persons, the motion will be rejected.
4. Voting on persons is by ballot, unless the meeting resolves to vote by acclamation. If no one obtains an absolute majority in an appointment of persons, a second vote will be held (between the nominated candidates). If again no one obtains an absolute majority, revotes will be held, until either one person has obtained an absolute majority, or the vote was between two persons and there is a tie in the voting. In the aforementioned revotes (not including the second vote), voting will each time be between the persons who were voted on in the preceding vote, with the exception, however, of the person for whom the smallest number of votes were cast in that preceding vote. If in the preceding vote the smallest number of votes were cast for more than one person, it will be decided by lot which of these persons may not be voted for in the fresh vote. If there is a tie in the voting between two persons, which of the two has been elected will be decided by drawing lots.
5. A resolution of all participants, even if not in a meeting, provided it has been adopted with the prior knowledge of the Board, will have the same force as a resolution of the general meeting of participants. For this manner of adopting resolutions to be valid all participants must have expressed their decision in writing. Resolutions can be adopted by e-mail.
6. The judgement of the chairman, pronounced at the meeting, that a resolution has been adopted by the meeting will be decisive. The same applies to the contents of a resolution that has been adopted, in as far as voting was on a motion which had not been recorded in writing.
7. If, however, immediately following the pronouncement of this judgement its correctness is disputed, a second vote will be held if a majority of those present at the meeting or, if the original vote was not a vote by roll call or by ballot, a person entitled to vote requests this. The legal consequences of the original vote will lapse as a result of this new vote.

## **Financial year and annual report and accounts**

### **Article 13**

1. The Foundation's financial year coincides with the calendar year.
2. Each year the managing director will draw up a policy plan and the budget of the Foundation's expected income and expenditure during the next calendar year. These will be submitted to the Board for approval not later than September.
3. The Foundation's books are balanced as at the end of each financial year. From them the treasurer will draw up a balance sheet and a statement of income and expenditure for the past

financial year, which will be submitted to the Board within six months of the end of the financial year.

4. The annual report and accounts will be adopted by the Board.
5. Before adopting the documents referred to in paragraph 3, the Board will have them audited by an auditor to be appointed by the Board. This auditor will report his or her findings.
6. The annual report and accounts will be communicated to the participating institutions.
7. The Board is obliged to keep the documents referred to in the preceding paragraphs for a period of seven years.

### **Amendments to the articles**

#### **Article 14**

1. The Board is authorized to amend the articles and to adopt resolutions to merge or to split.
2. A resolution of the Board to amend the articles may only be adopted following the approval of three-quarters of the SPARC Europe Board members, including approval by the Board members appointed by SPARC and LIBER.
3. An extract of the motion containing the verbatim text of the proposed amendment must be communicated to the participating institutions four (4) weeks ahead of the Board meeting. Participating institutions are invited to comment on the proposed amendment. Comments will be published on the SPARC Europe web-site.
4. The amendment to the articles requires the approval of LIBER, Association of European Research Libraries and of SPARC.
5. A resolution to amend the articles will only take effect after a notarial deed has been drawn up of such a resolution. Any Board member will be authorized to have this deed executed.

### **Standing orders**

#### **Article 15**

1. The Board is authorized to adopt standing orders providing for those matters not contained in these articles.
2. The standing orders may not be in conflict with the law or these articles.
3. The Board is authorized to amend or revoke the standing orders at any time.

## **Dissolution and winding-up**

### **Article 16**

1. The Board is authorized to dissolve the Foundation.
2. The provisions of paragraph 2 of Article 14 apply by analogy to the resolution to dissolve.
3. The Foundation will continue to exist after its dissolution in so far as this is required for the settlement of its assets.
4. Any credit balance after winding-up will be used as far as possible in accordance with the Foundation's objects.
5. Following dissolution of the Foundation, its assets will be liquidated by the officers.
6. During the winding-up, the provisions of these articles will remain in force as far as possible.
7. After the winding-up, the books and records of the dissolved Foundation will remain in the custody of a person appointed by the liquidators for the period prescribed by law.
8. In other respects, the winding-up will be subject to the provisions of Title 1, Book 2 of the Netherlands Civil Code.

## **Concluding provision**

### **Article 17**

All cases not provided for by the law or these articles will be decided by the Board.

## **Transitional provision**

### **Article 18**

Notwithstanding the provisions of Article 5, the first officers are appointed by this deed.