

DRAFT – *subject to Attorney Privilege*

De weledelgestrenge heer Mr. H. Maas  
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NL: Stichting Hypothes.is

Geachte heer Maas,

On behalf of stichting Hypothes.is, a recent incorporated Dutch foundation (Annex 2: articles of incorporation), I herewith address you to seek for recognition of the stichting as an ANBI according to article 5b *Algemene Wet Rijksbelastingen*.

The application form on behalf of stichting Hypothes.is is attached and hereunder I will elaborate on the answers provided as a further explanation to the application.

**1. Purpose and activities of stichting Hypothes.is are exclusively directed to the general interest**

Stichting Hypothes.is is functionally connected to *Hypothes.is*, a California Nonprofit Public Benefit Corporation located in San Francisco, United States, a qualifying charitable organization according to section 501(c)(3) of the US Internal Revenue Code, hereinafter referred to as '*Hypothes.is*'.

The purpose of *Hypothes.is* and stichting Hypothes.is are identical, charitable and educational, more specifically focused on enabling a more broadly informed citizenry by connecting individuals with the credible insights and analysis of others like them relating to new and information wherever found online.

*Hypothes.is* is an open platform for the *collaborative evaluation of knowledge*. It combines sentence-level critique with community peer-review to provide commentary, references, and insight on top of news, blogs, scientific articles, books, terms of service, ballot initiatives, legislation and regulations, software code and more. Read more on; <https://hypothes.is/annotating-all-knowledge/>

Although not literally in its statutory purpose, the ultimate aim of stichting Hypothes.is is also to enhance the quality of the democratic legal order, since it purports to enhance the public at large to communicate through a new layer of knowledge which is based on merit and knowledge rather than on the traditional

powers of large publishers, corporations or public bodies. Dan Whaley, CEO of the US organization, explains at the Personal Democracy Forum 2013 why Annotation will be disruptive for the development of human mankind (<https://hypothes.is/about/>).

*[Comments to Hypothesis: in order to qualify as 'ANBI', the organization should have a general interest purpose, as listed in the law. Education, science and research is a qualifying purpose, but also the enhancement of the democratic legal order. It seems here that you intend to achieve both, and that the first one may be (in your views) leading to the fulfilment of the second. Please correct me if I see this wrong.]*

*Since our discussion last week, it is my strong recommendation to adapt the wording of the statutory purpose and to specify the purpose in article 3 par 1 to education, science and research (plus eventually enhancement of the democratic order) ]*

The best way to describe Hypothes.is in my own words is that the Annotation layer turns web-based information to the higher level of scientific reliable information providing annotations to all pretended facts and reasoning.

Stichting Hypothes.is is founded in order to raise grants and funds in Europe for its public interest purpose and intends to cooperate with *Hypothes.is* to this end, in accordance with article 3 par 2 (c) of its articles of incorporation. Accordingly, I will inform you in this letter as well on the activities of *Hypothes.is*.

For the activities of stichting Hypothes.is in the first stage of its existence, I refer to the Policy Plan (as attached). For your reference, the Bylaws of Hypothes.is and the IRS 501c3 Determination letter which confirms the charity status under US laws is enclosed in the attachments as well.

[ Please, describe the Policy Plan of the Stichting in one or two pages; it should include an overview of the real activities of the stichting, its fundraising activities and the way it is trying to achieve its public interest purpose. Please note that ONLY the activities of the Stichting need to be described, not of Hypothes.is in the US ! ]

**2. All public interest activities of stichting Hypothes.is are both according to its constitutional documents and factually without a profit aim**

Stichting Hypothes.is currently dependent on grants and donations from large foundations and individuals. Stichting Hypothes.is has applied for a grant of the Google Digital News Initiative Fund and has received notice of confirmation. The stichting has no profit aim whatsoever.

In the annual tax returns that are published on [www.hypothes.is/financial-information/](http://www.hypothes.is/financial-information/) you can see that the US organization expends more costs in 2014 than its annual revenue. Grantors tend to ask for a sustainable financial future and where the activities of Hypothes.is will require more costs in the future when specific adaptations are required for scientific and scholarly purposes, the US organization is also looking for partnerships with organizations that may raise funds in a more sustainable way.

The US organization recently has agreed to cooperate with eLife Sciences, a non-profit organization that is led by scientists and provides for research collaboration that encourages and recognises the most responsible behaviours in science. As a way to enhance research collaboration, Hypothes.is will develop annotations as a new form of content for their scientific publication. Annotations will be things that authors make on their own papers, that scientists will make by invitation on a new paper as a critical layer, and that members of the larger scientific community will make as a kind of post publication peer review. Also, eLife is interested to have the pre-publication peer review happen via annotation as well, in a way that it can be surfaced post-pub as well. ELife will provide the development cost for engineering to their specifications, and pay an open source support fee. In the future, Hypothes.is may also host the implementation and server software for the scientists who opt for this, and despite the open source layer is for free, that hosting would be an additional service for which the scientist would pay. It is expected that only 2% of the scientists will choose to do so, but still this will create a minimum level of sustainable funding for Hypothes.is.

The proceeds of this 'service model' will exclusively be destined to cover the costs of Hypothes.is. It will allow Hypothes.is to preserve its charitable mission, providing open source infrastructure to power a new layer of education and conversation over the web, while sustaining itself from just a small part of that traffic.

Stichting Hypothes.is is not intending to enter into this type of agreements, but is exclusively focusing on raising grants and gifts from foundations and individuals.

- 3. It is sufficiently safeguarded that nor any individual or any legal entity can dispose of the assets of the organization as if they were their own***

Stichting Hypothes.is has a governance system consisting of two bodies: *the Board of Directors* consisting of an individual and a legal entity, held by other individuals who are all Dutch based and a *Supervisory Board*. Dan Whaley, CEO of Hypothes.is is appointed the first Supervisory Director. The powers and responsibilities of both organs are specified in the articles of incorporation. The internal organization of the stichting is such, that nor Dan Whaley or Michiel Schuijt can dispose independently of the assets of the organization.

An excerpt of the Chamber of Commerce of Stichting Hypothes.is is attached.

The US organization satisfies the US private benefit test, which forbids that any individual or legal entity has a private benefit in the organization.

4. *The members of the organ that determine the policy of the organization are not compensated as such for their performance ?*

Stichting Hypothes.is has a Supervisory Board that controls the activities of the Board of Directors. The Supervisory Board therefore determines the policy of the stichting. According to article 10 par 13 the members of the Supervisory Board may (only) be compensated for reasonable costs incurred in the performance of their activities.

[ *The statutory law is not perfectly formulated here. It should explicitly exclude the compensation of members of the Supervisory Board. Also, it is recommended to amend the compensation clause of board of directors in this respect, since one of the board members is compensated according to a management agreement – which is not an employment agreement re article 6 par 6* ]

5. *Does the organization meet the transparency rules ?*

[ According to my knowledge, Stichting Hypothes.is does not publish the requisite information on any website; it may be the general website [www.hypothes.is](http://www.hypothes.is), but it should contain the information required and described in my Memorandum dated 19 August 2016 ].

6. *Do the organizational documents and other circumstances provide that any surplus in case of a liquidation of the organization is destined for a public interest?*

Yes, reference is made to article 17 par 5 of the articles of incorporation of stichting Hypothes.is.

Conclusion

In conclusion, we ask that you confirm that stichting Hypothes.is does indeed meet the requirements for qualification as an ANBI for Dutch purposes on the basis of the information provided.

We will be happy to provide you with any further information you would eventually like to receive on the work of Hypothes.is or stichting Hypothes.is.

Yours sincerely,

Dr. I.A. Koele

Annexes.

- Annex 1. ANBI Application Form completed
- Annex 2. Articles of incorporation Stichting Hypothes.is
- Annex 3. Excerpt Chamber of Commerce
- Annex 4. Bylaws Hypothes.is
- Annex 5. Determination 501c3 letter IRS Hypothes.is