

## **COST SHARING AGREEMENT**

THIS COST SHARING AGREEMENT (this “Agreement”) is entered into, effective beginning on July 1, 2020 (the “**Effective Date**”), by and between:

(1) **Wikimedia Foundation, Inc. (“WMF”)**, a Florida nonprofit corporation, which has its principal office at 1 Montgomery Street, Suite 1600, San Francisco, CA 94104; and

(2) **Wikimedia, LLC (“LLC”)**, a Delaware limited liability company, which has its principal office at the same address.

### **Background**

#### **A. The Parties:**

1. WMF is a nonprofit corporation described in section 501(c)(3) of the Internal Revenue Code of 1986, as amended (the “**Code**”). WMF was established in 2003 for charitable and educational purposes, particularly to keep knowledge free. WMF hosts Wikipedia and other free knowledge projects.

2. LLC is a Delaware limited liability company, operated for charitable and educational purposes as defined under section 501(c)(3) of the Code. WMF is the sole member of LLC.

#### **B. The Parties’ Purposes:**

1. WMF approves of the mission, purpose, and activities of LLC. WMF has certain office space, equipment, and personnel services that it wishes to make available to LLC on a cost-sharing basis.

2. LLC has determined that it is in its best interest to share use of office space, equipment, and personnel services with WMF in accordance with the terms of this Agreement.

C. **Previous Agreements.** This Agreement supersedes and terminates any prior cost sharing agreements between the parties.

Now, therefore, the parties agree to the following:

### **Terms**

#### **SECTION 1 Term.**

1.1 **Initial Term.** The term of this Agreement is one year, commencing on the Effective Date and ending on June 30, 2021.

1.2 **Automatic Renewal.** This Agreement automatically renews for successive one-year periods, unless this Agreement is terminated in accordance with the provisions of SECTION 5.

## **SECTION 2 Cost Sharing.**

### **2.1 Direct Business Costs.**

- (A) LLC will pay directly or reimburse WMF for all costs directly incurred by LLC including costs for LLC business and tax filings, staff development and training related to LLC projects and activities, and third party service providers, vendors, and contractors that work primarily for LLC and only secondarily, if at all, for WMF.

### **2.2 Direct Staff Costs.**

- (A) Employees, contractors, and other service providers of WMF may from time to time provide services to LLC. In such cases, WMF will be the payor of these direct staff costs and will be reimbursed by LLC for LLC's allocable share of such costs, except to the extent LLC notifies WMF that it will pay particular service providers directly in accordance with Section 2.1. For these purposes, direct staff costs include, but not limited to, costs for salary, benefits, and employment taxes.
- (B) The parties shall implement time tracking procedures for employees and independent contractors providing services to both organizations sufficient to determine the portion of the direct staff costs attributable to each organization.

### **2.3 Indirect Office Space, Equipment, and other Administrative Costs.**

- (A) WMF shall charge LLC a fee equal to 15% of the total costs reimbursed by LLC to WMF in Sections 2.1 and 2.2 to cover its use of office space, equipment, and other business costs.
- (B) For these purposes, office space and equipment shall include, without limitation, rent, utilities, janitorial services, office equipment utilization, equipment rental and maintenance, furniture and fixtures, insurance, taxes, general supplies, and communications. Other administrative costs shall include executive, administrative, human resources, information-services, clerical, finance, and legal services.

### **2.4 Reimbursement.**

- (A) Each party that has paid expenses on behalf of the other shall provide the other with a reasonably detailed statement of such expenses on a quarterly or more frequent basis.
- (B) Each party shall recognize and record the allocated share of costs paid by the other party for the period the statement of expenses is provided.
- (C) Each party shall reimburse the other for its allocated share of costs paid by the other as long as there is sufficient operating cash. In making such reimbursement, either party may offset its amount due to the other party by the amount, if any, that the other party owes to it under this cost sharing agreement.

### **SECTION 3 Property Rights.**

- 3.1 **LLC's Property.** The following items belong exclusively to LLC:
- (A) all material prepared for LLC by WMF employees and/or WMF contractors, including without limitation, books, records, and documents, if LLC has reimbursed WMF in full for all staff and/or contractor time spent in developing such materials; and
  - (B) any other property paid for exclusively by LLC, or granted to LLC by WMF.
- 3.2 **WMF's Property.** All property, the use of which is shared by the parties, other than that which is described in Section 3.1 belongs exclusively to WMF.
- 3.3 **Right to Inspect or Remove.** LLC may inspect or remove from shared office space the property described in Section 3.1 at any time upon notice.

### **SECTION 4 Reports and Documents.**

- 4.1 **Reports.** Each party shall, upon request of the other, provide the other party with a full account of personnel costs paid, or other expenses incurred, on behalf of the other.
- 4.2 **Copies of Documents.** Each party shall, upon request from the other, provide the other party with copies of documents relevant to this Agreement, including without limitation books, records, and accounts.

### **SECTION 5 Termination.**

- 5.1 **Events of Termination.** This Agreement terminates upon the occurrence of any of the following events:
- (A) at any time by the written agreement of the parties;
  - (B) 90 days after one party gives notice of an intention to terminate this Agreement; or
  - (C) immediately upon notice of one party to the other after any of the following events:
    - (i) the bankruptcy or dissolution of a party;
    - (ii) the material breach of this Agreement by a party; or
    - (iii) fraudulent or criminal acts by a party.
- 5.2 **Post Termination.** Upon termination of this Agreement, WMF shall promptly deliver all records, files, materials, correspondence, other property and related items belonging to LLC to such person or place as LLC designates.

## **SECTION 6 General Provisions.**


- 6.1 **Entire Agreement.** This Agreement contains all of the terms agreed upon by the parties with respect to its subject matter and supersedes all prior agreements, arrangements, and communications between the parties, whether oral or written, concerning its subject matter.
- 6.2 **Amendment.** This Agreement may be amended only by the written agreement of the parties.
- 6.3 **Waiver.** Waiver by either party of any term or condition of this Agreement or any breach hereof does not constitute a waiver of any other term or condition.
- 6.4 **Headings and Sections.**
- (A) The subject headings used in this Agreement are included for purposes of reference and convenience only and may not affect the construction or interpretation of any of its provisions.
  - (B) References in this Agreement to “Section” without elaboration are references to the numbered sections of this Agreement.
- 6.5 **Governing Law.** This Agreement is governed by the laws of Delaware.
- 6.6 **Relationship Between the Parties.** WMF’s relationship with LLC under this Agreement is strictly one of cost sharing of expenses, and no agency, partnership, or joint venture arrangement is intended.
- 6.7 **Effect of Agreement.** This Agreement is binding upon and inures to the benefit of the parties and their respective successors and assigns.
- 6.8 **Assignment.** This Agreement may be assigned only to a successor association, firm, or subsidiary of a party upon the prior written approval of the other party.
- 6.9 **Notices.** All notices, requests, or other communications required under this Agreement must be in writing and become effective five days after mailing by registered mail, postage prepaid, addressed to the current principal officer of the party concerned.

*{Signatures on next page.}*

The parties have caused this Cost Sharing Agreement to be executed by their duly authorized officers on 16 April 2021 but effective as of the date first above written.


**“WMF”**

**Wikimedia Foundation, Inc.**

DocuSigned by:  
  
By: 8760263F1978449...  
Name: **Jaime Villagomez**  
Title: Chief Financial Officer

**“LLC”**

**Wikimedia, LLC**

DocuSigned by:  
  
By: 90014338A3DD4BB...  
Name: Lane Becker  
Title: President

**AMENDMENT #1**  
**TO THE**  
**COST SHARING AGREEMENT**

This Amendment #1 to the Cost Sharing Agreement (“Amendment #1”) previously entered into on April 16, 2021 by and between the **Wikimedia Foundation, Inc.** (“Foundation”), and **Wikimedia, LLC** (“Company”) with an effective date as of July 1, 2020 (the “Original Agreement”) is entered into with an effective date of July 1, 2021 (“Amendment #1 Effective Date”).

**Background**

1. The parties entered into the Original Agreement on April 16, 2021 with an effective date of July 1, 2020.
2. The parties hereby agree to modify the Original Agreement.

**Agreement**

1. The parties hereby agree to amend the Original Agreement as follows:
  - a. Section 2 of the Original Agreement is amended in its entirety and restated as follows:

**“SECTION 2 Cost Sharing.**

**2.1 Direct Business Costs.**

- (A) LLC will pay directly or reimburse WMF for all costs directly incurred by LLC including costs for LLC business and tax filings, staff development and training related to LLC projects and activities, and third party service providers, vendors, and contractors that work primarily for LLC and only secondarily, if at all, for WMF.

**2.2 Direct Staff Costs.**

- (A) Employees, contractors, and other service providers of WMF may from time to time provide services to LLC. In such cases, WMF will be the payor of these direct staff costs and will be reimbursed by LLC for LLC’s allocable share of such costs, except to the extent LLC notifies WMF that it will pay particular service providers directly in accordance with Section 2.1. For these purposes, direct staff costs include, but not limited to, costs for salary, benefits, and employment taxes.

- (B) The parties shall implement time tracking procedures for employees and independent contractors providing services to both organizations sufficient to determine the portion of the direct staff costs attributable to each organization.

### **2.3 API Costs**

WMF shall charge LLC for the capitalized costs incurred to build out the Wikimedia Enterprise Application Programming Interfaces (APIs), and the accompanying website(s), documentation, code, and related materials; and any future significant improvements to and later versions of the same (“APIs”).

### **2.4 Indirect Office Space, Equipment, and other Administrative Costs.**

For these purposes, office space and equipment shall include, without limitation, rent, utilities, janitorial services, office equipment utilization, equipment rental and maintenance, furniture and fixtures, insurance, taxes, general supplies, and communications. Other administrative costs shall include executive, administrative, human resources, information-services, clerical, finance, and legal services.

### **2.5 Reimbursement.**

- (A) Each party that has paid expenses on behalf of the other shall provide the other with a reasonably detailed statement of such expenses on a quarterly or more frequent basis.
- (B) Each party shall recognize and record the allocated share of costs paid by the other party for the period the statement of expenses is provided.
- (C) Each party shall reimburse the other for its allocated share of costs paid by the other as long as there is sufficient operating cash . In making such reimbursement, either party may offset its amount due to the other party by the amount, if any, that the other party owes to it under this cost sharing agreement.

- b. Section 3 of the Original Agreement is amended in its entirety and restated as follows:

### **SECTION 3 Property Rights.**

- 3.1 LLC’s Property. The following items belong exclusively to LLC:

- (B) Except for the APIs described in Section 2.3, all material prepared for LLC by WMF employees and/or WMF contractors, including without limitation, books, records, and documents, if LLC has reimbursed WMF in full for all staff and/or contractor time spent in developing such materials; and
- (C) any other property paid for exclusively by LLC, or granted to LLC by WMF.

**3.2 WMF's Property.** The APIs described in Section 2.3 and all other property, the use of which is shared by the parties, other than that which is described in Section 3.1 belongs exclusively to WMF.

**3.3 Right to Inspect or Remove.** LLC may inspect or remove from shared office space the property described in Section 3.1 at any time upon notice.

- c. Section 6.5 of the Original Agreement is amended in its entirety and restated as follows:

**6.5 Governing Law and Venue.** This Agreement shall be governed by and construed in accordance with the laws of the State of California without regard to the conflicts of laws provisions thereof. All matters concerning the validity and interpretation of and performance under this Agreement shall be resolved in the state and federal courts located in San Francisco, California.


- 2. The effective date of this Amendment #1 is as of July 1, 2021.
- 3. This Amendment #1 may be executed in one or more counterparts, each of which shall be deemed an original, but all of which taken together shall constitute one and the same instrument.

*{Signatures on next page.}*

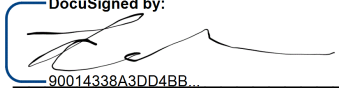


IN WITNESS WHEREOF, the parties hereto have duly executed this Amendment #1 as of July 1, 2021.

Wikimedia Foundation, Inc. (Foundation):

By:   
Name: Jaime Villagomez  
Title: CFO

Wikimedia, LLC (Company):

By:   
Name: Lane Becker  
Title: President