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**LIMITED LIABILITY COMPANY AGREEMENT**

**OF**

**WIKIMEDIA, LLC**

**A Delaware Limited Liability Company**

**Effective July 1, 2020**

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## LIMITED LIABILITY COMPANY AGREEMENT

OF

WIKIMEDIA, LLC

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This **Limited Liability Company Agreement of Wikimedia, LLC** (this “**Agreement**”) is made effective July 1, 2020, by:

- **Wikimedia Foundation, Inc.**, a Florida nonprofit corporation (the “**Member**” or “**Sole Member**,” as the case may be);

and constitutes the limited liability company agreement for:

- **Wikimedia, LLC** (the “**Company**”), a limited liability company formed under the Delaware Limited Liability Company Act (the “**Act**”).

The Sole Member is the Company’s single member at the execution of this Agreement.

### TERMS

#### SECTION 1 Introductory Provisions.

- 1.1 **Name.** The name of the Company is **Wikimedia, LLC**.
- 1.2 **Certificate of Formation.**
  - (A) The Sole Member hereby ratifies and accepts the Certificate of Formation (the “**Certificate**”) filed with the Secretary of State of the State of Delaware on January 31, 2020.
  - (B) The Certificate as filed is attached to and incorporated into this Agreement as **Exhibit A**.
- 1.3 **Principal Office.**
  - (A) The Sole Member may establish from time to time the principal office of the Company.
  - (B) The Company may have such other offices, either within or without the State of Delaware, as the Sole Member designates or as the business of the Company requires.

1.4 **Registered Office and Agent.**

- (A) The registered office of the Company, as required by the Act to be maintained in the State of Delaware, is located at 1209 Orange Street, Wilmington, Delaware 19801, and the original registered agent at such address is The Corporation Trust Company.
- (B) The Sole Member may change the registered office and registered agent from time to time by the filing of the prescribed forms with and the payment of any prescribed fees to the Delaware Secretary of State.

1.5 **Purposes.** The Company is organized and operated exclusively for charitable and educational purposes within the meaning of section 501(c)(3) of the Internal Revenue Code of 1986, as amended (the “Code”).

1.6 **Authority.** In furtherance of the Company’s purposes, the Company may undertake activities in furtherance of any lawful purposes under the Act and that are consistent with the articles of incorporation of the Sole Member and the purposes set out in Section 1.5.

**SECTION 2 Members and Financial Matters.**

2.1 **Identity and Authority of Sole Member.**

- (A) Wikimedia Foundation, Inc., a Florida nonprofit corporation, is the Company’s Sole Member and has sole authority to conduct the affairs of the Company.
- (B) The Sole Member delegates all authority to exercise the Sole Member’s rights and duties concerning the Company to the Sole Member’s Chief Executive Officer, who may further delegate such authority to Wikimedia Foundation staff as they deem appropriate.
- (C) No additional member may act on behalf of the Company.

2.2 **Limitation of Liability of the Members and Others.**

- (A) Except as otherwise required by applicable law, the debts, obligations, and liabilities of the Company, whether arising in contract, tort, or otherwise, are solely the debts, obligations, and liabilities of the Company, and no Member, officer, or employee of the Company is obligated personally for those debts, obligations, or liabilities solely by reason of being a Member, officer, or employee of the Company.
- (B) No Member, officer, or employee of the Company, to the maximum extent now or hereafter permitted by applicable law, has any personal liability to the Company or

any Member for monetary damages for breach of fiduciary duty as an officer or in any other managerial position.

**2.3 Capital Contributions.**

- (A) The Members' capital contributions to the Company are set forth on **Schedule 2.3** of this Agreement.
- (B) No Member may be obligated to make any additional capital contributions to the Company.

**2.4 Loans by Member.** A Member may, but is not obligated to, make loans to the Company on such terms and conditions as are acceptable to such Member.

**2.5 Taxation.**

- (A) It is the intention of the Sole Member that the Company be classified for purposes of U.S. federal and any state income tax law as an entity disregarded as separate from the Sole Member.
- (B) The Company may make any election it deems prudent to establish and maintain its tax classification in accordance with Section 2.5(A).
- (C) The Sole Member may make an election to change the Company's tax classification.

**2.6 Distributions.**

- (A) The Company may make distributions to the Members from time to time in such amounts as the Sole Member determines.
- (B) All such distributions must be made pro rata to each Member in accordance with its Interests as set forth on **Schedule 2.3** of this Agreement.

**2.7 Accounting and Books of Account.**

- (A) The accounts, books, and records of the Company must be maintained at the principal office of the Company.
- (B) The Company's books must be closed and balanced at the end of each fiscal year.

**2.8 Banking.** All funds of the Company must be deposited in its name in one or more separate accounts with such banks, savings and loan associations, or trust companies as the Sole Member designates.

**SECTION 3 Management.**

**3.1 Powers and Authority.**

- (A) The Board of Managers is responsible for approval of:
  - (i) the Company's operating policies; and
  - (ii) the Company's annual operating budget.
- (B) The Board of Managers shall also:
  - (i) provide advice and guidance to the President;
  - (ii) advise the Sole Member on the hiring and evaluating of the President; and
  - (iii) generally oversee the operations of the Company and manage and control the Company's business and affairs.
- (C) In the absence of explicit operating policies (e.g., human resources, fundraising, confidentiality, document retention, etc.), the Company shall follow the policies of the Sole Member.
- (D) In performing these functions, the Board of Managers shall act in the best interests of the Company, avoid illegal or fraudulent activity, and establish policies and procedures to address conflict-of-interest transactions.

**3.2 Composition.**

- (A) The Board of Managers shall initially be comprised of three Managers, listed in Schedule 3. The number of Managers may be increased or decreased by amendment to this Agreement under Section 8.2.
- (B) The Board of Managers shall elect a Chairperson from among the Managers, who shall preside at meetings of the Board of Managers and shall undertake the other duties set out in this Agreement and as assigned by the Board of Managers.

**3.3 Election and Term of Managers.**

- (A) The Sole Member's Chief Executive Officer shall nominate the Managers of the Company, subject to confirmation by the Product Committee of the Sole Member's Board of Trustees, or another Board of Trustees committee designated by the Board of Trustees and communicated to the Chief Executive Officer ("BoT Committee"). The Sole Member shall always have a representative on the Board of Managers, as determined by the BoT Committee.

- (B) All Managers shall serve for a term of one year, to be automatically renewed until resignation or removal, and the nomination and confirmation of a successor.

3.4 **Meetings.** Meetings of the Board of Managers are conducted as follows:

- (A) The Board of Managers shall hold an annual meeting at the time and place the Board of Managers determines.
- (B) The Board of Managers may hold regular or special meetings whenever called by the Sole Member, the Chair, or any two Managers, at the times and places the Board of Managers determines.
- (C) Managers may participate in meetings of the Board of Managers by means of conference telephone or similar equipment that allows all persons participating in the meeting to hear each other at the same time, and that participation constitutes presence in person at the meeting.
- (D) The Chair shall provide members of the Board of Managers at least three days' written notice of any meeting of the Board of Managers.
- (E) Any action required or permitted to be taken by the Board of Managers may be taken without a meeting if all Managers are given notice of the proposed action and all Managers consent in writing (including by email) to the action, with a statement of the authorized action and the written consents to be filed with records of the proceedings of the Board of Managers.

3.5 **Approval.** A majority vote or consent of the Managers is required to approve any matter brought before the Board of Managers, except as otherwise set out in this Agreement.

3.6 **Committees.** The Board of Managers may, by resolution passed by a majority of the Board of Managers, designate one or more committees, each committee to consist of one or more of the Managers. Any such committee, to the extent provided in the resolution of the board of Managers, shall have and may exercise all the powers and authority of the Board of Managers. Such committee or committees shall have such name or names as may be determined from time to time by resolution adopted by the Board of Managers. Each committee shall keep regular minutes of its meetings and report the same to the Board of Managers when required and shall otherwise follow the procedures set out for the Board of Managers in this Section 3 substituting "committee" for "Board of Managers" and "committee member" for "Manager" as appropriate.

3.7 **Unauthorized Acts.** The Board of Managers may **not** take any of the following actions without the consent of the Sole Member:

- (A) change the Company's purposes;
- (B) enter into any transaction or series of transactions to effect the liquidation, dissolution, or winding up of the Company;
- (C) otherwise amend the Company's Certificate of Formation or this Agreement; or
- (D) take any action that the Sole Member determines, in its sole discretion, would jeopardize its status as an organization described in section 501(c)(3) of the Code.

3.8 **Delegation.** The Board of Managers may delegate to any officer of the Company the authority to make any decision on the Company's behalf that is not reserved to:

- (A) the Sole Member; or
- (B) the Board of Managers under this Section 3 or otherwise under the terms of this Agreement.

3.9 **Resignation.** Managers may resign at any time. Such resignation shall be made in writing and shall take effect at the time specified therein, or if no time be specified, at the time of its receipt by the President, Chairman, or entire Board of Managers. The acceptance of a resignation shall not be necessary to make it effective, unless expressly so provided in the resignation.

3.10 **Removal.** Any Manager can be removed from their position, with or without cause, by the majority vote of the remaining Board of Managers, subject to confirmation by the BoT Committee, or by the Sole Member's Chief Executive Officer, subject to confirmation by the BoT Committee. If the removed Manager is the Sole Member's representative on the Board of Managers, the Sole Member's Chief Executive Officer shall either nominate a replacement Manager to serve as representative, subject to the BoT Committee's confirmation, or else designate an existing Manager to serve as representative, subject to the BoT Committee's confirmation.

#### **SECTION 4 Officers.**

4.1 **President.** The President is the chief executive officer of the Company and reports to the Board of Managers. The inaugural President of the Company is listed in Schedule 4.

4.2 **Appointment and Authority of the President.** The Sole Member, in consultation with the Board of Managers, appoints and removes, and determines the authority and duties of, the President of the Company.

- 4.3 **Other Officers.** The Company may have such officers that the Board of Managers determines, and the officers have the authority and duties granted to them by the Board of Managers.
- 4.4 **Term.** Each officer shall hold office until their successor shall be duly designated and qualified or until his or her earlier death, resignation, or removal.
- 4.5 **Resignation.** Officers may resign at any time. Such resignation shall be made in writing and shall take effect at the time specified therein, or if no time be specified, at the time of its receipt by the Board of Managers. The acceptance of a resignation shall not be necessary to make it effective, unless expressly so provided in the resignation.
- 4.6 **Removal.** Any officer may be removed from their position, with or without cause, by the Board of Managers. Any vacancy occurring in any office of the Company may be filled by the Board of Managers.

#### **SECTION 5 Additional Members.**

- 5.1 **Additional Members.** The Sole Member may admit additional members to the Company.
- 5.2 **Transfers.** A Member may transfer all or any part of its interest in the Company to an assignee only upon the written consent of the Sole Member.
- 5.3 **Execution of Agreement Required.** The admission of an additional member or transferee member under this Section 5 becomes effective when such additional or transferee member consents in writing to be bound by all of the terms and conditions of this Agreement, as amended to accommodate such additional members.

#### **SECTION 6 Dissolution.**

- 6.1 **Causes of Dissolution.**
- (A) The Company has perpetual existence and does not terminate except as set out in Section 6.1(B).
- (B) Notwithstanding the provisions of Section 6.1(A), the Company terminates and must be dissolved upon the earlier occurrence of any of the following events:
- (i) the entry of a decree of dissolution by the Delaware Court of Chancery under Section 18-802 of the Act;
  - (ii) the business of the Company is determined to be illegal by a court of competent jurisdiction;



- (iii) rescission of this Agreement; or
- (iv) the Sole Member elects to dissolve the Company.

**6.2 Procedure Upon Dissolution.**

- (A) Upon the dissolution of the Company, the Liquidation Manager appointed pursuant to Section 6.3 hereof shall immediately commence to wind up the Company's affairs and shall proceed with reasonable promptness to liquidate the business of the Company.
- (B) If the Company is dissolved while its business is in progress, the winding up of the affairs of the business of the Company may include completion of any work in progress and any contracts in existence on the date of dissolution.
- (C) Except as otherwise required by the Act, upon the dissolution of the Company, the assets of the Company must be liquidated, and the proceeds from such liquidation, together with assets distributed in kind, are applied in the following order:
  - (i) to the payment of debts and liabilities of the Company to creditors in the order of priority provided by law and the expenses of dissolution and liquidation;
  - (ii) to the establishment of any reserves that the Liquidation Manager may deem reasonably necessary for any contingent or unforeseen liabilities or obligations of the Company arising out of or in connection with the Company; such reserves must be held in trust by the Liquidation Manager for the purpose of disbursing such reserves in payment of contingencies and, at the expiration of such period as the Liquidation Manager shall deem advisable, to distribute the balance of the trust corpus in the manner hereinafter provided; and
  - (iii) to each Member in accordance with its Capital Accounts.

**6.3 Liquidation Manager.** The Sole Member shall appoint the Liquidation Manager upon the termination and dissolution of the Company.

**6.4 Powers of the Liquidation Manager.** The Liquidation Manager has full power and authority to wind up the business and affairs of the Company.

**6.5 Indemnification of Liquidation Manager.** The Members shall indemnify the Liquidation Manager as provided in Section 7 of this Agreement.

**SECTION 7 Indemnification.**

7.1 **Indemnifiable Persons.** An “**Indemnifiable Person**” is one who was or is made a party or is threatened to be made a party to or is otherwise involved in any action, suit, or proceeding, whether civil, criminal, administrative, or investigative (a “**Proceeding**”), by reason of the fact:

- (A) that such person is or was a manager, liquidation manager, officer, employee, or agent of the Company, or
- (B) that such person is or was serving at the request of the Company as a director, manager, liquidation manager, trustee, officer, employee, or agent of another company or of a corporation, partnership, joint venture, trust, or other enterprise (collectively, “**Another Enterprise**”).

7.2 **Conditions for Indemnification.** The Company shall indemnify and hold harmless to the fullest extent not prohibited by applicable law against all expense, liability, and loss (including, without limitation, attorneys’ fees, judgments, fines, excise taxes, or penalties and amounts paid in settlement) reasonably incurred or suffered, an Indemnifiable Person if:

- (A) the basis of the Proceeding is alleged action or inaction:
  - (i) in an official capacity as a manager, liquidation manager, trustee, officer, employee, or agent of the Company, or as a director, manager, liquidation manager, trustee, officer, employee, or agent of Another Enterprise; or
  - (ii) in any other capacity related to the Company or Another Enterprise while so serving as a director, manager, liquidation manager, trustee, officer, employee, or agent; and
- (B) such person has **not** been found by a court of competent jurisdiction to have:
  - (i) acted in a grossly negligent manner;
  - (ii) committed willful malfeasance or fraud;
  - (iii) breached such person’s fiduciary duty to the Company or the Sole Member; or
  - (iv) materially breached the terms of this Agreement.

7.3 **Indemnitees.** The persons indemnified by under Section 7.2 of this Agreement are hereafter referred to as “**Indemnitees**.”

7.4 **Indemnification Rights.** The right to indemnification conferred in this Section 7:

- (A) is a contract right;
- (B) is not exclusive of any other right that any Indemnitee may have or hereafter acquire under any statute, agreement, vote of the Member, or otherwise.
- (C) continues as to an Indemnitee who has after such alleged actions or inaction ceased to be a manager, liquidation manager, officer, employee, or agent of the Company, or director, officer, manager, liquidation manager, trustee, employee, or agent of Another Enterprise;
- (D) inures to the benefit of the Indemnitee's heirs, executors, and administrators;
- (E) may not be affected adversely as to any Indemnitee by any amendment of this Agreement with respect to any action or inaction occurring prior to such amendment; and
- (F) subject to any requirements imposed by law, includes the right to be paid by the Company the expenses incurred in investigating, defending, or settling any such Proceeding in advance of its final disposition, which expenses must be paid promptly upon request of the Indemnitee, except that an Indemnitee has the right to require such advance payment by the Company only upon receipt by the Company of an undertaking by or on behalf of such Indemnitee to repay such amount to the Company if it is ultimately determined by a court of competent jurisdiction that the Indemnitee is not entitled to be indemnified by the Company.

7.5 **Enforcement.**

- (A) **Suit.** An Indemnitee may bring suit against the Company to recover the unpaid amount of the claim if a claim in writing for indemnification under this Section 7 is not paid in full by the Company within:
  - (i) 60 days after it has been received by the Company; or
  - (ii) in the case of a claim for an advancement of expenses, 20 days after it has been received by the Company.
- (B) **Expenses.** If the Indemnitee is successful in whole or in part in any such suit, or in defense of a suit brought by the Company to recover an advancement of expenses under the terms of an undertaking, the Indemnitee is entitled to be paid also the expenses of successfully prosecuting or defending such suit (or any part of such suit).

(C) **No Presumption or Defense.** Neither a presumption that the Indemnitee has not met the applicable standard of conduct nor, in the case of such a suit brought by the Indemnitee, a defense to such suit is created by:

- (i) the failure of the Company to have made a determination prior to the commencement of such suit that indemnification of the Indemnitee is proper in the circumstances because the Indemnitee has met the applicable standard of conduct; or
- (ii) an actual determination by the Company that the Indemnitee has not met such applicable standard of conduct.

7.6 **Insurance.** The Company may maintain insurance, at its expense, to protect itself and any director, manager, liquidation manager, trustee, officer, employee, or agent of the Company or Another Enterprise against any expense, liability, or loss, whether or not the Company would have the power to indemnify such person against such expense, liability, or loss.

7.7 **Savings Clause.** In the event that any of the provisions of this Section 7 (including any provision within a single section, paragraph, or sentence) is held by a court of competent jurisdiction to be invalid, void, or otherwise unenforceable, the remaining provisions are several and remain enforceable to the full extent permitted by law.

## **SECTION 8 General Provisions.**

8.1 **Entire Agreement.** This Agreement contains the entire agreement among the parties concerning its subject matter, and it replaces all prior agreements among them, whether written or oral, concerning this subject matter.

8.2 **Amendment of Certificate and Agreement.**

(A) **Amendment of Certificate.** Except as otherwise provided in the Act, no amendment of the Certificate is valid unless it is approved by the Sole Member and is filed in compliance with the Act.

(B) **Amendment of Agreement.** No amendment of this Agreement is valid unless it is approved by the Sole Member, is in writing, and is signed by all of the parties.

8.3 **Incorporation of Other Documents.** All exhibits and schedules identified in this Agreement as exhibits to the Agreement are hereby incorporated into the Agreement and made integral parts of it.

8.4 **Severability.** In the event any provision of this Agreement is finally determined to be unlawful or unenforceable, such provision is deemed to be severed from this Agreement and

every other provision of this Agreement remains in full force and effect.

8.5 **Governing Law.** This Agreement is governed by and construed in accordance with the laws of the State of Delaware, without giving effect to Delaware's conflicts- or choice-of-laws provisions.

8.6 **Captions and Sections.**

(A) The captions in this Agreement are for convenience only and may not be considered a part of or affect the construction of interpretation of any provision of this Agreement.

(B) References to "Sections" in this Agreement without elaboration are references to the numbered sections of this Agreement.

8.7 **Waiver.** The waiver by any Member of any provision of this Agreement is effective only if made in writing signed by such Member, but such waiver is not to be deemed a waiver of any other such matter.

8.8 **Successors.** This Agreement is binding upon and inures to the benefit of the respective successors and permitted assigns of the Members.

8.9 **No Third-Party Beneficiaries.**

(A) The parties intend this Agreement to benefit only themselves and any persons that become their successors and assignees in accordance with the Agreement.

(B) The Agreement is expressly not intended for the benefit of any creditor of the Company or of any creditor of a member or for the benefit of any other person who is not a party to the Agreement.

8.10 **Notices.**

(A) Except as otherwise set out in this Agreement, all notices, requests, and other communications hereunder must be in writing and are deemed to have been duly given:

(i) at the time of receipt if delivered by hand, by facsimile transmission, or by electronic mail; or

(ii) three days after being mailed, registered or certified mail, return receipt requested, with postage prepaid.

(B) All notices, requests, and other communications hereunder must be sent to:

- (i) the Company at its principal office;
- (ii) the address, facsimile number, or electronic mail address listed below such Member's name on **Schedule 2.3** or
- (iii) if any Member designated a different address, facsimile number, or electronic mail address by notice to the other Members given as required by this Section 8.10, then to the last address so designated.

8.11 **Execution.**

(A) **Counterparts.**

- (i) This Agreement may be executed in any number of counterparts and by different parties to this Agreement in separate counterparts.
- (ii) Each of these counterparts when so executed and delivered is deemed to be an original of the Agreement and all such counterparts taken together constitute one and the same Agreement.


(B) **Facsimile Signatures.** Facsimile copies of parties' signatures are valid for all purposes under this Agreement.

*{Signature on next page.}*

The undersigned has executed this Limited Liability Company Agreement of Wikimedia, LLC, as of July 1, 2020.

**SOLE MEMBER:**

**Wikimedia Foundation, Inc.**

DocuSigned by:  
  
8760263F1978449...

By: Jaime Villagomez

Title: Chief Financial Officer

Date: 01 March 2021

**LIMITED LIABILITY COMPANY AGREEMENT**

**OF**

**WIKIMEDIA, LLC**

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**Schedule 2.3**

**Members and Capital Contribution**

Each Member and its address, capital contribution, and percentage interest are as follows:

<b>Name and Address</b>	<b>Capital Contribution</b>	<b>Percentage of Interests</b>
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**Sole Member:**

Wikimedia Foundation, Inc. 1 Montgomery Street Suite 1600 San Francisco, CA 94104	\$100	100%
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**Additional Members:**

None



**LIMITED LIABILITY COMPANY AGREEMENT**

**OF**

**WIKIMEDIA, LLC**

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**Schedule 3**

**Composition of Inaugural Board of Members**

The Board of Members shall be initially comprised of the following Managers:

- Lisa Gruwell
- Grant Ingersoll
- Tony Sebro

**LIMITED LIABILITY COMPANY AGREEMENT**

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**Schedule 4**

**Inaugural Company President**

The inaugural President of the Company is Lane Becker.

**LIMITED LIABILITY COMPANY AGREEMENT**

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**Exhibit A**

**Certificate of Formation**

(See [attached.](#))