

## **Participation Agreement**

This Participation Agreement (“Agreement”) is between The ProtoJam Organization Team (“ProtoJam”) and the individual registering their team on the ProtoJam Team Registration Form (“Participant”). This Agreement is effective as of the date Participant indicates acceptance of the Agreement and consenting to be bound by all terms and conditions stated herein by selecting “Yes, I Accept” under their name and email address on the Team Registration Form at <https://forms.gle/nsdnYuY2MyeQcdpXA>. Participant and ProtoJam may be referred to herein singly as a “Party” and jointly as “Parties.”

### **1. BACKGROUND**

ProtoJam is hosting a Designathon event scheduled for 25 February 2022 through 27 February 2022 (the “Event”). Participants are expected to create and submit a design for a participating non-profit (the “Problem Holder”), pursuant to that Problem Holder’s requirements (the “Purpose”). Participants must compete as part of a group consisting of no more than five (5) total Participants (each group, a “Team”). It is the Participant’s obligation to identify the Team, and all Team members, prior to 3pm Mountain Standard time Saturday 26 February 2022 to ProtoJam.

Participants entering on behalf of or representing a company, institution, or other legal entity are responsible for confirming that their participation and entry does not violate any policies of that company, institution, or legal entity. Participants bear all costs incurred in the preparation of Event entries.

In consideration of the mutual covenants contained herein, ProtoJam and Participant hereby agree to comply with the terms and conditions as set forth in this Agreement.

### **2. PARTIES’ RESPONSIBILITIES**

#### **2.1 ProtoJam's responsibility:**

- (a) ProtoJam shall provide Participant access to proprietary information about the Problem including recordings of previous designs, colors, assets, and typefaces, as well as general information about the Event and Event recordings (“Package”). Participant shall access the Package for creating a design in accordance with Purpose specified above.
- (b) ProtoJam may award a cash prize to Teams with the best solution. All members of a Team must satisfy the eligibility requirements. Evaluating entries and determining one or more winning entries shall be within ProtoJam’s sole discretion. ProtoJam may find any entry to be unacceptable for any reason, and may deem such entry disqualified. A disqualified entry will not be evaluated or considered for award. If no eligible submissions are entered in the Event, or in ProtoJam’s sole discretion, the award will not be awarded.

#### **2.2 Participant’s Responsibility:**

- (a) During the Event Participant shall access the Package for the Purpose specified above.
- (b) Participant agrees the Package or any information arising from, derived from, developed from, or otherwise obtained pursuant to the Event may not be used as the sole basis for decision making in any actual, non-simulated, activity. ProtoJam expressly disclaims any liability for any such activities.
- (c) Participant agrees to grant to ProtoJam the permission to record on photography and/or video, pictures of Participant during the Event. Participant further agrees that Participant's name, and any and all material photographed may be used, in any form, as part of any future publications, brochures or other printed or online materials used to promote ProtoJam, and further that such use shall be without payment of fees, royalties, special credit or other compensation.
- (d) Participants shall provide a recorded video demonstration of their approach and design content. Participant hereby grants ProtoJam the right to publicly disclose and discuss this presentation, and statements based upon such presentation, to describe entries to the Event.
- (e) Participant hereby grants to ProtoJam, Problem Holder, and participating user experience and user interface experts (the "Judges") the right to review Participant's entry, and to describe the entry as represented by any materials created by Participant in connection with the Event, to Judges, Problem Holders, ProtoJam sponsors, challenge administrators, and the designees of any of them.
- (f) All awards are a one-time offer and there is no offer of licensure, royalty, or other financial compensation implied beyond the awards. Winning Participants are responsible for all taxes and reporting related to any award received as part of the Event.
- (g) Upon termination of the Event, Participant must cease all use of the Package and expunge all ProtoJam-provided data from Participant's personal devices and files.

### **3. CONFIDENTIALITY**

The existence of this Agreement, the terms and conditions hereof, the activities contemplated hereby, and other information including without limitation all data, simulations, technical information, and technology Participant receives or accesses pursuant to this Agreement is considered proprietary and confidential (the "Confidential Information"). Participant shall maintain the confidentiality of all such Confidential Information and will use no less than a reasonable degree of diligence and care to prevent the unauthorized disclosure, reproduction, or distribution of such Confidential Information to any third party. Confidential Information does not include: (a) information that is already in the public domain as of the date of disclosure to Participant; or (b) information already known to Participant, as of the date of the disclosure to

Participant, unless Participant agreed to keep such information in confidence at the time of its original receipt; or (c) information hereafter obtained by Participant, from a source not otherwise under an obligation of confidentiality to ProtoJam; or (d) information that Participant is obligated to produce under order of a court of competent jurisdiction, provided that, Participant promptly notifies ProtoJam of such an event and assists ProtoJam with obtaining an appropriate protective order.

#### **4. LICENSE GRANTS**

ProtoJam hereby grants Participant a non-exclusive, paid up, non-transferrable license to access the Package solely during the Event, and solely for Participant's activities in furtherance of the Purpose. No other access to the Package by Participant is licensed or authorized. Without limiting the foregoing, Participant expressly agrees Participant does not have any right to: (a) permit any third party to access the Package; (b) copy, distribute, sublicense, or otherwise provide any third party access to the Package provided pursuant to the Event; and (c) modify, enhance or create substantially derived forms of the Package.

#### **5. REPRESENTATIONS AND WARRANTIES**

Participant represents and warrants: (a) Participant is at least eighteen (18) years of age, and if Participant is under eighteen (18) years of age, they have express consent from Participant's legal guardian to participate; (b) all information Participant submits is true and complete to the best of Participant's knowledge, (c) Participant has the right and authority to participate in the Event, (d) all submissions by Participant or Teams is Participant's or the Team's own original work, and does not misappropriate third-party intellectual property rights.

#### **6. AUDIT**

ProtoJam reserves the right to audit Participant's records, data, and activities to verify compliance with the terms and conditions set forth in this Agreement. Participant agrees to promptly notify ProtoJam of any violations or breach of such restrictions, or of any unauthorized access to the Package.

#### **7. TITLE**

Participant acknowledge that all rights to the Package, including any associated written materials and other documentation provided under this Agreement, belongs exclusively to ProtoJam or the Problem Holders. Participant agree any Intellectual Property including but not limited to video presentations, image assets, compositions and structures, concepts, designs, diagrams, documentations, know-how, data analysis methods, models, procedure and processes developed during the Event ("New IP") shall be jointly owned by the Parties without right of accounting.

#### **8. WARRANTY DISCLAIMER**

THE EVENT AND ALL RELATED DATA AND TECHNOLOGY IS PROVIDED “AS IS” AND WITHOUT WARRANTY OF ANY KIND, EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION, IMPLIED WARRANTIES OR CONDITIONS OF MERCHANTABILITY, ACCURACY, NON-INFRINGEMENT, OR FITNESS FOR A PARTICULAR PURPOSE.

## **9. LIMITATION OF LIABILITY**

9.1 IN NO EVENT WILL PROTOJAM BE LIABLE FOR ANY LOSSES OR DAMAGES INCURRED BY PARTICIPANT, WHETHER DIRECT, INDIRECT, INCIDENTAL, SPECIAL, EXEMPLARY, GENERAL, OR CONSEQUENTIAL, INCLUDING LOST OR ANTICIPATED PROFITS, SAVINGS, INTERRUPTION TO BUSINESS, LOSS OF BUSINESS OPPORTUNITIES, LOSS OF BUSINESS INFORMATION, THE COST OF RECOVERING SUCH LOST INFORMATION, OR ANY OTHER PECUNIARY LOSS ARISING FROM THE USE OF, OR THE INABILITY TO USE, THE PACKAGE REGARDLESS OF WHETHER PARTICIPANT HAS ADVISED PROTOJAM OR PROTOJAM HAS ADVISED PARTICIPANT OF THE POSSIBILITY OF SUCH DAMAGES.

9.2 ProtoJam is not responsible for, and Participant hereby releases ProtoJam from, any claim for any miscommunications such as technical failures related to computer, telephone, cable, and unavailable network or server connections, related technical failures, or other failures related to hardware, software or virus, or incomplete or late entries.

9.3 ProtoJam is not responsible for: (a) Any incorrect or inaccurate information, whether caused by a participant, printing errors, or by any of the equipment or programming associated with or used in the Event; (b) unauthorized human intervention in any part of the Event; (c) technical or human error that may occur in the administration of the Event or the processing of entries; or (d) any injury or damage to persons or property that may be caused, directly or indirectly, in whole or in part, from Participant’s participation in the Event.

## **10. ASSIGNMENT**

Participant may not assign Participant’s rights and duties under this Agreement to any party at any time.

## **11. TERM AND TERMINATION**

The term of this Agreement will commence on the date of the Event and shall automatically expire 28 February 2022. Section 3 (Confidentiality), 5 (Representation and Warranties), 6 (Audit), 7 (Title) shall survive the termination of this Agreement.

## **12. GENERAL**

12.1 At ProtoJam’s sole discretion:

- (a) ProtoJam reserves the authority to cancel, suspend, and/or modify the Event, or any part of it, if any fraud, technical failures, any other factor beyond ProtoJam's reasonable control impairs the Event's integrity or proper functioning, or for any other reason as determined by ProtoJam.
- (b) Any compromise to the fair and proper conduct of the Event may result in Participant's disqualification, or other remedial action.
- (c) ProtoJam reserves the right to extend or modify the dates of the Event, and to change the terms set forth herein.

12.2 This Agreement constitutes the entire agreement of the Parties, and no amendment to the terms of this Agreement will be effective unless in writing and signed by both Parties hereto. Participant agrees that any breach of this Agreement by Participant may cause irreparable damage, and that, in event of such breach, in addition to any and all remedies at law, ProtoJam will have the right to seek an injunction, specific performance or other equitable relief to prevent the continuous violations of the terms of this Agreement.

12.3 Notwithstanding anything herein to the contrary, ProtoJam shall not be liable for any delay or failure in performance caused by circumstances beyond ProtoJam's reasonable control.

12.4 This Agreement does not constitute a partnership or joint venture, and nothing herein contained is intended to constitute, nor will it be construed to constitute, such a partnership or joint venture.

12.5 The provisions of this Agreement are to be considered separately, and if any provision hereof should be found by any court or competent jurisdiction to be invalid or unenforceable, this Agreement will be deemed to have effect as if such provision is severed from this Agreement. All notices and communications required or permitted under this Agreement will be in writing to the Party's address as identified and will be sent by registered or certified mail, postage prepaid, return receipt requested, or electronic mail, with confirmation of receipt.