

DESIGN FOR AMERICA TERMS OF USE

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Welcome, and thank you for your interest in (“**Design for America**,” “**we**,” or “**us**”) and our websites at www.designforamerica.com, and our related websites, Studios (as defined below), networks, applications, and other services provided by us (collectively, our “**Services**”). Design for America is a program of the Thomas J. Watson Foundation (“**Watson**”). These Terms of Use are a legally binding contract between you and Watson regarding your use of the Design for America Services.

PLEASE READ THE FOLLOWING TERMS CAREFULLY.

BY CLICKING “I ACCEPT,” OR BY ACCESSING OR USING ANY OF THE SERVICES, YOU AGREE THAT YOU HAVE READ, UNDERSTOOD, AND, AS A CONDITION TO YOUR USE OF THE SERVICES, YOU AGREE TO BE BOUND BY THE FOLLOWING TERMS AND CONDITIONS, INCLUDING THE DESIGN FOR AMERICA PRIVACY POLICY (THE “PRIVACY POLICY”), A COPY OF WHICH CAN BE FOUND HERE: [ADD PP URL] (TOGETHER, THE “**TERMS**”). IF YOU ARE NOT ELIGIBLE, OR DO NOT AGREE TO THE TERMS, THEN YOU DO NOT HAVE OUR PERMISSION TO USE THE SERVICES. YOUR USE OF THE SERVICES, AND DESIGN FOR AMERICA’S PROVISION OF THE SERVICES TO YOU, CONSTITUTES AN AGREEMENT BY DESIGN FOR AMERICA AND BY YOU TO BE BOUND BY THESE TERMS.

1. **Design for America Services Overview.** Design for America provides a software platform that facilitates design education for social impact and improving community, network and collaboration across the DFA network. Design for America’s network is organized in part through Studios, which are communities of students and educators associated with particular educational institutions. Design for America is not, however, a part of or affiliated with any such educational institution.
2. **Eligibility.** You must be at least 16 years of age to use the Services. By agreeing to these Terms, you represent and warrant to us that: (a) you are at least 16 years of age; (b) you have not previously been suspended or removed from participation in the Services; and (c) your registration and your use of the Services is in compliance with all applicable laws and regulations. If you are an entity, organization, or company, the individual accepting these Terms on your behalf represents and warrants that they have authority to bind you to these Terms and you agree to be bound by these Terms.
3. **Accounts and Registration.** To access most features of the Services, you must register for an account. When you register for an account, you may be required to provide us with some information about yourself, such as your email address or other contact information. We will treat that information under the terms of our Privacy Policy. You agree that the information you provide to us is accurate and that you will keep it accurate and up-to-date at all times. When you register, you will be asked to provide a password. You are solely responsible for maintaining the confidentiality of your account and password, and you accept responsibility for all activities that occur under your account. If you have reason to believe that your account is no longer secure, then you must immediately notify us at info@designforamerica.com.
4. **Licenses**
 - 4.1. **Limited License.** Subject to your complete and ongoing compliance with these Terms, Watson grants you, solely for your personal, non-commercial use, a limited, non-exclusive, non-transferable, non-sublicensable, revocable license to access and use the Services (not including any User Content, as defined below).
 - 4.2. **License Restrictions.** Except and solely to the extent such a restriction is impermissible under applicable law, you may not: (a) reproduce, distribute, publicly display, or publicly perform the Services; (b) make modifications to the Services; or (c) interfere with or circumvent any feature of the Services, including any security or access control mechanism. If you are prohibited under applicable law from using the Services, you may not use it.
 - 4.3. **User Content License.** Subject to your complete and ongoing compliance with these Terms, Watson grants you rights to the User Content pursuant to the Creative Commons Attribution Non Commercial Share Alike 4.0 International (“CC BY-NC 4.0”), unless it is indicated that an item of User Content is provided pursuant to different terms in which case such terms shall apply to such item of User Content.
5. **User Content**
 - 5.1. **User Content Generally.** Certain features of the Services may permit users and Design for America to provide or upload content to the Services, including Microsoft Word documents, Microsoft Excel spreadsheets, Microsoft PowerPoint presentations and similar files in other formats, messages, source code, photos, video, images, folders, data, text, comments, feedback, resources, and other types of content and works (“**User Content**”) and to publish User Content on the Services. Subject to the rights and licenses you grant herein, *you retain copyright and any other proprietary rights that you may hold in the User Content that you post to the Services.*

- 5.2. **Limited License Grant to Watson.** By providing, posting or publishing User Content, you grant Watson a perpetual, irrevocable, worldwide, non-exclusive, sublicensable (including through multiple tiers of sublicensees), no-charge, royalty-free, fully paid right and license (including under all intellectual property and other proprietary rights, including copyright, patent and trademark rights) to all your past, present and future User Content, including the rights to reproduce, prepare derivative works of, publicly display, publicly perform, make available, distribute, use, make, have made, sell, offer for sale and import such User Content.
- 5.3. **Limited License Grant to Other Users.** By providing, uploading or publishing User Content, you grant other users of the Service rights to such User Content pursuant to the CC BY-NC 4.0.
- 5.4. **User Content Representations and Warranties.** You are solely responsible for your User Content and the consequences of providing, uploading, posting or publishing User Content. By providing, uploading, posting or publishing User Content, you affirm, represent, and warrant that:
- you are the creator and owner of the User Content, or have the necessary licenses, rights, consents, and permissions (including from any employer or academic institution with which you are associated) to grant Watson and the other users of the Services the rights and licenses described herein; and
 - your User Content, and the use of your User Content as contemplated by these Terms, does not and will not: (i) infringe, violate, or misappropriate any third-party right, including any copyright, trademark, patent, trade secret, moral right, privacy right, right of publicity, or any other intellectual property or proprietary right; (ii) slander, defame, libel, or invade the right of privacy, publicity or other property rights of any other person; or (iii) cause Design for America to violate any law or regulation.
- 5.5. **User Content Disclaimer.** We are under no obligation to edit or control User Content that you or other users post or publish, and will not be in any way responsible or liable for User Content. Design for America may, however, at any time and without prior notice, screen, remove, edit, or block any User Content that in our sole judgment violates these Terms, the Design for America Code of Conduct or is otherwise objectionable. You understand that when using the Services you will be exposed to User Content from a variety of sources and acknowledge that User Content may be inaccurate, offensive, indecent, or objectionable. You agree to waive, and do waive, any legal or equitable right or remedy you have or may have against Design for America with respect to User Content. We expressly disclaim any and all liability in connection with User Content. If notified by a user or content owner that User Content allegedly does not conform to these Terms, we may investigate the allegation and determine in our sole discretion whether to remove the User Content, which we reserve the right to do at any time and without notice. For clarity, Design for America does not permit copyright-infringing activities on the Services.
6. **Points and Badges**
- Depending on the Service you are using, you or your team or Studio may be rewarded points ("Platform Points") by completing actions and tasks, Design for America may in its discretion provide non-monetary benefits to you or to your team or Studio based on the number of Platform Points accumulated. You acknowledge and agree that Platform Points do not have monetary value and may not be sold, transferred or otherwise assigned to any other person, team or Studio.
 - Your Studio may also receive badges ("Badges") as a means of recognizing contributions and achievements of the Studio's members. Like Platform Points, Badges have no monetary value and cannot be sold, transferred or otherwise assigned to any other person, team or Studio.
7. **Digital Millennium Copyright Act**
- DMCA Notification.** We comply with the provisions of the Digital Millennium Copyright Act applicable to Internet service providers (17 U.S.C. §512, as amended). If you have an intellectual property rights-related complaint about material posted on the Service, you may contact our Designated Agent at the following address:

Thomas J Watson Foundation
ATTN: Design for America
233 Broadway, 27th Floor
New York, NY, 10279
Email: info@designforamerica.com

Any notice alleging that materials hosted by or distributed through the Services infringe intellectual property rights must include the following information:

- an electronic or physical signature of the person authorized to act on behalf of the owner of the copyright or other right being infringed;
- a description of the copyright-protected work or other intellectual property right that you claim has been infringed;

- c. a description of the material that you claim is infringing and where it is located on the Services;
- d. your address, telephone number, and email address;
- e. a statement by you that you have a good faith belief that the use of those materials on the Services is not authorized by the copyright owner, its agent, or the law; and
- f. a statement by you that the above information in your notice is accurate and that, under penalty of perjury, you are the copyright or intellectual property owner or authorized to act on the copyright or intellectual property owner's behalf.

7.2 Repeat Infringers. Design for America will promptly terminate without notice the accounts of users that are determined by Design for America to be “**Repeat Infringers**.” A Repeat Infringer is a user who has been notified of infringing activity or has had User Content removed from the Services at least twice.

8. Prohibited Conduct; Code of Conduct.

8.1. BY USING THE SERVICES YOU AGREE NOT TO:

- a. use the Service for any illegal purpose or in violation of any local, state, national, or international law;
- b. violate, or encourage others to violate, any right of a third party, including by infringing or misappropriating any third party intellectual property right;
- c. post, upload, or distribute any User Content or other content that is unlawful, defamatory, libelous, inaccurate, or that a reasonable person could deem to be objectionable, profane, indecent, pornographic, harassing, threatening, embarrassing, hateful, or otherwise inappropriate;
- d. interfere with security-related features of the Services, including by: (a) disabling or circumventing features that prevent or limit use or copying of any content; or (b) reverse engineering or otherwise attempting to discover the source code of any portion of the Services except to the extent that the activity is expressly permitted by applicable law;
- e. interfere with the operation of the Services or any user's enjoyment of the Services, including by: (a) uploading or otherwise disseminating any virus, adware, spyware, worm, or other malicious code; (b) making any unsolicited offer or advertisement to another user of the Services; (c) attempting to collect personal information about another user or third party without consent; or (d) interfering with or disrupting any network, equipment, or server connected to or used to provide the Services, or violating any regulation, policy, or procedure of any such network, equipment, or server;
- f. perform any fraudulent activity including impersonating any person or entity, claiming a false affiliation, accessing any other Services account without permission, or falsifying your age or date of birth;
- g. sell or otherwise transfer the access granted under these Terms or any Materials (as defined in Section 13) or any right or ability to view, access, or use any Material; or
- h. attempt to do any of the acts described in this Section 8, or assist or permit any person in engaging in any of the acts described in this Section 8.

8.2. BY USING THE SERVICES YOU FURTHER AGREE TO COMPLY WITH DESIGN FOR AMERICA'S CODE OF CONDUCT, AS IT MAY BE AMENDED FROM TIME TO TIME. THE CODE OF CONDUCT CAN BE FOUND HERE: <https://docs.google.com/document/d/17MmvwPN4XHZfTGXKRcSyqACjkMm4SNym5ka3YroYTA0/edit?usp=sharing>.

9. Third-Party Services and Linked Websites. Design for America may provide tools through the Services that enable you to export information, including User Content, to third party services, including through features that allow you to link your account on Design for America with an account on the third party service, such as Twitter or Facebook, or through our implementation of third party buttons (such as “like” or “share” buttons). By using one of these tools, you agree that we may transfer that information to the applicable third-party service. Third party services are not under our control, and we are not responsible for any third party service's use of your exported information. The Services may also contain links to third-party websites. Linked websites are not under our control, and we are not responsible for their content nor for their collection or use of User Content, Personally Identifiable Information or other information you provide to them. We encourage you to review the terms of use and privacy policies of any third party service you access or use.

10. Term; Termination; Modification of the Services

- 10.1. **Term.** These Terms are effective beginning when you accept the Terms or first access or use the Services, and ending when terminated as described in Section 10.2.
- 10.2. **Termination.** If you violate any provision of these Terms, your authorization to access the Services and these Terms automatically terminate. In addition, Design for America may, at its sole discretion, terminate these Terms or your account on the Services, or suspend or terminate your access to the Services, at any time for any reason or no reason, with or without notice. You may terminate your account at any time via the functionality of the Services or by contacting Design for America at support@designforamerica.com.
- 10.3. **Effect of Termination.** Upon termination of these Terms: (a) your license rights will terminate and you must immediately cease all use of the Services; (b) you will no longer be authorized to access your account or the Services; (c) you must pay Design for America any unpaid amount that was due prior to termination; and (d) all payment obligations accrued prior to termination and Sections 10.3 and 13 through 24 will survive.
- 10.4. **Modification of the Services.** Design for America reserves the right to modify or discontinue the Services at any time (including by limiting or discontinuing certain features of the Services), temporarily or permanently, without notice to you. We will have no liability for any change to the Services or any suspension or termination of your access to or use of the Services.
11. **Privacy Policy; Additional Terms**
- 11.1. **Privacy Policy.** Please read the Design for America Privacy Policy carefully for information relating to our collection, use, storage and disclosure of your personal information. The Privacy Policy can be found here: https://docs.google.com/document/d/1I1IkN19Q16_5e8NdziCitR58YX3xwiuCGEcJ5XC5myk/edit?usp=sharing. The Design for America Privacy Policy is incorporated by this reference into, and made a part of, these Terms.
- 11.2. **Additional Terms.** Your use of the Services is subject to all additional terms, policies, rules, or guidelines applicable to the Services or certain features of the Services that we may post on or link to from the Services (the "**Additional Terms**"), such as end-user license agreements for any downloadable software applications, or rules that applicable to a particular feature or content on the Services, subject to Section 12. All Additional Terms are incorporated by this reference into, and made a part of, these Terms.
12. **Modification of these Terms.** We reserve the right, at our discretion, to change these Terms on a going-forward basis at any time. Please check these Terms periodically for changes. If a change to these Terms materially modifies your rights or obligations, you will be required to accept the modified Terms in order to continue to use the Service. Material modifications are effective upon your acceptance of the modified Terms. Immaterial modifications are effective upon publication. Disputes arising under these Terms will be resolved in accordance with the version of these Terms that was in effect at the time the dispute arose.
13. **Ownership; Proprietary Rights.** The Services are owned and operated by Watson in connection with its Design for America program. The visual interfaces, graphics, design, compilation, information, data, computer code (including source code or object code), products, software, services, and all other elements of the Services ("**Materials**") provided by Design for America are protected by intellectual property and other laws. All Materials included in the Services are the property of Watson or our third-party licensors. Except as expressly authorized by Watson through its Design for America program, you may not make use of the Materials. Design for America reserves all rights to the Materials not granted expressly in these Terms.
14. **Feedback.** If you choose to provide input and suggestions regarding problems with or proposed modifications or improvements to the Services ("**Feedback**"), then you hereby grant Design for America an unrestricted, perpetual, irrevocable, non-exclusive, fully-paid, royalty-free right to exploit the Feedback in any manner and for any purpose, including to improve the Services and create other products and services.
15. **Indemnity.** To the fullest extent permitted by law, you are responsible for your use of the Services, and you will defend and indemnify Watson and its officers, directors, employees, consultants, affiliates, subsidiaries and agents (together, the "**Watson Entities**") from and against every claim, liability, damage, loss, and expense, including reasonable attorneys' fees and costs, arising out of or in any way connected with: (a) your access to, use of, or alleged use of, the Services; (b) your violation of any portion of these Terms, any representation, warranty, or agreement referenced in these Terms, or any applicable law or regulation; (c) your violation of any third-party right, including any intellectual property right or publicity, confidentiality, other property, or privacy right; or (d) any dispute or issue between you and any third party. We reserve the right, at our own expense, to assume the exclusive defense and control of any matter otherwise subject to indemnification by you (without limiting your indemnification obligations with respect to that matter), and in that case, you agree to cooperate with our defense of that claim.
16. **Disclaimers; No Warranties**

THE SERVICES AND ALL MATERIALS AND CONTENT AVAILABLE THROUGH THE SERVICES ARE PROVIDED "AS IS" AND ON AN "AS AVAILABLE" BASIS, WITHOUT WARRANTY OR CONDITION OF ANY KIND, EITHER EXPRESS OR IMPLIED. THE DESIGN FOR AMERICA ENTITIES DISCLAIM ALL WARRANTIES OF ANY KIND, WHETHER EXPRESS OR IMPLIED, RELATING TO THE SERVICES AND ALL MATERIALS AND CONTENT AVAILABLE THROUGH THE SERVICES, INCLUDING: (A) ANY IMPLIED WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, QUIET ENJOYMENT, OR NON-INFRINGEMENT; AND (B) ANY WARRANTY ARISING OUT OF COURSE OF DEALING, USAGE, OR TRADE. THE DESIGN FOR AMERICA ENTITIES DO NOT WARRANT THAT THE SERVICES OR ANY PORTION OF THE SERVICES, OR ANY MATERIALS OR CONTENT OFFERED THROUGH THE SERVICES, WILL BE UNINTERRUPTED, SECURE, OR FREE OF ERRORS, VIRUSES, OR OTHER HARMFUL COMPONENTS, AND DO NOT WARRANT THAT ANY OF THOSE ISSUES WILL BE CORRECTED.

NO ADVICE OR INFORMATION, WHETHER ORAL OR WRITTEN, OBTAINED BY YOU FROM THE SERVICES OR ANY MATERIALS OR CONTENT AVAILABLE THROUGH THE SERVICES WILL CREATE ANY WARRANTY REGARDING ANY OF THE DESIGN FOR AMERICA ENTITIES OR THE SERVICES THAT IS NOT EXPRESSLY STATED IN THESE TERMS. YOU ASSUME ALL RISK FOR AND WE ARE NOT RESPONSIBLE FOR ANY DAMAGE THAT MAY RESULT FROM YOUR USE OF OR ACCESS TO THE SERVICES, YOUR DEALING WITH ANY OTHER SERVICE USER, AND ANY MATERIALS OR CONTENT AVAILABLE THROUGH THE SERVICE. YOU UNDERSTAND AND AGREE THAT YOU USE THE SERVICES, AND USE, ACCESS, DOWNLOAD, OR OTHERWISE OBTAIN MATERIALS OR CONTENT THROUGH THE SERVICES AND ANY ASSOCIATED SITES OR SERVICES, AT YOUR OWN DISCRETION AND RISK, AND THAT WE ARE NOT RESPONSIBLE FOR ANY DAMAGE TO YOUR PROPERTY (INCLUDING YOUR COMPUTER SYSTEM OR MOBILE DEVICE USED IN CONNECTION WITH THE SERVICES), OR ANY LOSS OF DATA THAT RESULTS FROM THE USE OF THE SERVICES OR THE DOWNLOAD OR USE OF THAT MATERIAL OR CONTENT.

THE LIMITATIONS, EXCLUSIONS AND DISCLAIMERS IN THIS SECTION APPLY TO THE FULLEST EXTENT PERMITTED BY LAW. Design for America does not disclaim any warranty or other right that Design for America is prohibited from disclaiming under applicable law.

17. Limitation of Liability

TO THE FULLEST EXTENT PERMITTED BY LAW, IN NO EVENT WILL THE WATSON ENTITIES BE LIABLE TO YOU FOR ANY INDIRECT, INCIDENTAL, SPECIAL, CONSEQUENTIAL OR PUNITIVE DAMAGES (INCLUDING DAMAGES FOR LOSS OF PROFITS, GOODWILL, OR ANY OTHER INTANGIBLE LOSS) ARISING OUT OF OR RELATING TO YOUR ACCESS TO OR USE OF, OR YOUR INABILITY TO ACCESS OR USE, THE SERVICES OR ANY MATERIALS OR CONTENT ON THE SERVICES, WHETHER BASED ON WARRANTY, CONTRACT, TORT (INCLUDING NEGLIGENCE), STATUTE, OR ANY OTHER LEGAL, AND WHETHER OR NOT ANY DESIGN FOR AMERICA ENTITY HAS BEEN INFORMED OF THE POSSIBILITY OF DAMAGE.

TO THE FULLEST EXTENT PERMITTED BY LAW, THE AGGREGATE LIABILITY OF THE WATSON ENTITIES TO YOU FOR ALL CLAIMS ARISING OUT OF OR RELATING TO THE USE OF OR ANY INABILITY TO USE ANY PORTION OF THE SERVICES OR OTHERWISE UNDER THESE TERMS, WHETHER IN CONTRACT, TORT, OR OTHERWISE, IS LIMITED TO THE GREATER OF: (A) THE AMOUNT YOU HAVE PAID TO DESIGN FOR AMERICA FOR ACCESS TO AND USE OF THE SERVICE IN THE 12 MONTHS PRIOR TO THE EVENT(S) OR CIRCUMSTANCES GIVING RISE TO CLAIM; OR (B) \$100.

EACH PROVISION OF THESE TERMS THAT PROVIDES FOR A LIMITATION OF LIABILITY, DISCLAIMER OF WARRANTIES, OR EXCLUSION OF DAMAGES IS INTENDED TO AND DOES ALLOCATE THE RISKS BETWEEN THE PARTIES UNDER THESE TERMS. THIS ALLOCATION IS AN ESSENTIAL ELEMENT OF THE BASIS OF THE BARGAIN BETWEEN THE PARTIES. EACH OF THESE PROVISIONS IS SEVERABLE AND INDEPENDENT OF ALL OTHER PROVISIONS OF THESE TERMS. THE LIMITATIONS IN THIS SECTION 17 WILL APPLY EVEN IF ANY LIMITED REMEDY FAILS OF ITS ESSENTIAL PURPOSE.

18. Any dispute, controversy, or claim arising out of or relating to this Agreement or your access to or use of the Services, including, but not limited to, the arbitrability of the matter or the formation, interpretation, scope, applicability, termination, or breach of this Agreement, shall be referred to and finally determined by arbitration in accordance with the JAMS Streamlined Arbitration Rules and Procedures, or JAMS International Arbitration Rules, if the matter is deemed "international" within the meaning of that term as defined in the JAMS International Arbitration Rules. The arbitration shall be administered by JAMS, shall take place before a sole arbitrator, and shall be conducted in New York, New York. If the JAMS International Arbitration Rules apply, the language to be used in the arbitral proceedings will be English. Judgment upon the arbitral award may be entered by any court having jurisdiction. This section shall apply to and require arbitration of all disputes, controversies, and claims, regardless of whether such disputes, controversies, or claims concern a single individual, entity, or other person, multiple individuals, entities, or other people, or classes of individuals, entities, or other people.
19. **Governing Law.** These Terms are governed by the laws of the State of New York without regard to conflict of law principles. You and Watson agree to submit to the personal and exclusive jurisdiction of the state courts and federal courts located within

New York, New York for the purpose of litigating any dispute. You hereby consent to receive service of process by electronic means or social media to the extent allowed by the applicable court. This constitutes express agreement of the parties regarding your consent pursuant to United States Federal Rule of Civil Procedure 5(b)(2)(E) and any applicable state (or other jurisdiction) equivalent.

20. **General.** These Terms, together with the Design for America Privacy Policy and any other agreements expressly incorporated by reference into these Terms, are the entire and exclusive understanding and agreement between you and Watson regarding your use of the Service. Except as expressly permitted above, these Terms may be amended only by a written agreement signed by authorized representatives of all parties to these Terms. You may not assign or transfer these Terms or your rights under these Terms, in whole or in part, by operation of law or otherwise, without our prior written consent. We may assign these Terms at any time without notice or consent. The failure to require performance of any provision will not affect our right to require performance at any other time after that, nor will a waiver by us of any breach or default of these Terms, or any provision of these Terms, be a waiver of any subsequent breach or default or a waiver of the provision itself. Use of section headers in these Terms is for convenience only and will not have any impact on the interpretation of any provision. If any part of these Terms is held to be invalid or unenforceable, the unenforceable part will be given effect to the greatest extent possible, and the remaining parts will remain in full force and effect. Throughout these Terms the use of the word “including” means “including but not limited to.”
21. **Consent to Electronic Communications.** By using the Services, you consent to receiving certain electronic communications from us as further described in the Design for America Privacy Policy. Please read the Design for America Privacy Policy to learn more about our electronic communications practices. You agree that any notices, agreements, disclosures, or other communications that we send to you electronically will satisfy any legal communication requirements, including that those communications be in writing.
22. **Notice to California Residents.** If you are a California resident, under California Civil Code Section 1789.3, you may contact the Complaint Assistance Unit of the Division of Consumer Services of the California Department of Consumer Affairs in writing at 1625 N. Market Blvd., Suite S-202, Sacramento, California 95834, or by telephone at (800) 952-5210 in order to resolve a complaint regarding the Services or to receive further information regarding use of the Services.
23. **No Support.** We are under no obligation to provide support for the Services. In instances where we may offer support, the support will be subject to published policies.
24. **Contact Information.** The Services are offered by the Design for America program of the Thomas J. Watson Foundation , located at 233 Broadway, 27th Floor, New York, NY, 10279. You may contact us by sending correspondence to that address or by emailing us at support@designforamerica.com.