

# Competition Rules

Welcome, and thank you for your interest in the SyncUp Colorado Challenge.

**Please note that the Competition Rules described herein (the “Rules) form a binding contract between Zoma Foundation (the “Foundation” “Us,” “We,” or “our”) and you individually, or, to the extent you are entering the competition or using the Website (as further defined) on behalf of an organization, that organization (“You,” or “Your”). You represent and warrant that You (a) are at least 18 years of age, (b) have the authority to bind Your organization to this Agreement, and (c) meet the eligibility requirements described in this Agreement (as further defined).**

Please read these Rules, and the additional Terms and Conditions to which these Rules are subject, available on the website (the “Terms”, and together with the Rules, the “Agreement”) carefully. In the event of conflict between the Rules and the Terms, the Rules shall govern.

## Competition Overview

Thank you for your interest in the SyncUp Colorado Challenge (“Competition”). By participating in this Competition and in accordance with these Rules, your organization may be eligible for a grant award, subject to reported performance milestones (“Award Eligibility”) from the Foundation (“Competition Sponsor”).

Any application submitted on the Website pursuant to this Agreement (the “Application”) by You, on behalf of your organization (the “Applicant”) must identify the project that is the subject of such Application (the “Project”) pursuant to the instructions provided for on the Competition website: <http://www.syncupcolorado.org> (the “Website”).

The Competition Sponsor reserves the right to terminate, alter, or suspend this process and Competition at any time. By submitting an Application or information pursuant to this Competition, each Applicant shall be deemed to have acknowledged that the Competition Sponsor shall have no obligation to make any Grant Award and shall have no liability to any Applicant or other person or entity should they determine not to proceed with this process or not to make any Grant Award.

The Competition Sponsor also reserves the right but is under no obligation to make any payment to finalist Applicants to defray costs incurred by such organizations in responding to requests of the Competition Sponsor or in participating in the Competition. Applicants who are designated by the Competition Sponsor to receive any grants, including the Grant Award, will be required to enter into an additional Grant Agreement (as further defined) with the Competition Sponsor pursuant to which it reaffirms in writing its agreement to specific key terms and conditions, as described in this Agreement.

## Eligibility

You must meet the conditions described herein to gain eligibility to compete in the Competition; the Competition Sponsor reserves the right to disqualify any Applicant if it deems, in its sole discretion, that You, the Applicant or its Partner have violated the Agreement, and any standards of behavior expressed or implied in them.

## Corporate Structure

The Applicant must be duly organized (in good legal standing under applicable law) as one of the following entity types (the “Corporate Form”):

- An organization under section 501(c)(3) and 509(a)(1) or (2) of the Internal Revenue Code (“IRC”) that has received a tax determination letter from the Internal Revenue Service (“IRS”).
- A private foundation under section 501(c)(3) of the IRC that has received a tax determination letter from the IRS.
- A benefit corporation, flexible purpose organization, or similar “hybrid” organization organized under the laws of a State in the United States.
- A limited liability company structured as a corporation organized under the laws of a State in the United States.
- A governmental unit as defined under Sections [170\(b\)\(1\)\(A\)\(v\)](#) and 170(c)(1) of the IRC
- A non-US entity that is recognized under the law of the applicable jurisdiction as a non-governmental organization, an educational organization, a charitable organization, a social welfare organization, a not-for-profit organization, or similar-type entity that is not a for-profit organization or government agency.
- A for-profit entity organized and in good standing under the laws of the local jurisdiction in which it operates.

## Partner Relationship

The Competition is intended to foster collaboration between different organizations across industries. Therefore, in order to be eligible, The Applicant’s Project must involve collaboration with a bona fide and independent third party organization, as determined in Competition Sponsor’s sole discretion (the “Partner”, and the Applicant’s relationship with such Partner, the “Partnership”). If an Applicant does not have a Partnership at the time of its Application, the Applicant must develop one pursuant to this Agreement by Round 2 (as further defined) subject to these requirements.

Eligible Partnerships must:

1. Be documented with a Memorandum of Understanding between the Applicant and such Partner, outlining the terms of the Partnership. Such MoU must demonstrate that all parties have agreed that the Applicant will have direction, control, and supervision of the proposed Project, and management control of any prospective Award Grant, along with responsibility for Award Grant Stipulations (as further defined).
2. Be organized for the purposes of piloting solutions for Coloradans ages 12-24.
3. Be entered into with a Partner who:
  - a. Is duly organized in a Corporate Form described in these Rules; and
  - b. Has operations primarily in Colorado or is managed primarily in Colorado.

## Additional Requirements

- The Applicant must complete Website registration in accordance with the timelines and other requirements named on the Website.
- The Applicant's Application, Project, and Partnership must otherwise comply with the requirements named on the Website, this Agreement, and applicable law.
- You must be 18 years of age and You must be authorized to submit the Application on behalf of, and be authorized to bind, the Applicant You represent. Upon request, You must show written authorization to do so.
- Neither you nor the Applicant must not be prohibited by law, regulation (including United States or other applicable export laws and regulations) treaty or administrative act from entering into trade relations (including export of technology) with the United States, the state of Colorado, or its citizens.
- The Applicant may participate by registering, but You may not register more than one true and uniform identity on behalf of the Applicant; multiple registrations for an Applicant using multiple identities are not allowed except as otherwise provided in these Rules. We reserve the right to disqualify any Application made by an Applicant violating this limitation, regardless of whether all of the respective parties had knowledge of such violation.

## Ineligibility

The Competition Sponsor reserves the right to reject any Application it deems unfit on the basis of a determination in Competition Sponsor's sole discretion that:

- The laws of the governing jurisdiction applicable to the organization would prohibit or limit the Competition Sponsor from proceeding with the Competition as intended; or
- The consideration or making of any Grant Award would impose additional administrative, tax, operational, or legal burdens on the Competition Sponsor.

No employee or Board member of Zoma Foundation or Common Group LLC (or a member of their immediate family) is permitted to participate either directly or indirectly with any organization submitting an Application; any such participation will disqualify the related Application.

The Applicant's Application may not, in the sole discretion of the Competition Sponsor, contain obscene, provocative, defamatory, or otherwise objectionable or inappropriate content.

## Competition Procedure and Application Evaluation

Applications are evaluated in an initial round ("Round 1") scored by evaluators reviewing Applications in their sole discretion against criteria including (1) Partnership operations, leadership, and capacity; (2) Solution quality; (3) Solution reach and replicability; (4) Solution cost and sustainability (collectively, the "Criteria"). Such evaluators will determine which Application(s) proceed to a subsequent round ("Round 2").

In Round 2, evaluators will determine, using the Criteria, as well as information about such Applications' Projects' performance milestone objectives, whether a recommendation should be made to the Competition Sponsor as to an Award Grant for an Application.

The Applications will otherwise be judged according to the process and criteria described in the Application Evaluation Guide.

## Award Grant Stipulations

Nothing herein represents a commitment by the Competition Sponsor to award an Award Grant, or any other consideration, to any Applicant.

## Stage Gate Funding

As applicable, Grant Awards will be distributed incrementally over a time period and subject to conditions described in the Grant Agreement (as further defined) and in a manner that is appropriate for each winning solution.

During the Competition, finalists will outline the Impact Measurement Plan (as further defined), implementation timeline, related reporting requirements, and award amount that makes the most sense for their Project. Finalists will work with the Competition Sponsor to define the exact stage gate funding approach and milestone hurdles, Grant Award amounts, distribution timelines, reporting obligations, and related terms and conditions, which suit the Project, and which will ultimately be negotiated in good faith between the Parties, and documented in the Grant Agreement.

## Grant Agreement

Any Grant Award awarded by the Competition Sponsor in its sole discretion pursuant to the Competition and this Agreement will be subject to the Competition Sponsor and Applicant (the "Parties") coming to an agreement on the terms of such Grant Award (the "Grant Agreement") and being duly entered into by the Parties. The Grant Agreement shall document, among other key provisions:

1. The performance milestones required to be met by such Project (including without limitation progress on the Impact Measurement Plan, as further defined in this section). The successful completion of these performance milestones forms a material condition of the Grant Award.
2. Reporting Obligations (as further defined) pursuant to which the Competition Sponsor may determine in its sole discretion that performance milestones have been made. The Reporting Obligations form a material condition of the Grant Award.
3. Representations and warranties from You acknowledging that You, solely, are responsible for receiving and utilizing the consideration associated with such Grant Award in a manner compliant with applicable laws, including, without limitation, those laws applicable to 501(c)(3) private foundations.

## Due Diligence

The Grant Award will be subject to successful completion of due diligence. If an Applicant or Partner is selected by the Competition Sponsor as an eligible recipient of a Grant, the Applicant will be required to

provide additional information during the specific stages of the Competition, including but not limited to:

1. A more detailed budget for the use of funds over the time period necessary to complete the proposed Project.
2. Tax Determination Letter, if applicable.
3. An organizational chart showing the roles and responsibilities of the key persons associated with the Project.
4. Biographies of the Project's key staff, detailing their experience relevant to the proposed Project.
5. Impact Measurement Plan for the proposed solution.
6. Existing policies, if any, addressing conflicts of interest, whistleblower, internal controls, anti-money laundering, intellectual property, human subjects research, code of conduct, sexual harassment and other workplace misconduct, ethics, gifts, and any similar policies governing the organization.

The Competition Sponsor reserves the right to perform background checks prior to the determination of any grantees on key individuals associated with the proposed solution that will require authorization from the individuals and the disclosure of certain personal information. The refusal by the key individuals to provide necessary authorizations or information may disqualify the Application. You, on behalf of the Applicant, consent to such diligence being conducted to the maximum extent permitted by law.

## Expenditure Responsibility

The Competition Sponsor is required to exercise expenditure responsibility (as defined in section 4945 of the Internal Revenue Code) and related regulations with respect to grants made to organizations other than those organizations described in section 501(c)(3) and 509(a)(1)(2) or (3) (other than certain supporting organizations described in section 4942(g)(4)(A)(i) or (ii) or an exempt operating foundation described in section 4940 (d)(2) of the Internal Revenue Code). Expenditure responsibility requires, among other things, that the Competition Sponsor undertake appropriate pre-grant due diligence with respect to the proposed grant and exert all reasonable efforts and establish adequate procedures to (i) see that the grant is spent solely for the purpose for which it is/was made; (ii) obtain full and complete reports from the grantee on how the funds are spent; and (iii) make full and detailed reports with respect to such expenditures to the Internal Revenue Service. The Grantee will be obligated to execute a written Grant Agreement and ensure grant funds be deposited into a separate account maintained for charitable purposes until all funds are spent. The Competition Sponsor is also required to take action to recover any funds that are diverted or not spent for charitable purposes.

## Key Definitions

### Impact Measurement Plan

Selected Applicants will be required to submit an Impact Measurement Plan. The Competition Sponsor values impact measurement plans that are capable of flexing as the context may change and as the work evolves, yet sufficiently rigorous to document and measure results, learn from them, course correct, and adapt, as necessary.

- **Impact** is having a strong effect on an outcome or individual. The Competition Sponsor values measurement that focuses on 5 dimensions: Partnership Strategy (i.e. Level of alignment, degree of commitment, and senior-level buy-in among partnering institutions), Partnership Operations (i.e. Degree of efficiency in operating the partnership), Solution Quality (i.e. Magnitude of impact for an individual learner and/or the Colorado education-to-employment system), Solution Breadth (i.e. Magnitude of the potential number of learners reached and/or potential to reach all young Coloradans), and Solution Cost (i.e. Value delivered for resources invested in the proposed solution).
- **Measurement** is a process for systematically collecting data and information. Measurement includes collecting information to assess your solution's performance and the progress toward intended outcomes for beneficiaries.
- **Learning** is an ongoing activity that uses insights from the impact measurement and occurs incrementally and iteratively over time. Learning is used to reflect on how a solution is meeting its intended and unintended changes, what is and is not working, and ensure a solution is effective and remains relevant.

Eligible Grant Award recipients will be held accountable to their Impact Measurement Plan and timeline. Selected Applicants that demonstrate successful progress on their Impact Measurement Plan will be awarded the pre-defined, agreed-to amount at each phase pursuant to the terms and conditions agreed upon by the Parties in the Grant Agreement.

## Reporting

An Applicant awarded a grant will be required to report to the Competition Sponsor progress towards milestones and other goals. Those reporting requirements (the “Reporting Obligations”) will vary, based on the proposed project. However, it is likely that at least in the first year a minimum of two reports on progress with one additional narrative report per year may be required. Additionally, a Grant Recipient requiring expenditure responsibility will be required to submit annual and final narrative and financial reports.

## Other Requirements

### Use of Funds

Grant Awards may not be used for lobbying purposes as defined in section 4945 and related regulations unless the Grantee is a 501 (c) (3) and 509 (a) (1) or (2) organization and complies with the applicable regulations. Further, Grant Awards may not be used to engage in any political activity as defined in section 4945 and related regulations. Additionally, You, on behalf of Applicant, acknowledge it is solely Applicant’s responsibility to use control, manage and supervise such Grant Award in a manner that is consistent with applicable law, including without limitation, tax law.

### Indirect Costs

The Grant Award made by the Competition Sponsor is expected to be used for the purposes of the Project. We realize, however, that in some circumstances an Applicant may have necessary overhead that can be fairly allocable to the Project. The Competition Sponsor will examine carefully overhead costs, as part of the Reporting Obligations, that the Applicant asserts are attributable to or can be allocable to the project to ensure that the bulk of the award is to be spent on project expenses.

## Intellectual Property

Subject to the limited rights expressly granted in this Agreement, We reserve all rights, title, and interest to Our intellectual property, including without limitation intellectual property rights arising from the Competition, and Zoma Foundation generally.

You, on behalf of Applicant, hereby represent and warrant that any information, ideas, data, or other content (“Content”) named or implied in Applicant’s Application is Applicant’s or if it is not Applicant’s, Applicant has a license or other authority permitting Applicant to use any such Content not owned by it. Applicant grants Us a worldwide, non-sublicensable, non-transferable, non-exclusive, terminable, limited license to use, reproduce, adapt, modify, translate, publish, publicly perform, publicly display, host, store, transfer, modify for the purpose of formatting for display, and distribute any Content (including Applicant logos, names, and marks), as further defined, to perform Our obligations under the Competition and for promotional purposes; provided, however, that We shall not publicly perform or publicly display, or otherwise use for promotional purposes, any part of Applicant’s Application without Applicant’s prior consent (except to the extent set forth in the last paragraph of this section in the event Applicant is a finalist or awardee). If any of Applicant’s Content uses or incorporates any intellectual property in which a third party has interest, Applicant will obtain the necessary permissions from the third party to grant Us a worldwide, non-sublicensable, non-transferable, non-exclusive, terminable, limited license to use, reproduce, adapt, modify, translate, publish, publicly perform, publicly display, host, store, transfer, modify for the purpose of formatting for display, and distribute any such intellectual property as contemplated by the preceding sentence.

You, on behalf of Applicant, further agree that any Content named or implied in Applicant’s Application and related materials, may be shared with third-parties engaged to assist the Competition Sponsor with the selection process for the Grant Award, including fellow Applicants, other Judges, experts retained by the Competition Sponsor to assist selected Applicants, affiliates of the Competition Sponsor, technical assistance providers and other employees, directors and agents of the Competition Sponsor necessary for the administration of the Competition. The Competition Sponsor may also use such information for its internal purposes or in connection with outside studies or research or with respect to other charitable purposes.

Except as described in this Agreement, the Competition Sponsor will not use any information for commercial purposes or sell the information to third parties. Should an Applicant’s project be funded, the Competition Sponsor reserves the right to post for viewing by the general public portions of the Application, specifically, the Applicant’s name, the project title (if any), the description of the solution design and methodology, and the amount of the Grant Award. Without limiting the following, you acknowledge and agree that Applicant’s submission may also be included in a database maintained by an outside third party. An Application will not be returned to an Applicant. Each Applicant should retain a copy of its Application.

Each Grant Agreement will include terms governing the Applicant's and Our respective intellectual property rights with respect to any inventions, discoveries, designs, reports, analyses, papers, research, software, data sets, curriculum, books, films, television or radio programs, or other work products or works of authorship (collectively, "Work Product") to be funded by a Grant Award. In general, all such Work Product must be used to further charitable purposes and benefit the public, and all funds from the sales or licenses of Work Product must not inure to the benefit of any individual or noncharitable entity. The terms and conditions of each Grant Agreement may vary, depending on the nature of the project and the Applicant receiving the Grant Award.

**Representations and Warranties**

You, on behalf of Applicant, acknowledge and agree that:

1. Although Applicant is working with a Partner on the Project, Applicant is the sole Applicant, Applicant is the sole prospective subject of the Grant Award, and Applicant solely takes responsibility for the legal obligations arising from this Agreement, the Competition, and any prospective \Grant Award, as well as control, management and supervision of the Project.
2. Applicant or Applicant's licensors own all right, title, and interest to any Content submitted as part of its Application or Project,
3. If Applicant is not recognized as a charitable organization or the equivalent under United States law, it is Applicant's responsibility to ensure that the Grant Award will be used solely for charitable purposes and will not result in more than incidental private benefit to shareholders or other people, organizations, or entities and that the incidental benefit is a necessary byproduct of the accomplishment of the charitable purpose. The Competition Sponsor will evaluate this on a case-by-case basis. Applicants should consult their own legal counsel for more information and analysis regarding these issues.

## Indemnification

Applicant agrees that it will be responsible for its Application, Project, and participation in the Competition.

You, on behalf of Applicant, further agree to defend and indemnify and hold Us and our agents from and against every third-party claim, liability, damage, loss, and expense, including reasonable attorneys' fees and costs, arising out of or in any way connected with: (a) Your and Applicant's participation in the Competition; (b) Your or Applicant's violation of any portion of this Agreement, any representation, warranty, or agreement referenced in this Agreement, or any applicable law or regulation; (c) Your or Applicant's 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 Applicant 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 Applicant (without limiting your indemnification obligations with respect to that matter), and in that case, You, on behalf of Applicant, agree to that Applicant will cooperate with our defense of that claim. The assumption of such defense or control by us, however, shall not excuse any of Applicant's indemnity obligations.

## Limitation of Liability

By submitting Applicant's Application, You, on behalf of Applicant, agree to release, discharge and hold harmless the Competition Sponsor and its partners, affiliates, subsidiaries, advertising agencies, agents, employees, officers, directors and representatives from any claims, damages, expenses, or losses of any

kind or nature arising out of or related to this Agreement, Applicant's participation in the Competition, and the acceptance and use, misuse, or possession of any Grant Award, to the maximum extent permitted by law.

**IN NO EVENT WILL WE BE LIABLE TO YOU OR APPLICANT 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 THEORY, AND WHETHER OR NOT YOU HAVE BEEN INFORMED OF THE POSSIBILITY OF DAMAGE.**

**YOU, ON BEHALF OF APPLICANT, FURTHER AGREE THAT OUR AGGREGATE LIABILITY TO YOU FOR ALL CLAIMS ARISING OUT OF OR RELATING TO THE COMPETITION OR OTHERWISE UNDER THIS AGREEMENT, WHETHER IN CONTRACT, TORT, OR OTHERWISE, IS LIMITED TO \$500.**

## **Waiver of Warranties & Assumption of Risk**

Neither the Competition Sponsor nor its partners, affiliates, subsidiaries, advertising agencies, agents, employees, officers, directors and representatives assume responsibility for any error, omission, interruption, deletion, defect, or delay in operation or transmission; communications line failure; theft or destruction of or unauthorized access to Competition applications or application forms; or alteration of applications or application forms.

Neither the Competition Sponsor nor their partners, affiliates, subsidiaries, advertising agencies, agents, employees, officers, directors and representatives are responsible for any problems with or technical malfunction of any telephone network or lines, computer online systems, servers or providers, computer equipment, software, failure of any application to be received on account of technical problems or traffic congestion on the Internet or any website, human errors of any kind, or any combination thereof, including any injury or damage to Applicants' or any other persons' computers related to or resulting from participation, uploading or downloading of any materials related to this Competition.

## **Miscellaneous**

### **Dispute Resolution.**

Applicants agree that this Competition shall be subject to and governed by the laws of Colorado and the United States of America and the forum of any dispute shall be in the courts of Colorado, United States of America. To the extent permitted by law, the right to litigate, to seek injunctive relief or to make any other recourse to judicial or any other procedure in case of disputes or claims resulting from or in connection with this Competition are hereby excluded and any entrant expressly waives any and all such rights. Certain restrictions may apply.

### **Severability.**

If any term (or part of a term) of this Agreement is invalid, illegal, or unenforceable, such invalid, illegal, or unenforceable provision shall be enforced only to the extent permitted by law, and the rest of the Agreement will remain in effect.

### **Amendments.**

This Agreement may be amended at any time by Us in Our sole discretion.