

## 2021 MAKE IT BIG AWARDS COMPETITION TERMS & CONDITIONS

THERE IS NO PURCHASE OR PAYMENT NECESSARY TO ENTER OR WIN. A PURCHASE WILL NOT INCREASE YOUR CHANCES OF WINNING. VOID WHERE PROHIBITED.

**DESCRIPTION OF THE COMPETITION.** The 2021 Make It Big Awards Competition (the “**Competition**”) is a skill contest offered by BigCommerce Pty. Ltd. (the “**Sponsor**”), in which merchants or their designers headquartered in an Eligible Jurisdiction can submit their storefront design that utilizes the BigCommerce ecommerce solution (“**BigCommerce Solutions**”). Four (4) Category winners and one (1) People’s Choice winner will be selected from all eligible Participants to receive the prizes described in the ‘Prizes’ section below, as described in detail herein.

The Competition will flow as follows:

- **Submission Period:** The Submission Period begins on July 21, 2021 and ends on August 12, 2021 at 11:59:59 pm Central Time (“**CT**”) (the “**Submission Period**”).
- **Submission Review, Evaluation & Judging:** Concurrent with and following the Submission Period, eligible “**Entries**” (as defined below) will be reviewed and evaluated according to the criteria set forth in herein by representatives of Sponsor. Based on initial review and evaluation of the Entries, Sponsor will select between 20 – 25 finalists (each a “**Finalist**”, collectively the “**Finalists**”) to proceed to the People’s Choice voting. Additionally, during the time, representatives of Sponsor will select the Category winners as described below.
- **Finalist Notification:** On or about October 1, 2021, the 20 – 25 Finalists will be contacted to confirm eligibility, and obtain releases.
- **People’s Choice Voting Period:** Upon confirmation of eligibility, Finalist’s Entries will be shared on the “**Competition Website**”. The People’s Choice Voting Period begins on August 26, 2021 at 12:00:01 am CT and ends on September 8, 2021 at 11:59:59 pm CT. During the People’s Choice Voting Period, members of the public will have the opportunity to vote on each Finalist Entry, as described below.
- **Winner Notification:** Winner notification for all prizes will be made in October 2021.

**ELIGIBILITY TO PARTICIPATE IN THE COMPETITION.** To be eligible to participate in the Competition and win a prize, participants must: (a) must have an existing paid account for BigCommerce Solutions in good standing prior to July 21, 2021 and effective as of the date of the participant’s entry in the Competition; and (b) be headquartered in the United States or District of Columbia, Australia, Canada, or United Kingdom (each an “**Eligible Jurisdiction**”), and (c) maintain an active BigCommerce account through the time during which the Prizes are awarded and fulfilled. Any entry submitted on behalf of a merchant must be submitted by the administrator or owner of the submitted storefront or by a Partner of that storefront. A Partner must have the permission of the applicable merchant to submit that storefront in the Competition. All entries will be deemed to have to been submitted on behalf of and by the

merchant that operates the online storefront to which the entry pertains. Any owner, shareholder, manager or employee of Sponsor or its parent, affiliate, or subsidiary companies, or any person involved in the development, promotion, marketing, advertising, administration, or judging of this Competition is not eligible to enter or to win. Each eligible entity that enters this Competition will be referred to in these Terms as a **“Participant.”** A **“Partner”** means an enrollee in BigCommerce’s Design and Solution Partner Program, described in more detail here: <https://www.bigcommerce.com/partners/>.

**ACCEPTANCE OF TERMS AND CONDITIONS.** As a condition to entering this Competition and receipt of any Prize, each Participant must accept and agree to these Terms and Conditions (**“Terms”**), which become a binding legal agreement between the Participant and Sponsor. Therefore, please read these Terms prior to entry to ensure you understand and agree to them. A Participant may not submit an Entry Form or participate in the Competition, and is not eligible to receive the Prize described in these Terms, unless it agrees to these Terms.

**HOW TO ENTER THE COMPETITION.** To enter the Competition during the Submission Period, a prospective Participant must complete and submit the following material and information (collectively, the **“Entry”**) at the website located at <http://www.bigcommerce.com/awards/design> (the **“Competition Website”**): Name of the company whose storefront is being submitted, the submitting person’s e-mail address, the URL of the storefront you are submitting for consideration, the Partner (if any) that is submitting an Entry on behalf of a client, and what makes the submitted website innovative.

The clock on Sponsor’s computer used for the Competition will be the official clock for the Competition. Sponsor is not responsible for lost, late, incomplete, invalid, illegible, or misdirected Entries, which will be disqualified; for technical failures of any kind, including, but not limited to, electronic malfunctioning of any network, hardware or software; any failed, incomplete, garbled, or delayed computer transmissions or any combination thereof; or for any error, human, technical, or otherwise.

**ENTRY REQUIREMENTS.** All Entries must meet the following requirements: **(a)** the Entry must be from a storefront owned or operated by the Participant or submitted by a Partner on behalf of a Participant that owns or operates the storefront; **(b)** the Entry must be in English and conform to any format requirements specified on the Competition Website; **(c)** the Entry may not feature or contain any material showing unsafe behavior or situations, alcohol or tobacco use, weapons, profanity, nudity, pornographic images or explicit sexual themes, graphic violence, defamatory or libelous statements, false or misleading advertising, or any other material considered illegal or inappropriate; and **(d)** the Entry must be the original work of the Participant (except for public domain material or material provided by the designer retained by Participant to create the storefront or templates provided by BigCommerce Solutions) and must be under no restriction, contractual or otherwise, that will prevent Sponsor’s use of the Entry. Participant acknowledges, agrees, and warrants that the Entry does not infringe on any copyrights, patents, confidential information, trade secrets, trademarks, or proprietary, industrial, or other rights of any third party, or violate any person’s rights of privacy or publicity or violate any law, rule, statute, or order of

any jurisdiction.

## **SELECTION AND NOTIFICATION OF FINALISTS**

**Determination of Finalists.** At the end of the Submission Period, Sponsor will select 20-25 Finalists from all eligible Participants based on the following criteria: overall site design, conversion optimization, product imagery and mobile responsiveness. All Finalists will be considered for all Category Prizes and People's Choice voting based on overall site design, conversion optimization, product imagery and mobile responsiveness. Each Finalist will have their name and Entry uploaded onto the Competition Website for public viewing and voting.

On or about August 20, the potential Finalists, will be notified via the email and/or at the phone number associated with the Entry. Potential Finalists will be required to respond as directed by the Sponsor to the notification within forty-eight (48) (or a shorter time if required by exigencies) of first attempted notification. The failure to respond timely to the notification may result in forfeiture of the potential Finalist standing and, in such case, Sponsor may select an alternate Finalist, based on the judging results.

Each potential Finalist will be required to verify his or her permanent legal address, his or her eligibility in a form satisfactory to the Sponsor, and to execute and return an affidavit of eligibility and liability release, and, unless prohibited by law, a publicity release (the "**Finalist Documents**") along with other information that may be required in order to complete a social media check, within a reasonable amount of time, as determined by the Challenge Entities in their sole discretion.

Potential Finalists are bound to confidentiality and are NOT permitted to publicly announce their status as a Finalist (in any way, including social or traditional media) prior to the start of the People's Choice Voting Period. A Finalist's breach of such confidentiality will result in his/her forfeiture of the Finalist standing, and, in such case, Sponsor may select an alternate or proceed with fewer Finalists.

## **SELECTION OF PEOPLE'S CHOICE WINNER**

During the People's Choice Voting Period, the Finalists' entries will be posted on the Competition Website and members of the general public will be invited to select their favorite Finalist by following the instructions on the Competition Website. Voting for the People's Choice Winner is limited to one (1) vote per person per day and the first vote requires email confirmation. For purposes of these Terms and Conditions, a 'day' is defined as any twenty-four (24) hour period during the Public Voting Period beginning at 12:00:01 am CT and ending twenty-four (24) hours later at 11:59:59 pm CT. Sponsor reserves the right to change the limit on the number of votes per person in its sole discretion. Notification of any such change will be posted on the Competition Website. Any suspected or deliberate attempt to manipulate, or otherwise fraudulently tamper with the voting process, may result in disqualification, at the sole discretion of the Challenge Entities.

Fraudulent tampering includes but is not limited to:

- using multiple accounts in an attempt to exceed the voting limit.
- vote brokering via a 3<sup>rd</sup> party service, website or any other service which exists for the purpose of exchanging or soliciting votes to manipulate the voting results.
- offering any type of inducement or compensation (monetarily or otherwise) to any third party, in exchange for a vote in any manner.
- use of proxy voting; and
- votes generated by a macro, script, bot or other fraudulent means in an attempt to manipulate the outcome of the Voting Period.

Sponsor has the right, in its sole discretion, to void any vote that appears to have been made by a person not meeting the eligibility requirements set forth above or appears to be an automated, altered or duplicate vote, and has the right to permanently disqualify from voting or the Competition any person (and all of such person's Entries) it believes has violated these rules or tampered with the voting process. If for any reason the online voting system is not capable of being run or implemented as planned, including, but not limited to, as the result of infection by computer viruses or bugs, tampering, unauthorized intervention, fraud, technical difficulties or any other cause beyond the control of the Sponsor, which is likely to, or actually corrupts or affects the administration, security, fairness, integrity, or proper conduct of the voting, then Sponsor reserves the right, in its sole discretion, to withdraw the transmission of any vote and/or to terminate or suspend the voting at any point and declare the voting results for the People's Choice Winner based upon the votes up to that point.

**People's Choice Winner.** The "**People's Choice Winner**" will be the Finalist who receives the most votes during the People's Choice Voting Period, as determined by Sponsor in its sole discretion. In the event of a tie for the most votes, the People's Choice Winner will be determined by the "Judges" (as defined below). In the event that the People's Choice Winner was also selected by the Sponsor to win a Category Prize, they will receive the Category Prize, as applicable, and the Finalist with the next most People's Choice votes will be the People's Choice Winner.

## **SELECTION OF CATEGORY WINNERS**

**Grand Prize Winner and Category Winners.** Following the selection of the Finalists, a panel of judges selected by Sponsor (collectively, the "**Judges**"), will select four (4) Category winners, including one (1) Design Award winner (the "**Design Award Winner**"), one (1) Innovation Award winner (the "**Innovation Award Winner**"), one (1) Emerging Brand Award winner (the "**#EcommStrong**"), and one (1) #EcommStrong Award winner (the "**#EcommStrong Award Winner**" and, together with the Design Award Winner, the Innovation Award Winner, and the Emerging Brand Award Winner, the "**Category Winners**") from the Finalists based on the following criteria: overall site design, conversion optimization, product imagery and mobile responsiveness. In the event of a tie, the winner be determined by the Judges based on overall

design. All decisions of the Judges are final and binding on all Participants.

The Category Winners and the People's Choice Winner are sometimes collectively referred to as the "**Winners**" and each, individually, a "**Winner**".

**PRIZES.**

The following prizes ("**Prizes**") will be awarded. The Winners will each receive (a) a check in the amount of five thousand U.S. dollars (USD \$5,000); (b) a BigCommerce Growth Services package of Winner's choice, valued up to \$750 (for more information visit <https://www.bigcommerce.com/growth-services/>); (c) a feature in Times Square NASDAQ and Reuters Towers; (d) the opportunity to be featured in Sponsor marketing (as determined at the sole discretion of Sponsor, which may include exposure in Sponsor's blog content, social media, press and more); and (e) a no more than 60-minute time virtual meeting with a BigCommerce executive of their choice. Each finalist will receive features on the Sponsor's website, blog, social and email content.

**NOTIFICATION OF GRAND PRIZE WINNER.** The Winners will be notified in October 2021, by e-mail, regular mail, or phone, at the e-mail address, mailing address, or phone number provided by the winning Participants in registering for the Competition. The form and manner of notification is at Sponsor's sole discretion. Participants are responsible for updating their contact information for purposes of Prize notifications. If a Winner notification or attempted notification is returned undeliverable, or if a Winner does not respond to a Prize notification within ten (10) days of the date of such notification, their applicable Prize will be forfeited and may be awarded to an alternative Participant using the criteria in the 'Grand Prize Winner and Category Winners' section above. The Winners will be required to execute and return to Sponsor a "Prize Acceptance Form" and applicable tax documents in such form as designated by Sponsor. If these documents are not executed by any Winner and received back by Sponsor within ten (10) days of the date they are mailed by Sponsor, the applicable Prize will be forfeited and an alternative Winner selected in accordance with the criteria set forth above.

**OTHER PROVISIONS REGARDING THE PRIZE.** The Prizes are not transferable and no prize substitution is available, except that Sponsor may substitute another prize of equal or greater value in place of the stated Prize, to the extent permitted by applicable law. Any Prizes other than cash itself are not redeemable in cash.

**TAXES.** The Winners are each solely responsible for paying, and agree to indemnify and hold harmless Sponsor from and against, any and all applicable federal, state, and local taxes that may be imposed in connection with any Prize they are awarded.

**NO CONFIDENTIALITY.** Participants agree and acknowledge that their Entry and participation in the Competition will be not be treated as confidential and may be made available to the public, including, but not limited to, posting on the Internet. Sponsor does not guarantee any confidentiality with respect to any Entry and ideas contained therein should not contain

Participant's or any third party's confidential information or trade secrets.

**INTELLECTUAL PROPERTY RIGHTS.** As between BigCommerce and the Participant, the Participant retains ownership of all intellectual and industrial property rights (including moral rights) in and to the product that is submitted (excluding BigCommerce's rights in the BigCommerce logo, trademark, products and services). As a condition to entry into this Competition, each Participant and Partner that submits an Entry on behalf of a Participant grants to Sponsor and each of its parent, subsidiaries, affiliates, employees, licensees, designees, successors, and assigns as well as any and all Judges for the Competition (collectively the "**Sponsor Entities**"), a fully transferable, perpetual, irrevocable, and royalty-free worldwide license to reproduce, distribute, modify, publicly display, publicly perform, publish, and otherwise use the Entry in any and all media and formats, whether now known or hereafter developed, and for any purpose, including without limitation: (a) any purpose relating to the Competition; (b) the marketing, advertising, and promotion of the Competition; and (c) the marketing, advertising, promotion, and development of Sponsor's products and services, including without limitation, the BigCommerce ecommerce solutions. These uses may include, but are not limited to, posting the Entry on any internal or public external websites and the Internet, and transmitting the Entry to the Judges for evaluation of the Entry. Each Participant agrees, upon Sponsor's request, to do or perform all such actions and execute all such further documents and instruments as may be necessary or advisable in order to perfect or otherwise make the above license grant fully effective.

**RELEASE OF LIABILITY.** By entering the Competition, and to the maximum extent permitted by law, each Participant agrees to and hereby releases all of the Sponsor Entities and any of their directors, officers, employees, and agents from any and all liability, losses, costs, damages, or injuries arising out of its participation in this Competition, with respect to the awarding, receipt, use and/or misuse of any Prize, or participation in any Prize-related travel or other activity, including without limitation, personal injury, death, and property damage, and claims based on publicity rights, defamation, or invasion of privacy to the Participants.

**PRIVACY.** Any personally identifiable information, including, but not limited to, name, e-mail address, physical address, telephone, and mobile phone number (collectively, the "**Personal Information**") provided by a Participant hereunder will be collected, stored and used under Sponsor's privacy policy at <https://www.bigcommerce.com/privacy/> ("**Privacy Policy**"). Such Personal Information may be used by Sponsor for the purposes of administering the Competition, contacting Participants during the Competition, and notifying and publicizing the Winners and for all other purposes specified in the Privacy Policy.

**PUBLICITY.** By participating in the Competition, Participants, the Winners and any Partner that submitted an entry on behalf of a Winner agree that Sponsor may use and publicize their company name, logo and trademarks, background information on the company, their submitted online storefront and their use of the BigCommerce ecommerce platform, as well as their Entry, for any advertising and promotional purposes (including without limitation, promoting the Partners', Participants' and Winner's use of Sponsor's ecommerce solutions) at Sponsor's sole

discretion in any and all media now known or hereinafter developed worldwide without territorial or time limitations, or right of approval, and for no additional compensation, except where prohibited or restricted by law. Without limiting the foregoing, the Partners and Winners specifically agree that Sponsor may feature and discuss them, their storefront design and their use of BigCommerce Solutions in one or more published case studies (including without limitation publication on the Internet and on Sponsor's website) worldwide.

**WARRANTY & DISQUALIFICATION.** Each Participant agrees not to submit a storefront that: (a) infringes any third party proprietary rights, intellectual property rights, industrial property rights, personal or moral rights or any other rights, including without limitation, copyright, trademark, trade names, industrial designs, patent, trade secret, privacy, publicity or confidentiality obligations; or (b) otherwise violates applicable state, federal, or local law. Sponsor reserves the right to disqualify any participant found tampering with the entry process or with the operation of the competition, or engaging in any form of fraudulent activity or unsportsmanlike conduct, or violating these official rules. Any attempt by a participant to deliberately damage or undermine the legitimate operation of the competition may be in violation of criminal and civil laws and will result in disqualification of such participant. Should such an attempt be made, sponsor reserves the right to seek remedies and damages (including attorney's fees) from any such participant to the fullest extent of the law, including criminal prosecution.

**WINNER'S LIST.** The Winners will be notified in October 2021 and their company names and logos will be posted on the BigCommerce blog and social channels on or after October 21, 2021.

**DISCLAIMERS.** PARTICIPANTS AGREE THAT THE COMPETITION WEBSITE AND ANY PRIZE AWARDED ARE BEING PROVIDED "**AS IS**", AND THAT THE SPONSOR ENTITIES MAKE NO WARRANTY, REPRESENTATION, OR GUARANTEE REGARDING THE COMPETITION WEBSITE OR THE PRIZE, INCLUDING, BUT NOT LIMITED TO, THEIR QUALITY, CONDITION, MERCHANTABILITY, OR FITNESS FOR A PARTICULAR PURPOSE. THE SPONSOR ENTITIES MAKE NO WARRANTY THAT (I) THE COMPETITION WEBSITE AND ANY CONTENT, FEATURES, OR FUNCTIONALITY OFFERED THEREON: (A) WILL MEET ANY REQUIREMENTS; (B) WILL BE UNINTERRUPTED, TIMELY, SECURE, OR ERROR-FREE; OR (II) THAT THERE WILL BE NO ERRORS IN THE COMPETITION WEBSITE OR ANY CONTENT, FEATURES, OR FUNCTIONALITY OFFERED THEREON. THE SPONSOR ENTITIES SHALL NOT BE RESPONSIBLE FOR ANY DAMAGE CAUSED TO PARTICIPANT'S COMPUTERS OR DATA, OR FOR ANY BUGS, VIRUSES, TROJAN HORSES, OR OTHER DESTRUCTIVE CODE RESULTING FROM USE OF THE COMPETITION WEBSITE OR ANY CONTENT OBTAINED FROM THE COMPETITION WEBSITE.

**No Viruses.** Participants agree to not upload, post, or transmit any materials which contain any computer viruses, Easter eggs, worms, Trojan Horses, or other harmful components or programming routines that are intended to damage, detrimentally interfere with, surreptitiously intercept, or expropriate any system, data, or personal information.

**Cancellation.** Sponsor reserves the right to cancel, modify, postpone, extend the deadlines, or

end the Competition at any time, in its sole discretion. Without limiting the foregoing, Sponsor reserves the right to modify, suspend, or terminate this Competition in the event that it becomes technically impaired or if the Competition cannot be conducted as planned by causes beyond the control of the Sponsor.

**Governing Law.** All claims arising out of this Competition and all issues and questions concerning the construction, validity, interpretation, and enforceability of the Terms, or the rights of Participants, shall be governed by and construed in accordance with the laws of the State of Texas and the United States of America, without regard to conflicts of law principles.

**Dispute Resolution.** All disputes, controversies, or claims arising out of or related to the Competition shall be submitted for arbitration to be administered by the American Arbitration Association ("**AAA**") on demand of either party. Such proceeding shall be conducted in the English language in Austin, Texas before a panel of three (3) arbitrators and shall be conducted in accordance with the then current Commercial Arbitration Rules of the AAA. Each party shall appoint one (1) arbitrator and the two (2) arbitrators so appointed shall appoint a third arbitrator to act as Chairman of the tribunal. If a party fails to nominate an arbitrator within thirty (30) days of the commencement of the arbitration, such appointment shall be made by the AAA. The two (2) arbitrators thus appointed shall attempt to agree upon the third arbitrator to act as Chairman. If said two (2) arbitrators fail to nominate the Chairman within thirty (30) days from the date of appointment of the second arbitrator to be appointed, the Chairman shall be appointed by the AAA. Unless otherwise provided in this Section, all matters within the scope of the Federal Arbitration Act of the United States (9 U.S.C. §1 et seq.) shall be governed by it. The arbitrators shall have the right to award or include in their award any relief which they deem proper in the circumstances, provided that the arbitrators shall not have the authority to award exemplary, punitive damages, or statutorily enhanced damages. The decision of the arbitrators shall be final and binding, and judgment on the arbitration award may be entered in any court having jurisdiction over the subject matter of the controversy. Arbitration shall be the exclusive final remedy for any dispute between the parties. Any and all disputes, claims, and causes of action arising out of or in connection with the Competition, or any Prizes awarded, shall be resolved individually without resort to any form of class action. No claim for arbitration under this provision may be made more than one (1) year after the date the Grand Prize Winner of the Competition is announced.

**LIMITATION OF LIABILITY.** TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, EACH PARTICIPANT HEREBY WAIVES ALL RIGHTS TO CLAIM PUNITIVE, INCIDENTAL, AND CONSEQUENTIAL DAMAGES AND ANY OTHER DAMAGES, OTHER THAN FOR ACTUAL OUT-OF-POCKET EXPENSES, AND ANY AND ALL RIGHTS TO HAVE DAMAGES MULTIPLIED OR OTHERWISE INCREASED. SOME JURISDICTIONS DO NOT ALLOW THE LIMITATIONS OR EXCLUSION OF LIABILITY FOR INCIDENTAL OR CONSEQUENTIAL DAMAGES, SO THE ABOVE MAY NOT APPLY TO PARTICIPANTS.

**SEVERABILITY.** The invalidity or unenforceability of any provision of these Terms shall not affect the validity or enforceability of any other provision. In the event that any provision is determined to be invalid or otherwise unenforceable or illegal, these Terms shall otherwise remain in effect and shall be construed in accordance with their terms as if the invalid or illegal provision were not contained herein.

**SPONSOR.** BigCommerce Pty. Ltd., 11305 Four Points Drive Building 2, 3rd Floor, Austin, TX 78732.