



IDEA NY 2018-19 Participation Agreement

1) Program. Teams wishing to compete for IDEA NY prize funding must first be accepted into the Air Force Research Lab Commercialization Academy program. During this business incubator program, entrepreneurs will develop their business in preparation for the IDEA NY Demo Day, which will be the culmination of each Commercialization Academy cohort. During the Commercialization Academy program, each team shall:

- a. Create a document that explains Company goals and how it plans to accomplish such goals; specifically, a written proposal outlining the business idea and includes financial, marketing, and operational plans, as amended from time to time (the "**Business Plan**") containing prioritized tasks associated with an outline of necessary expenditures which marks a stage in the development of the Team; and
- b. Prepare a "pitch" to the Demo Day judges. This pitch shall include a plan of proposed expenses that will be made in the event that the Team is a Prize winner at Demo Day.

2) Prizes. Teams that successfully complete each of the previously listed items will be invited to Demo Day. This event is the opportunity for teams to compete for the following IDEA NY cash prizes:

<u>Ranked</u>	<u>Amount of Prize</u>
Rank 1	Up to \$200,000
Rank 2	Up to \$100,000
Rank 3-6	Up to \$8,000

- a. Each team that is awarded a Prize at Demo Day will be invited to participate in the IDEA NY accelerator program, hosted by the Griffiss Institute Business Incubator. This accelerator program will endure for one year, starting three months after Demo Day. Upon acceptance into the IDEA NY program, Teams will:
 - i. Become a participant of Griffiss Institute Business Incubator
 - ii. Locate their business within the Mohawk Valley Region, defined in Paragraph 4 (a), for at least one year. IDEA NY requires that the Company's primary office, where the CEO and at least 50% of all staff conducts daily work functions, be located in the Mohawk Valley region.

3) Conditions to Receipt of Prizes. As a condition to receipt of Prizes, each Team agrees to each of the following conditions:

- a. The Team shall be in compliance with the rules of the Program established by the Griffiss Institute, as amended from time to time, to the extent such rules are not inconsistent with the terms and conditions hereof (the "**IDEA NY Rules**")
- b. All statements contained in the Team's Commercialization Academy application shall be true and correct in all respects, unless otherwise disclosed in writing to the Griffiss Institute.
- c. The Team shall have (i) incorporated as a corporation or a limited liability company (the "**Company**") under the laws of one of the fifty (50) states of the United States of America and (ii) furnished to the Griffiss Institute a copy of its incorporation/formation documents, together with all amendments, and a copy of its Bylaws, Shareholders Agreement, Operating Agreement, as the case may be, and such other similar documents, all in form and substance reasonably satisfactory to the Griffiss Institute.
- d. The Team shall not have been a previous winner of IDEA NY Prize funding.
- e. The Team shall have furnished such bills of sale of other documents as the Griffiss Institute shall reasonably require showing that the Company has good, marketable and valid title to all of its operating assets, subject only to those liens and encumbrances which are reasonably acceptable to the Griffiss Institute.
- f. The Team shall have furnished a certificate, affidavit or other statement stating that there are no actions, suits, proceedings or investigations pending or threatened against the Company to the best of its knowledge.
- g. The Team shall have furnished agreements from key personnel of the Company providing for the confidentiality of all Company property and key personnel's agreement not to compete with the business of the Company or solicit its customers or employees, all in form reasonably satisfactory to the Griffiss Institute.
- h. The IDEA NY administrator will review and approve proposed expenses of IDEA NY Prize winners.
- i. Each Team participating in IDEA NY will be awarded up to 25% of its prize at the beginning of the IDEA NY Accelerator program ("up front"), and shall outline planned expenses before receiving it, and prove presence in the Mohawk Valley.
- j. Subsequent distribution of Prize money to teams shall take place quarterly, and shall be distributed upon the submission of a progress report, and upon approval by the IDEA NY administrator of a summary of planned expenses.

- k. Teams shall be required to consult with the IDEA NY administrator at a minimum on a quarterly basis to review spending plans and upcoming business-building activities and priorities.
- l. Teams shall be allowed to spend Prize money on the following basis:
 - i. Cost of Workspace – Team workspace shall be an allowable expense, and teams shall submit documentation of workspace expenses in the form of lease/rent agreement, etc.
 - ii. Capital expenses – Teams may use Prize money for the purchase of capital assets, including computers and other technical equipment that will be essential in the process of building a marketable product or service. The IDEA NY administrator shall approve any such proposed expenses.
 - iii. Consultant services – Teams may use Prize money to procure the services of consultants and other service providers that are essential in the process of building a marketable product or service. The IDEA NY administrator shall approve any such proposed expenses.
 - iv. Trade Shows/Conferences – Teams may use Prize money for the purpose of attending conferences, trade shows, and other events where business may be conducted. The IDEA NY administrator shall approve any such proposed expenses.
- m. The teams will be required to periodically submit at a minimum of a quarterly progress report. Due date will be determined by New York State.
- n. Anytime a funding request is submitted, an additional progress report with supporting documentation of eligible expenditures is required.

4) Other Agreements. The Team agrees that it will:

- a. Maintain its business and operations within the counties of Fulton, Herkimer, Montgomery, Oneida, Otsego, or Schoharie, (the "**Mohawk Valley Region**") during the term of the IDEA NY accelerator.
- b. Prepare and deliver a presentation at one future Demo Day competition, outlining its progress and upcoming activities.
- c. Complete and submit a final report of Team activity and progress to the IDEA NY administrator at the conclusion of its IDEA NY business accelerator program.
- d. Comply with all applicable laws to it and its business properties or assets and the IDEA NY Rules.
- e. Not transfer, assign or encumber any of the Company assets, other than in the ordinary course of business, during the term of the accelerator without the consent of the Griffiss Institute.
- f. Not enter into a line of business which is substantially different from the business set

forth in the IDEA NY application or otherwise approved in writing by the Griffiss Institute as a result of Business Plan modifications.

- g. Not adopt any plan of merger, consolidation or reorganization or file a petition under the Federal or State Bankruptcy Laws without the consent of the Griffiss Institute
- h. Maintain such customary insurance with a reputable insurance company, covering risks and hazards of such types and in such amounts as are customary for adequately- insured companies of similar size engaged in similar industries and lines of business and such insurance policies shall be made to available to the Griffiss Institute upon its written request.
- i. Ensure that the minute books and stock record books of the Company shall be complete and correct and have been maintained in accordance with sound business practices. The Company shall keep adequate books, accounts and records in accordance with past custom and practice as used in the preparation of the financial statements, which books, accounts and records shall fairly present the financial condition and results of operations of the Company. All such minute books, stock record books, and accounts and records of the financial statements shall be made available to the Griffiss Institute upon its written request.
- j. Allow the Griffiss Institute to disclose and/or reproduce (1) the Team name, pictures, voices, videos and participation in the IDEA NY 2018 Competition, (2) any written and/or visual materials and works of art that were created by the Team and/or that represent the Team and its work or likeness, including, but not limited to, pictures, photographs, audio and video recordings and digital images in all print and electronic form that may pertain to the Team and its activities with or regarding the IDEA NY 2018 Competition (collectively, the "**Materials**") for this same purpose and understand that the Materials may be used in various print and digital publications, public affairs releases, recruitment materials, social media platforms, and for other similar educational and marketing efforts on behalf of the Griffiss Institute, and that the Griffiss Institute cannot control how this information will be used once it is disclosed.

5) Withdrawal. The Company may at any time elect to withdraw from the Program, and in doing so must present a letter to the IDEA NY program administrator stating the reason for withdrawing.

- a. In the event of withdrawal:
 - i. the Company shall have no further obligation to comply with its Business Plan.
 - ii. the Griffiss Institute shall have no further obligation to award the Prize funding to the Company.
 - iii. the Company shall refund to the Griffiss Institute all Prize money awarded hereunder, *unless otherwise determined by the Griffiss Institute*;
 - iv. the Warrant and obligations under paragraphs 6 and 7 hereof shall remain in full force and effect; and

- v. all other obligations of the Company and the Griffiss Institute hereunder shall terminate.

6) Expulsion. The Griffiss Institute may expel the Company from the Program in the event that the Company, after thirty (30) days' notice and failure to cure:

- a. Fails to meet any of the conditions or otherwise fails to perform any of its obligations set forth in these terms and conditions or the IDEA NY rules; or
- b. Acts in any manner that adversely affects the reputation of the Griffiss Institute, Griffiss Institute Business Incubator, and any respective subsidiaries or affiliates thereof, or is convicted of, or pleads no contest to, a crime or misdemeanor involving acts of moral turpitude.
- c. In the event of expulsion:
 - i. the Company shall have no further obligation to comply with its Business Plan, and the Griffiss Institute shall have no further obligation to award the Prize funding to the Company, nor paystipends;
 - ii. the Company shall refund to the Griffiss Institute its Prize awarded hereunder, unless otherwise determined by the Griffiss Institute;
 - iii. the Warrant and obligations under paragraphs 6 and 7 hereof shall remain in full force and effect; and
 - iv. all other obligations of the Company and the Griffiss Institute hereunder shall terminate.

7) Non-Recourse State Funding. The Griffiss Institute's obligations to make payment of the Prizes is contingent upon receipt of IDEA NY 2018 program monies from Empire State Development Corporation in an amount sufficient to fund the Prizes.

8) Indemnification. Subject to the other terms and conditions of this paragraph 6, the Company shall indemnify and defend the Griffiss Institute and its affiliates and their respective representatives (collectively, the "**Griffiss Institute Indemnitees**") against, and shall hold each of them harmless from and against, and shall pay and reimburse each of them for, any and all losses incurred or sustained by, or imposed upon, the Griffiss Institute Indemnitees based upon, arising out of, with respect to or by reason of:

- a. any inaccuracy in or breach of any of the representations or warranties of the Team contained in these terms and conditions, the IDEA NY application or in any certificate or instrument delivered by or on behalf of the Company pursuant hereto; or
- b. any breach or non-fulfillment of any covenant, agreement or obligation to be performed by the Team pursuant to these terms and conditions.

9) Expenses. Except as otherwise expressly provided herein, all costs and expenses, including, without limitation, fees and disbursements of counsel, financial advisors and accountants, incurred in connection with these terms and conditions, and the transactions contemplated hereby shall be paid by the party incurring such costs and expenses, whether or not the Company remains in the Competition.

10) Notices. All notices, requests, consents, claims, demands, waivers and other communications hereunder shall be in writing and shall be deemed to have been given (a) when delivered by hand (with written confirmation of receipt); (b) when received by the addressee if sent by a nationally recognized overnight courier (receipt requested); (c) on the date an e-mail of a PDF document if sent during normal business hours of the recipient, and on the next business day if sent after normal business hours of the recipient or (d) on the third day after the date mailed, by certified or registered mail, return receipt requested, postage prepaid. Such communications must be sent to the respective parties at the addresses specified in the IDEA NY application, or such other address as may be communicated in writing to the Griffiss Institute.

11) Headings. The headings in these terms and conditions are for reference only and shall not affect the interpretation of these terms and conditions.

12) Entire Agreement. These terms and conditions and together with the documents incorporated herein by reference, constitute the sole and entire agreement of the parties with respect to the subject matter contained herein and therein, and supersede all prior and contemporaneous understandings and agreements, both written and oral, with respect to such subject matter.

13) Successors and Assigns. These terms and conditions shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors (including any entity formed by the Team hereafter) and permitted assigns. Neither party may assign its rights or obligations hereunder without the prior written consent of the other party, which consent shall not be unreasonably withheld or delayed. No assignment shall relieve the assigning party of any of its obligations hereunder.

14) Amendment and Modification; Waiver. These terms and conditions may only be amended, modified or supplemented by an agreement in writing signed by each party hereto. No waiver by any party of any of the provisions hereof shall be effective unless explicitly set forth in writing and signed by the party so waiving. No waiver by any party shall operate or be construed as a waiver in respect of any failure, breach or default not expressly identified by such written waiver, whether of a similar or different character, and whether occurring before or after that waiver. No failure to exercise, or delay in exercising, any right, remedy, power or privilege arising from these terms and conditions shall operate or be construed as a waiver thereof; nor shall any single or partial exercise of any right, remedy, power or privilege hereunder preclude any other or further exercise thereof or the exercise of any other right, remedy, power or privilege.

15) Governing Law; Submission of Jurisdiction.

- a. These terms and conditions shall be governed by and construed in accordance with the laws of the State of New York without giving effect to any choice or conflict of law provision or rule (whether of the State of New York or any other jurisdiction).
- b. Any legal suit, action or proceeding arising out of or based upon these terms and conditions, the transaction documents or the transactions contemplated hereby or thereby may be instituted in the federal courts of the United States of America or the courts of the State of New York in each case located in the County of Oneida, and each party irrevocably submits to the exclusive jurisdiction of such courts in any such

suit, action or proceeding.

16) Success benchmarks. IDEA NY is funded in part by New York State's Empire State Development. As such, it will be evaluated on several criteria. Teams looking to participate in the IDEA NY program will be evaluated in part on how they will enable IDEA NY to meet its metrics of success. The following is the criteria the program will be evaluate on:

- a. the number of new tech start-ups within the Mohawk Valley.
- b. the number of participating companies that remain in business after three years.
- c. the number of investable companies that have graduated from the IDEA NY program (i.e. companies that have received outside investment).
- d. the number of companies that are generating revenue within one year of graduating from the IDEA NY program.
- e. the number of dollars spent by IDEA NY companies within the Mohawk Valley and within New York State.

I, _____, as owner and/or chief executive officer of the undersigned business, hereby agree to the above stated terms and conditions of the IDEA NY program. I understand that failure to comply with the above stated terms and conditions may result in expulsion from the IDEA NY program and/or the forfeiture or refund of IDEA NY Prize funding.

Signature of Owner/CEO

Company Name

Date