

TERMS AND CONDITIONS FOR GROW-NY

COMPETITION FOR 2019 Last Updated: [5/1/2019]

Grow-NY is an unparalleled competition focused on growing entrepreneurs and attracting resources from the U.S. and around the world to build innovative high growth food and agriculture businesses (the “**Competition**”) and create jobs in New York’s Central, Finger Lakes, and Southern Tier regions (collectively, the “**Grow-NY Region**”).

By submitting an application to compete in the Competition, the applicant agrees to be bound by these terms, conditions, and covenants (“**Terms and Conditions**”). These Terms and Conditions were last updated on the date identified above. All previous versions of these terms and conditions are deemed null and void.

Purpose

The purpose of the Competition is to be part of an overall program aimed at developing innovative food and agriculture enterprises in the Grow-NY Region. The Competition will award a total of up to \$3 million in prizes, per year, with a single top award of \$1 million. Its goal is to attract entrepreneurs from around the world to compete for prizes that will turn ideas into funded enterprises with high growth potential in the Grow-NY Region.

The key driver of Grow-NY is that the award money is to be used in support of developing innovative food and agriculture businesses, with a goal of growing a thriving food and agriculture startup cluster in the Grow-NY Region. Milestones will be used to assure award money is used to develop and grow the innovative food and agriculture businesses. Prizes will target scalable business models versus more localized service businesses, and with an emphasis on job creation and innovation.

Competition Timeline

Each year, the Grow-NY competition cycle will consist of an application, an online semifinalist selection, and a live pitch. Business support and development work in the Grow-NY Region is included for all finalists. Business support will continue to run after the Competition for as long as companies have an obligation to maintain a presence in the Grow-NY Region.

Date	Event
Spring 2019	Launch of the Competition and Application
July 15, 2019	Close of Application
Late July – Early August, 2019	Semifinal Round of Judging <ul style="list-style-type: none">• A group of expert judges reviews and scores applications
August, 2019	Finalists notified
August - November, 2019	Finalist Mentoring and Business Development <ul style="list-style-type: none">• Finalists conduct business development trips to the regions

	<ul style="list-style-type: none"> Finalists work with their assigned mentor to plan and refine their pitch
2 nd half of October / 1 st half of November, 2019	<p>Pitch Competition</p> <ul style="list-style-type: none"> A 2-3 day event in the regions featuring a live pitch to the Grow-NY judging panel Prize winners announced at Award Ceremony

Eligibility

The Competition is limited to applicants that are or intend to become operating companies in the Food and Agriculture Field. As used in these Terms and Conditions, the term “**Food and Agriculture Field**” is defined as follows:

Physical products, hardware technologies, software technologies, services, or processes that relate to or impact products that are derived from cultivating plants or enhance human life, such as:

- Food, including but not limited to fruits, vegetables, grains and cereal crops, meats and dairy products, honey and farmed fish, packaged and prepared food products for distribution;
- Fuels, including but not limited to ethanol, produced from corn, sugarcane, or sorghum, and agricultural byproducts like straw sugarcane;
- Fibers, including but not limited to fiber crops such as cotton, wool, silk, hemp, flax and bamboo;
- Raw materials, including but not limited to livestock feed; and
- Processes or systems that improve the development, growth, production, distribution, delivery, or processing of the above.

The term “**Food and Agriculture Field**” also includes hardware technologies, software technologies, services, or processes that are new, novel, or otherwise benefit agriculture, food, or their related industries.

To be eligible for the Competition, an applicant must be an established business entity that meets two or more of the following criteria, consistent with New York State’s definition of a “business in the formative stage,” which is defined as a “company in the start-up or early stage of development with a product, service, software, or research that is not yet in the commercial marketplace, but which can show continued and steady maturity towards commercialization and profitability either by product development, external funding or product sales.”

- Less than seven years from date of formal organization
- Has its first product or service in testing or pilot production
- Pre-revenue or early revenue
- Has a leadership team and investors working towards commercialization and profitability. If the business is a spin-off from an existing business that does not meet the above criteria, the new entity must be pursuing a substantially new technology or business model.

The following businesses are not eligible for the Competition: investment vehicles that invest in the securities of other entities, residential real property and retail businesses, sports venues, gaming and gambling businesses, places of overnight accommodation, or entertainment-related establishments. For this purpose, “**retail business**” means a business that is primarily engaged in making retail sales of goods or services to customers who personally visit such facilities to obtain goods or services. In addition, generally excluded are the following: buy-outs, roll-ups, real estate syndications, tax shelters, and franchise-based outlets. Also excluded are any businesses that do not fit within the definition of “Food and Agriculture Field” above.

Awards, Benefits, and Conditions

Applicants of the 2019 Competition will be eligible to receive one of the following seven prize awards:

- (i) one award of \$1 million,
- (ii) two awards of \$500,000, and
- (iii) four awards of \$250,000.

All Award recipients will receive mentorship from experienced entrepreneurs and access to business acceleration and incubation support during the period of the award.

Awards will be issued subject to execution of award agreements, which will include provisions including, but not limited to, the following:

Staged Payment. Recipients will receive their prize money in staged payments, payable as defined milestones are met.

Entity Formation. Applicants do not need to have formed a corporate entity (such as C- or S-Corporation; Limited Liability Company, etc.) prior to application, but will need to demonstrate successful formation of a business entity prior to award. Award agreements will be made with said business entity, which must have authority to do business in New York.

Grow-NY “Pay It Forward Investment Option”. Winners will be required to enter into a definitive investment agreement such as a warrant or simple agreement for future equity (SAFE) with a Grow-NY-designated entity (the “**Investment Agreement**”) for an amount up to 3% of the fully-diluted capitalization of the company. The Grow-NY Administration Team (the “**Administrator**”) will reinvest any future proceeds derived from the Pay It Forward Investment Option in programs and activities that support innovation in the food and agriculture industries.

Location Requirement. As a condition of the award, Recipients must materially locate and maintain a presence on an on-going basis within the Grow-NY Region for at least twelve (12) months, commencing within three (3) months of the award date. For purposes of this condition, the obligation to materially locate and maintain a presence in the Grow-NY Region may be met in one of the following ways:

- a) the applicant shall establish its principal place of business in the Grow-NY Region, identify its primary headquarters as its address in the Grow-NY Region, and have its key officers reside in New York State within commuting distance to this location; or
- b) the applicant shall establish its primary manufacturing facility within the Grow-NY Region, with more than 80% of its manufacturing personnel based in this facility; or
- c) the applicant shall establish its primary research and development facility within the Grow-NY Region with more than 80% of its research and development personnel based in this facility; or
- d) the applicant shall make capital investments in property, plant and equipment in its Grow-NY Region location equal to three times the amount of its award under Grow-NY.

If an applicant already has its primary offices in New York State, upon receiving an award it may fulfill its obligation to materially locate and maintain a presence in the Grow-NY Region in one of the ways stated above. In the alternative, such an applicant may fulfill these obligations by committing to quantified job creation targets in its Grow-NY application and presentations, and documenting achievement of these targets. These job creation targets may include jobs created directly by the company or include those created by the establishment of a Grow-NY Region- based supply chain or other strategic relationships with Grow-NY Region entities.

If, during the term of the Location Requirement, the Recipient should stop meeting this Location Requirement and move out of New York State, it shall immediately repay the award funds.

The Grow-NY Region consists of the following counties:

- Central NY (Cayuga, Cortland, Madison, Onondaga, and Oswego counties),
- Finger Lakes (Genesee, Livingston, Monroe, Orleans, Ontario, Seneca, Wayne, Wyoming, and Yates counties), and
- Southern Tier (and Broome, Chemung, Chenango, Delaware, Schuyler, Steuben, Tioga, and Tompkins counties).

Applications

Applications should be submitted via the Grow-NY website: www.grow-ny.com - following all protocols described on the website. All applications must be submitted in English. Instructions for filing a paper application in lieu of an online application are described on the website for applicants needing special accommodations.

Non-U.S. Applicants

Both domestic and non-United States based applicants are encouraged to apply. Non-United States applicants are responsible for obtaining any necessary visas and related immigration papers to attend final events of the Competition and to satisfy the appearance requirements of the final round of judging (as described below) and the relocation requirements of an award.

Review of Applications

The application period will close July 15, 2019, 5:00 P.M. EDT, unless the deadline is extended (at the sole discretion of the Administrator). An expert panel of judges approved by the Administrator (the “**Committee**”) will review and select certain applications to progress in the Competition as finalists. Such selections shall be made in the discretion of the Committee, subject to review by the Administrator for the possible application of Program Policy Factors, as further outlined below.

Such finalists will receive business training and mentoring support, including networking in the Grow-NY Region. Those finalists who choose to continue in the Competition will be invited to present to a Finals Judging Panel, selected by the Administrator, which will recommend awards.

Judging Criteria – Applicants will be judged based on:

1. Viability of Commercialization and Business Model - Generation of revenue and maintenance of a cost structure that allows for a competitive and sustainable business; demonstrated readiness of the applicant’s technology or innovation to fulfill its needed value proposition.
2. Customer Value - Provision of significant value for customers for which they are willing to pay; addressing a substantial market.
3. Agriculture and Food Innovation – Pushing the state of the art in food and agriculture and contributing to making Upstate NY a global leader in agriculture and food innovation.
4. Regional Job Creation - Potential for creation of high-quality jobs in the Grow-NY Region..
5. Team - Quality and completeness of the team and their readiness to deliver.

Confidentiality and Intellectual Property – [Please review Grow-NY’s privacy policy here].

Access to the applications is granted to the Administrator and its designees for the purposes of review and judging (collectively, the “**Reviewing Parties**”). **The Administrator offers no guarantee of confidentiality, either explicit or implicit, in connection with any data or information presented or discussed by applicants.**

Applicants should confirm with appropriate advisors and legal counsel that any intellectual property described or disclosed in an application is held by the applicant and appropriately protected before the application is submitted. Applicants should be prepared to provide reasonable back-up documentation for these statements, if requested by the Administrator.

The authors of each applicant submission will retain all copyrights to the contents of their submission, provided that the Reviewing Parties may make photocopies, photographs, and video and/or audio recordings of any data or information divulged, presented, or discussed by any applicant throughout that applicant’s participation in the Competition. By entering the Competition, applicants agree to grant a license to the Administrator and the Reviewing Parties to use such materials without restriction and to conduct such due diligence as the Reviewing

Parties determine is necessary or desirable for purposes of evaluating the application and carrying out the Competition as described herein.

In addition, the Administrator will have the right to publicly post certain information about awarded applicants and their applications on the public areas of the Reviewing Parties' websites, including, but not limited to, name and category of business, logo, and an abstract. The Administrator will also have the right to use the content of applicants' applications for research and other not-for-profit purposes.

Other Conditions

1. Only one application per entity may be selected for evaluation and judging. An individual who submits an application on behalf of a business entity represents and warrants he or she has requisite authority to act on behalf of such entity.
2. All applications must be the original work of the applicant making the submission.
3. Partially completed applications will not be accepted. **Applications for the Competition are due by 5:00 P.M. EDT on July 15, 2019.**
4. Existing businesses may propose a new business that would have operations within the Grow-NY Region so long as the new business qualifies as a "business in the formative stage" under applicable New York law.
5. Applicants risk disqualification if they or someone on their behalf communicates with the Reviewing Parties, beyond submitting applications and providing further data or information as requested, in an attempt to influence the Competition.
6. The decisions of the Administrator are final, including interpretation of these Terms and Conditions.
7. Each applicant shall protect, indemnify, and hold harmless the Administrator, its affiliates, and their officers, directors, agents and employees, and the State of New York from and against all liabilities, losses, claims, damages, judgments, penalties, causes of action, costs, and expenses (including, without limitation, attorneys' fees and expenses) imposed upon or incurred by or asserted against the Administrator or the State of New York resulting from, arising out of or relating to the applicant's participation in the Competition.
8. The Administrator takes no responsibility for agreements between applicants and third parties.
9. Application materials become the property of the Administrator.

10. Applicants, or their affiliates, that engage in immoral, illegal, or other activity that may adversely affect the image of the Administrator, its affiliates, or other applicants, may be excluded from the Competition at any time.
11. All applicants and award recipients must comply with these Terms and Conditions. Any violation of these Terms and Conditions may disqualify an applicant from the Competition, and result in forfeiture of any awards the applicant received in connection with the Competition.
12. Applicants may un-submit their applications after they are submitted up until the application intake closing date.
13. Award recipients will be required to provide periodic reports, including but not limited to reports outlining financial status on a monthly or quarterly basis, as determined by the Administrator, for a five-year period.
14. There is no limit to the number of applications for which an individual person may be a part; except that no individual person can be part of more than one applicant team that receives an award.

Applicant Representations and Covenants By submitting an application, each applicant represents and warrants that:

1. The information in the application is and will be true and accurate.
2. The ideas contained in the application will not infringe upon the rights, including privacy and intellectual property rights, of any third party.
3. The applicant has a reasonable basis for holding the intellectual property that forms the basis or is integral to the applicant's business or the proposed business submitted in the Competition.
4. The applicant has and will have the right and authority to submit the content in its application to the Grow-NY Competition.
5. The applicant will obtain permission or a license, as appropriate, for any third-party materials, information or other intellectual property contained in its application.
6. The applicant will comply with all applicable laws and regulations in connection with its activities relating to the Competition.
7. The applicant will not attempt to hold the Administrator, or its affiliates, responsible or liable for any third-party violation of its intellectual property rights as a result of participation in the Competition.
8. No member, officer, director, employee, or shareholder of the applicant has a close family (parent, sibling, spouse, partner, or significant other) relationship with any officer, member,

director, or senior management person of the Administrator, the Southern Tier Startup Alliance, or with any staff of the Administrator or the Southern Tier Startup Alliance directly involved with the administration of Grow-NY.

9. The applicant consents to the Administrator performing a background check with respect to the applicant and its principals.

10. Where an applicant's business exists in any form other than a limited liability corporation ("LLC") or C-corporation ("C-Corp"), the applicant will take the necessary steps to convert their business to a C-Corp or LLC before they complete the submission of their application.

11. Neither the applicant, nor any of its directors, officers, members or shareholders is subject to any of the "Bad Actor" disqualification events described in Rule 506 promulgated under the Securities Act of 1933, as amended.

12. The applicant has no reason to believe it will be prohibited or otherwise unable to comply with these Terms and Conditions and the terms and conditions set forth in the Investment Agreement, including relocation to the Grow-NY Region and issuance of up to 3% of equity securities.

13. Applicants shall not publicly disparage the Administrator, its affiliates, their officers, directors, and employees, members of the Committee or public officials or agencies of the State of New York who play a role in the operation of Grow-NY.

Other Factors

The Administrator does not discriminate against any applicant on the basis of race, color, creed, ethnicity, gender, disability, age, sexual orientation, gender expression, military status, or marital status. The Administrator reserves the right to modify these Terms and Conditions in its sole discretion. In the event of a modification, all applicants will be notified.

Waiver and Severability

The Administrator may waive any term or condition herein at its sole discretion. Such waiver will not be deemed a waiver of any other term or condition, whether similar or different. If any term or condition herein is invalid or unenforceable, that provision will be construed, limited, modified or, if necessary, severed, to the extent necessary to eliminate its invalidity or unenforceability, and the other provisions will remain in full force and effect.

Governing Law

These terms and conditions shall be governed and construed in accordance with the laws of the United States of America and the State of New York, without regard to conflicts of law provisions. Exclusive venue for any litigation arising from the Competition or these Terms and Conditions shall be the State or Federal courts located in and for Tompkins County, New York.