

The Utah Science, Technology and Research Agency

Technology Acceleration Program Terms and Conditions

SUBMITTED APPLICATION CONSTITUTES ACCEPTANCE OF THESE OFFICIAL TERMS AND CONDITIONS. USTAR RESERVES THE RIGHT TO REVOKE OR ADJUST ANY AWARD UPON VIOLATION OF OFFICIAL TERMS AND CONDITIONS.

The Technology Acceleration Program (“TAP”) is designed to assist Utah-based science and technology start-ups and early stage companies (“Applicant(s)”) in accelerating to market entry or assist existing companies (“Applicant(s)”) in maturing a new technology. A review panel will review all complete applications and provide funds and non-material support (“Funding” or “Award(s)”) to successful applicants (“Awardee(s)”) in accordance with these Official Terms and Conditions (the “Terms and Conditions”).

1. **BINDING AGREEMENT:** In order to participate in TAP, Applicant must agree to the Terms and Conditions. Therefore, please read these Terms and Conditions prior to applying. Applicant agrees that submission of an application constitutes agreement to these Terms and Conditions. Applicants may not submit an application and are not eligible to receive the funding described in these Terms and Conditions unless applicant agrees to these Terms and Conditions. These Terms and Conditions form a binding legal agreement between applicant and the Utah Science, Technology and Research Initiative (“USTAR”) with respect to TAP.

2. **ELIGIBILITY:** To be eligible to participate in TAP, an Applicant must: (a) be an active for-profit corporation, in good standing, registered in Utah, with its principal place of business in Utah; (b) be represented by persons at least 18 years old; and (c) comply with these Official Terms and Conditions and all requirements outlined in the USTAR TAP Program Announcement. TAP is void outside of Utah. Employees, interns, contractors, and official office-holders of USTAR, and their immediate families (parents, siblings, children, and spouses of each, regardless of where they live) and members of the households (whether related or not) of such employees, officers and directors are ineligible to participate in TAP. This prohibition also applies to such persons for 18 months after no longer falling under the aforementioned categories.

Application must meet all requirements described in these Official Terms and Conditions. Failure to abide by the Terms and Conditions will result in revocation or adjustment of any award provided under these Terms and Conditions. USTAR reserves the right to require awardee to pay back all or part of any funding received in the event of a violation of these Terms and Conditions. **LIMIT ONE (1) APPLICATION PER TECHNOLOGY.** To be considered for TAP, application must be: (i) complete (as determined by USTAR); and (ii) received within the

deadlines specified below. Any submission not meeting the aforementioned criteria will be disqualified. USTAR accepts no responsibility for applications lost, delayed, damaged, defaced, or mislaid, howsoever caused. USTAR representatives may contact an Applicant for customer service purposes. By participating, all participants agree to receive phone calls and emails from USTAR. Participation does not require payment in any form.

3. **AUTHORITY:** TAP is administered and funded by USTAR, a Utah State Entity located at 60 East South Temple, 3rd Floor, Salt Lake City, UT 84111, pursuant to authority granted under Utah Code § 63M-2-503.

4. **DEADLINES:** Pertinent time periods and deadlines are described in the USTAR TAP Program Announcement. The submission period will end on the date and time specified. All dates are subject to change.

5. **GENERAL REQUIREMENTS FOR PROPOSALS:**

USTAR will evaluate the applications to ensure that they meet all requirements below. USTAR reserves the right, in its sole discretion, to disqualify any Applicant who does not meet the requirements and other terms described in these Official Terms and Conditions. Incomplete entries or entries not complying with these Terms and Conditions are subject to disqualification.

- Proposal must not contain content, material or any element that is unlawful, or otherwise in violation of or contrary to all applicable federal, state, or local laws and regulation including the laws or regulations in any state where the Application and supporting statement are created.
- Proposal must not be objectionable to the interests of State of Utah. In its evaluation, USTAR will take into consideration general standards of decency and respect for the diverse beliefs and values of the citizens of Utah.
- Proposal must be original and not contain, incorporate or otherwise use any content, material or element that is owned by a third party or entity.
- Proposal must not contain any content, element, or material that violates a third party's publicity, privacy or intellectual property rights.
- Without explicit approval, proposal and its elements must not be the subject of any actual or threatened litigation or claim. If this is the case, Applicant must disclose, in writing, the facts surrounding any potentially relevant disputes.

6. EVALUATION AND EVALUATION CRITERIA: Subject to these Terms and Conditions, decisions are final and binding. If a potential awardee is unable for whatever reason to accept his or her funding, then USTAR reserves the right to award the funding to another applicant. An independent panel of technical experts and State government staff will review TAP proposals. Evaluation Criteria and other related information is outlined in the USTAR TAP Program Announcement.

7. NOTIFICATION OF AWARDEES: The awardees are subject to validation and verification of eligibility and compliance with all the terms and conditions set forth in these Terms and Conditions. The awardees will be selected and notified by telephone and/or email, at USTAR's discretion. If an awardee does not respond to the notification attempt within forty-eight (48) hours from the first notification attempt, then such awardee may be disqualified and an alternate awardee may be selected from among other eligible Applicants. Except where prohibited by law, each awardee may be required to sign and return an Affidavit of Eligibility and Liability and Publicity Release and provide any additional information that may be required by USTAR. If required, awardees must return all such required documents via email (or as otherwise instructed) within a reasonable time. All notification requirements, as well as other requirements in these Terms and Conditions, will be strictly enforced.

8. REPAYMENT: Recipients of TAP grants may be required to repay funding received if, within a period of five years after the award, the funded entity no longer remain Utah-based or violates other related provisions as specified in Utah Admin. R856. or has not maintained a connection to a specified technology sector.

9. TAXES: awards of funding to potential awardees are subject to the express requirement that they submit to USTAR all documentation requested by USTAR to permit it to comply with all applicable state, federal and local tax reporting all funding will be net of any taxes or other amounts USTAR is required by law to withhold. To the extent permitted by law, all taxes imposed on funding are the sole responsibility of the awardees. In order to receive funding, potential awardees must submit tax documentation requested by USTAR or otherwise required by applicable law, to USTAR or a representative for USTAR or the relevant tax authority, all as determined by applicable law. The potential awardees are responsible for ensuring that they comply with all the applicable tax laws and filing requirements. If a potential awardee fails to provide such documentation or comply with such laws, the funding may be forfeited and USTAR may, in its sole discretion, select an alternate potential awardee.

10. GENERAL CONDITIONS: All federal, state and local laws and regulations apply. USTAR reserves the right to disqualify any Applicant from TAP if, in the USTAR's sole discretion, it reasonably believes that the Applicant has attempted to undermine the legitimate

operation of TAP by cheating, deception, or other unfair playing practices or annoys, abuses, threatens or harasses any other applicants, USTAR, or its affiliates.

11. **INTELLECTUAL PROPERTY RIGHTS AND GRAMA:** As between USTAR and the Applicant, the Applicant retains ownership of all intellectual and industrial property rights (including moral rights) in and to the technology. Applicant agrees to file a business confidentiality statement as part of the application as required by Utah's Government Records Access and Management Act (Utah Code § 63G-2). USTAR will classify information as required by law but is not responsible for safeguarding or otherwise protecting intellectual property or other sensitive or proprietary information. As a condition of application, Applicant grants USTAR a perpetual, irrevocable, worldwide, transferable, royalty-free, and non-exclusive license to publicly display the technology and company for any reasonable purpose, including display on USTAR website, without any attribution or compensation to Applicant. USTAR retains all rights in USTAR products and services and submitting an application will in no case serve to transfer any rights to the Applicant.

12. **PRIVACY:** Applicants agree and acknowledge that personal data submitted with an application, including name, mailing address, phone number, and email address may be collected, processed, stored and otherwise used for lawful purposes by USTAR and its affiliates for the purposes of conducting and administering TAP.

13. **REPORTING AND PUBLICITY:** Awardees will be required to report to USTAR during the award period and for at least 5 years following the completion of the award the following information: follow-on funding (private, federal or other State), number of employees, their salaries, revenue/sales figures, and any other information reasonably requested by USTAR. Disclosure of tax forms may also be required.

By participating in TAP, Applicants agree to participate in any media or promotional activity resulting from TAP as reasonably requested by USTAR and agree and consent to use of their name and/or likeness by USTAR. USTAR will contact Applicants in advance of any media requests for interviews. USTAR reserves the right to publish the name and likeness of the Applicants, the Finalists and the Awardee on TAP Site or through other media for publicity purposes.

14. **WARRANTY AND INDEMNITY:** Applicants warrant that their Applications are their own original work and, as such, they are the sole and exclusive owner and rights holder of the submitted Application and that they have the right to submit the Application and grant all required licenses. Each Applicant agrees not to submit an Application 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.

To the maximum extent permitted by law, Applicant indemnifies and agrees to keep indemnified USTAR at all times from and against any liability, claims, demands, losses, damages, costs and expenses resulting from any act, default or omission of the Applicant and/or a breach of any warranty set forth herein. To the maximum extent permitted by law, Applicant agrees to defend, indemnify and hold harmless USTAR from and against any and all claims, actions, suits or proceedings, as well as any and all losses, liabilities, damages, costs and expenses (including reasonable attorney fees) arising out of or accruing from: (i) the Application or other material uploaded or otherwise provided by Applicant that infringes any copyright, trademark, trade secret, trade dress, patent or other intellectual property right of any person or defames any person or violates their rights of publicity or privacy; (ii) any misrepresentation made by Applicant in connection with TAP; (iii) any non-compliance by Applicant with these Terms and Conditions; (iv) claims brought by persons or entities other than the parties to these Terms and Conditions arising from or related to Applicant's involvement with TAP; (v) acceptance, possession, misuse or use of any funding or participation in any TAP-related activity or participation in TAP; (vi) any malfunction or other problem with TAP Site in relation to the participation in TAP by Applicant; (vii) any error in the collection, processing, or retention of application or information in relation to the application and participation in TAP by Applicant and in the voting process by consumers; or (viii) any typographical or other error in the printing, offering or announcement of any funding or awardees in relation to the application and participation in TAP by Applicant.

15. ELIMINATION: Any false information provided within the context of TAP by Applicant concerning identity, mailing address, telephone number, email address, ownership of right or non-compliance with these Terms and Conditions or the like may result in the immediate elimination of the applicant from TAP.

16. INTERNET AND DISCLAIMER: USTAR is not responsible for any malfunction of any part of the USTAR Site, TAP Site or other related site, or any late, lost, damaged, misdirected, incomplete, illegible, undeliverable, or destroyed applications due to USTAR errors, failed, incomplete or garbled computer or other telecommunication transmission malfunctions, hardware or software failures of any kind, lost or unavailable network connections, typographical or USTAR/human errors and failures, technical malfunction(s) of any telephone network or lines, cable connections, satellite transmissions, servers or providers, or computer equipment, traffic congestion on the Internet or at TAP Site, or any combination thereof, including other telecommunication, cable, digital or satellite malfunctions which may limit Applicant's/consumer's ability to participate respectively. USTAR is not responsible for the policies, actions, or inactions of others, which might prevent Applicant from participating and/or claiming funding in TAP. USTAR's failure to enforce any term of these Terms and Conditions

will not constitute a waiver of that or any other provision. USTAR reserves the right to disqualify Applicants who violate the Terms and Conditions or interfere with TAP in any manner. If an Applicant is disqualified, USTAR reserves the right to terminate that Applicant's eligibility to participate in TAP.

17. **RIGHT TO CANCEL, MODIFY OR DISQUALIFY:** If for any reason TAP is not capable of running as planned, including infection by computer virus, bugs, tampering, unauthorized intervention, fraud, technical failures, or any other causes which corrupt or affect the administration, security, fairness, integrity, or proper conduct of TAP, USTAR reserves the right at its sole discretion to cancel, terminate, modify or suspend TAP. USTAR further reserves the right to disqualify any Applicant who tampers with the submission process or any other part of TAP or TAP Site. Any attempt by an Applicant to deliberately damage any website, including TAP Site, or undermine the legitimate operation of TAP is a violation of criminal and civil laws and should such an attempt be made, USTAR reserves the right to seek damages from any such Applicant to the fullest extent of the applicable law.

18. **NOT AN OFFER OR CONTRACT OF EMPLOYMENT:** Under no circumstances shall the submission of an Application into TAP, the awarding of a funding, or anything in these Terms and Conditions be construed as an offer or contract of employment with USTAR or its affiliates. Applicants acknowledge that they submitted their Application voluntarily and not in confidence or in trust. Applicants acknowledge that no confidential, fiduciary, agency or other relationship or implied-in-fact contract now exists between Applicant and USTAR or its affiliates and that no such relationship is established by submission of an application under these Terms and Conditions.

19. **FORUM AND RECOURSE TO JUDICIAL PROCEDURES:** These Terms and Conditions shall be governed by, subject to, and construed in accordance with the laws of the State of Utah, United States of America, excluding all conflict of law Terms and Conditions. Venue shall be in Salt Lake City, in the Third Judicial District Court for Salt Lake County. If any provision(s) of these Terms and Conditions are held to be invalid or unenforceable, all remaining provisions hereof will remain in full force and effect. To the extent permitted by law, the rights to litigate, seek injunctive relief or make any other recourse to judicial or any other procedure in case of disputes or claims resulting from or in connection with TAP are hereby excluded, and Applicants expressly waive any and all such.

20. **AWARDEE'S LIST:** The name of the awardee for each competition will be posted on USTAR website within a reasonable time after the date of the Awardee Announcement specified.