

TERMS & CONDITIONS – Darwin Innovation Hub Croc Pitch

The following contains the Terms and Conditions for entry into Croc Pitch 2021 (“Competition”). By submitting an application for entry (“Application”), you agree to be bound by these terms and conditions. These terms and conditions may be subject to change without notice.

GENERAL

1. Croc Pitch is the Northern Territory’s premier startup pitching competition (“Competition”) run by the Darwin Innovation Hub (DIH) (“we”, “us” or “our”). It is an opportunity for Northern Territory entrepreneurs and businesses (“you” or “a competitor”) to pitch their ideas, whether it be a business, service, product or any other idea (“idea”), to a panel of judges in front of a live audience.
2. The Competition is open for entries from 15 September 2021 (in conjunction with an Information Session) until 5:00 pm on 1 October 2021. Any entry received after the expiry of the Competition period will be deemed invalid. DIH reserves the right to extend the Competition period in its sole discretion.

PRIZES

3. The judges of the Competition will award two prizes to up to two (2) participants:
 - a. The opportunity to receive investment funds of up to \$1,000,000 AUD from the Paspalis Innovation Investment Fund No. 2 (note that the maximum investment amount of \$1,000,000 may be split between two participants at the discretion of Paspalis Innovation Investment Fund No. 2), subject to agreed terms and due diligence; and
 - b. \$30,000 Business Innovation Funding (BIP) provided by the Northern Territory Government, subject to the participant(s) co-contributing \$30,000 in accordance with the BIP terms and conditions.
4. Prizes are not transferable or exchangeable. If a prize is unavailable for any reason, we may substitute for another item of equal value as determined by us. If, for any reason, a winner does not take an element of a prize at the time stipulated by us, then that element of the prize will be forfeited and cash will not be supplied instead.
5. The prizes awarded are in the judges’ sole discretion. We are not responsible in any way for the decisions, actions or conduct of judges. Our decisions (and those of judges) in respect of all aspects of the competition are final. The winners will be announced on Tuesday 27 October 2021 following the Croc Pitch 2021 Final at Darwin Innovation Hub.
6. All applicants are entitled to two scheduled mentoring sessions at a Croc Camp with growth facilitators at the Darwin Innovation Hub (there will be online sessions available).

ELIGIBILITY & APPLICATION PROCESS

7. To be eligible to apply, you must satisfy all of the following:
 - a. you are Northern Territory based and Northern Territory registered business or incorporated non-profit organisation
 - b. you have a valid Australian Business Number (ABN);
 - c. you have fewer than 100 employees; and
 - d. the proposed project must meet the criteria for the Northern Territory Government’s Business Innovation Program (BIP) and have potentially commercial outcomes.
8. To apply, you must submit on the Croc Pitch website [Croc Pitch 2021](#) by 1 October 2021:

- a. A fully completed application form;
 - b. A 250-word bio about yourself and your journey so far;
 - c. A three-minute draft pitch deck; and
 - d. A profile picture of yourself or your team
9. We are not liable for late, lost, misdirected, incomplete or incorrectly submitted applications.
10. Only one Application per competitor may be submitted.
11. By submitting an Application, you:
 - a. agree to be bound by these terms and conditions;
 - b. agree that we may, in our absolute discretion, select you or not select you to participate in the Competition;
 - c. agree to be available, if you are selected to participate:
 - i. during the time designated to you by the organisers of the Competition (on the date and at the location advised to you in your Successful Application Advice), to pitch your idea and participate in media interviews and photographs;
 - ii. on the day before the Competition, to participate in media interviews, photographs and promotional events (such as applicants' luncheon with investors);
 - iii. on the day after the Competition, to participate in media interviews and photographs (at a time and place specified by Competition organisers); and
 - iv. at any other times and places notified by us;
 - d. warrant that you meet the eligibility criteria in clause 7;
 - e. agree that you will not make or cause any other person to make public statements or communications that disparage DIH, its affiliates or employees;
 - f. agree to provide proof of identity, proof of age or proof of business location, upon request. Identification considered suitable for verification is at our discretion;
 - g. warrant that the ideas you present in connection with the Competition, including in your Application are your original work and not copied or adapted from any third party or source and that you own all rights (including intellectual property rights) in any idea submitted by you into this Competition and your use of ideas or information in relation to the Competition does not infringe any third party intellectual property rights;
 - h. acknowledge that by disclosing information in the Competition you waive any right of confidence in relation to that information and expressly authorise us, our employees and agents, the judges, and other persons involved with the Competition to disclose the information in any way whatsoever and to use the information in any way for the purposes of or related to the Competition;
 - i. authorise us to use the information you provide, including your name and idea or the purpose of the Competition including promoting the Competition and related activities conducted after the conclusion of the Competition;
 - j. grant us a non-exclusive, royalty-free, transferable (without consent or notification), irrevocable, perpetual, worldwide right to use any part of your involvement in and follow up to the Competition including photographs, films sound recordings or any other digital recording of you ("Media Materials"), in whole or in part for our business and promotional purposes. You agree that copyright in the Media Materials is ours, and you consent to us using the Media Materials, your names, images and associated items in any of our publications, promotional material or for other

commercial purposes. You will not be able to review the Media Materials before they are used. In consideration of this, we acknowledge that we have no ownership of any intellectual property relating to the proposed project submitted in your Application;

- k. release us from any and all claims, actions, demands, suits, liabilities, damages, expenses or obligations of any kind arising from or related to our use of the Media Materials; and
 - l. agree that your personal information may be shared with our related bodies corporate, service providers and the Northern Territory Government for the purposes of administering the Competition. We collect personal information for the purposes of administering the Competition. This information will be collected and stored in accordance with Australian Privacy Principles, under which you have rights of access and correction.
12. If any aspect of the Competition is not capable of running as planned, we may in our sole discretion cancel, terminate, modify or suspend the Competition.
13. We may disqualify you from the Competition if you:
- a. breach these terms and conditions;
 - b. breach any law relevant to the Competition or your idea; and/or
 - c. are party to any act or thing act or thing prejudicial to our goodwill, commercial reputation or overall public image.

LIMITATION OF LIABILITY

14. Without excluding, restricting or modifying the rights and remedies to which you may be entitled under the Australian Consumer Law or our liabilities under those provisions:
- a. We are not liable to you for any cost incurred or loss or liability you suffer in any way in relation to the Competition. This includes personal injury, taxation and property damage.
 - b. You acknowledge that the details of the Competition are set out on the Website and are subject to changes we make in our sole discretion with or without notice to you and that we do not make any warranty or representation as to:
 - i. The suitability of the Competition to your circumstances;
 - ii. The suitability of judges;
 - iii. Your prospects of winning a prize;
 - iv. The effect of the Competition on you or your idea; or
 - v. Any other thing related to the Competition.
 - c. We exclude all other implied terms and warranties, whether statutory or otherwise, relating to the Competition and the subject matter of our agreement with you.
 - d. We will not be liable to you for indirect or consequential loss arising from or connected to our agreement with you in contract, tort, under any statute or otherwise (including, without limitation, for loss of revenue, loss of profits, failure to realise expected profits or savings, loss of intellectual property, breach of confidence or any other commercial or economic loss of any kind).
 - e. Our liability to you for loss or damage of any kind arising out of our agreement with you or in connection with the relationship established by it is reduced to the extent (if any) that you cause or contribute to the loss or damage. This reduction applies whether our liability is in contract, tort (including negligence), under any statute or otherwise.
15. You indemnify us in relation to any loss caused by:

- a. a breach by you of these terms and conditions; or
 - b. any action by a third party in relation to your use of intellectual property in relation to the Competition.
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First prize of the Darwin Innovation Croc Pitch (“Croc Pitch 2021”) is a placement in the Northern Territory Government’s [Business Innovation Program](#) valued at \$30,000 (exclusive of GST), with the dollar-for-dollar co-contribution requirement waived (“Grant”).

As per the Eligibility & Application Process of the Terms and Conditions of Croc Pitch 2021 the winning project (“Approved Project”) must meet the criteria outlined in the Northern Territory Government’s Business Innovation Program (“BIP”) terms and conditions (as updated on <https://nt.gov.au/industry/business-grants-funding/business-innovation-program> from time to time).

In accordance with the process set out in the BIP terms and conditions, the Croc Pitch 2021 first prize winner (“Recipient”) will be required to sign a funding agreement “Agreement” with the Northern Territory Government care of its agency the Department of Industry, Tourism and Trade. The Agreement contains clauses similar to those below.

1. Interpretation and Definitions

- 1.1 A word or phrase in this Agreement that is capitalised is a reference to that word or phrase in the first column of the Details at the start of this Agreement, or as otherwise defined in these terms.
- 1.2 No rules of construction apply to the disadvantage of a party on the basis that that party was responsible for the preparation of this document or any part of it.
- 1.3 The word “including” is not a word of limitation.

2. Acknowledgments

- 2.1 You acknowledge:
 - (a) and agree that this Agreement is, and is intended to be, legally binding;
 - (b) your failure to comply with this Agreement may be taken into consideration in any future grant applications and may result in you being excluded from consideration for subsequent or other funding;
 - (c) where you have an Australian Business Number (ABN), details of this grant may be provided by us to the Australian Taxation Office;
 - (d) and agree we may do anything in connection with this Agreement that may be required for compliance with our public accountability responsibilities, including legislative obligations under privacy and freedom of information laws and the *Independent Commissioner Against Corruption Act 2017* (NT) (“**ICAC Act**”); and
 - (e) you are a “public body” for the purposes of the ICAC Act with respect to the Grant and you are subject to mandatory obligations under that Act to report suspected improper conduct.

3. Special Conditions and Additional Conditions

- 3.1 You must comply with the Special Conditions (if any) and the Additional Conditions to the extent they have application to you or the Grant Activity.
- 3.2 To the extent of any inconsistency between the documents or parts comprising this Agreement, then the following order of precedence will apply:
 - (a) the Special Conditions;

- (b) the Additional Conditions;
- (c) these terms and conditions;
- (d) the Details; and
- (e) any other document incorporated by reference.

4. Grant of funding

- 4.1 We agree to pay you the Grant subject to the terms and conditions set out in this Agreement.
- 4.2 We will pay the Grant to you in accordance with the Payment Requirements by electronic funds transfer to your Bank Account provided that we have received a tax compliant invoice or, where we issue a recipient created tax invoice, we have issued that invoice.
- 4.3 The Grant must be held only in an account in your name at a bank, credit union or building society that is registered in Australia.

5. Use of the Grant

- 5.1 You must use the Grant (including any interest earned on the Grant) within the Grant Period (or such other period as is agreed to be us in writing) for the Grant Purpose and for no other purpose (unless and until a variation is approved by us in writing).
- 5.2 During the Grant Period, you may request a variation of the Grant Purpose, which request must be in writing, providing reasons for the proposed change and (if applicable) providing a budget for the varied purpose. Approval will be at our discretion and must be in writing.

6. Conduct of the Grant Activity

- 6.1 You must:
 - (a) carry out the Grant Purpose, including all tasks, activities, any project plan, budget and/or performance measures, and in a manner that meets the objectives;
 - (b) carry out the Grant Activity diligently, effectively, in a professional manner to accepted industry standards, in accordance with this Agreement and consistent with the representations made in your grant application/proposal;
 - (c) adequately resource the Grant Activity with appropriately qualified, competent, experienced and skilled personnel;
 - (d) promptly comply with all of our reasonable requests or directions in respect of the Grant Activity;
 - (e) if required by us, keep us fully informed as to the progress of the Grant Activity and the expenditure of the Grant; and
 - (f) promptly advise us in writing of any relevant matters which might affect your ability to deliver or complete the Grant Activity or to meet any of your obligations under this Agreement.

7. Acknowledgement of Grant

- 7.1 You agree to acknowledge our contribution to the Grant Activity in all promotional, advertising or other publications (such as annual reports, newsletters, websites) by using our "Proudly supported by" logo.
- 7.2 We will provide you with the current version of the logo.
- 7.3 The logo must be reproduced only in the format provided and of equal size and prominence to your logo.
- 7.4 We reserve the right to limit and withdraw the use of our name and logo by you.
- 7.5 You grant us perpetual, irrevocable permission to communicate, publish or reproduce your
 - (i) business name and grant funding supplied under this agreement, and;

- (ii) images supplied by you including but not limited to your logo, your staff or your innovation

8. Records, Reporting, Acquittal and Audit

- 8.1 You must keep accurate financial records relating to the Grant so that at all times the use of the Grant is identifiable, ascertainable and substantiated.
- 8.2 You must comply with all Reporting Requirements and Acquittal Requirements by the specified Due Dates.
- 8.3 You authorise us to inspect and audit all of your records in connection with this Agreement and you agree to fully cooperate with us in that regard.
- 8.4 You authorise us to publish or otherwise report on the outcome of the Grant Activity.

9. Withholding funding

- 9.1 If in our reasonable opinion you have not complied with this Agreement in any material way we may, by notifying you in writing, withhold payment of all or any part of the Grant.

10. Unspent, Misused or Unacquitted Grant

- 10.1 If the Grant, or part of it, is not spent on the earlier of:
 - (a) the end of the Grant Period (and we have not agreed a variation); or
 - (b) termination of this Agreement,you must promptly return that part of the Grant that has not been spent to us.
- 10.2 If at any time we form the reasonable opinion that the Grant, or a part of it, has not been used in accordance with this Agreement or has not been acquitted by you to our reasonable satisfaction, then you must repay the Grant, or any part of it, as we require in any written notice we give you.

11. Conflict of Interest

- 11.1 For the purpose of this Agreement, “**Conflict**” means any matter, circumstance, interest, activity or other matter in connection with you, or your officers, employees, subcontractors, agents, advisors, volunteers and other personnel and their related entities, such as parent or subsidiary companies, directors, managers or other persons in a position of influence and their close relatives, which may or may reasonably be perceived to impair you or your personnel’s ability to carry out any responsibilities or obligations under this Agreement diligently, independently and impartially.
- 11.2 You warrant that, at the date of signing this Agreement, to the best of your knowledge no Conflict exists or is likely to arise in connection with this Agreement.
- 11.3 If during the performance of this Agreement you become aware of a Conflict, you must immediately notify us and the steps you propose to take to resolve or deal with the Conflict. We may suspend your delivery of the Grant Activity and your use of the Grant until such time as the Conflict is resolved to our satisfaction.

12. Insurance

- 12.1 You must hold and maintain insurance policies in amounts sufficient to insure for your risks and liabilities in connection with this Agreement (such as public liability, accident or injury to your volunteers and employees, plant and equipment, motor vehicle, loss, damage or theft of assets, travel) and provide us with written proof from your insurers when requested.
- 12.2 You are responsible for determining what types and levels of insurance are required to cover the Grant Activity and comply with this clause.

13. Risk & Indemnity

- 13.1 You agree to deliver each Grant Activity at your own risk and we are not liable:

- (a) to you or your personnel for any loss or damage you suffer or the injury or death of any person, howsoever occasioned; or
 - (b) for the actual cost of the Grant Activity being greater than anticipated.
- 13.2 You indemnify us against all claims, proceedings or actions whatsoever brought or made against us and all losses, damages, costs or expenses we may sustain or incur howsoever arising, whether directly or indirectly in connection with this Agreement, except to the extent caused or contributed to by our negligent act or omission.

14. GST

- 14.1 Any term used in this clause that is referred to in *A New Tax System (Goods and Services Tax) Act 1999* (Cwth) will have the meaning which it has in that Act.
- 14.2 You must pay all taxes, duties and government charges imposed or levied in connection with the performance of this Agreement, except as provided by this clause.
- 14.3 The Grant Amount is GST exclusive.
- 14.4 If you are not registered for GST, you warrant that you are not required to be registered for GST, and you must not charge GST.
- 14.5 If you are registered for GST or are required to be registered for GST and the Grant Amount is being provided in return for a Taxable Supply, we will pay you the GST Amount on provision of a tax invoice or recipient created tax invoice ("**RCTI**"). If we issue you an RCTI you must not issue a tax invoice in respect of the Taxable Supply.
- 14.6 If the GST Amount differs from the amount of GST paid or payable, we must issue an appropriate recipient created adjustment note and pay you or you must pay us, as the case may be, any difference within 14 days.
- 14.7 No party may claim or retain from the other party any amount in relation to a supply made under this Agreement for which the first party can obtain an input tax credit or decreasing adjustment.
- 14.8 If you become registered for GST or become required to be registered for GST, or you cease to be registered for GST, you must notify us within 7 days.

15. Intellectual Property

- 15.1 Intellectual property in material created by or on your behalf in the course of, or for the purpose of, the Grant Activity ("**Agreement Material**") vests in you.
- 15.2 You grant us a perpetual, irrevocable, royalty-free, non-exclusive licence to use, adapt, communicate, publish, reproduce, for our governmental purposes, your Concept Title and Non-Confidential Summary (as submitted in your Innovation Commercialisation Plan).
- 15.3 Where the Agreement Material is a work that is primarily created for aesthetic appeal or artistic expression, the licence in clause 15.2 is limited to use promoting the purpose of the Grant Activity or promoting the Northern Territory Government or the Northern Territory.

16. Confidential Information and Privacy

- 16.1 The parties will not disclose each other's information that is marked as or is agreed to be confidential, or which should reasonably be assumed to be confidential, without prior written consent of the party whose information is to be disclosed unless required or permitted by law.
- 16.2 You agree to deal with all 'personal information' (as defined in the *Information Act 2002* (NT)) in connection with the Grant Activity in a manner that is consistent the Information Privacy Principles set out in that Act as if you were a public sector organisation.

17. Notices

- 17.1 All communications required to be given in writing in this Agreement must be given by registered post or by email to the relevant party's Contact Details. A communication sent by:
- (a) prepaid post is taken to be received on the 3rd business day after posting; and

- (b) email is taken to have been received at 9.00 a.m. on the following business day, subject to no automated notification having been sent advising that the email was not delivered or the addressee is "out of office" or similar.

18. Debt Due and Payable

- 18.1 Without prejudice to any of our other rights under this Agreement, we may recover any amounts that you owe to us under this Agreement as a debt due and payable to us by you upon demand or set off the amount against future payments under this or any other agreement with you.

19. Intervening Event

- 19.1 You must notify us if you are unable to perform any part of your obligations under this Agreement due to a circumstance or event which could not reasonably have been foreseen by you and is caused by circumstances beyond your reasonable control (but does not include circumstances caused by acts or omissions of you, your officers, employees, subcontractors or agents) ("**Intervening Event**").
- 19.2 In the event of an Intervening Event, your performance under this Agreement and our obligation to pay shall be suspended for the period that the event continues and you will have a reasonable extension of time for performance of your obligations in the circumstances.

20. Disputes:

- 20.1 The parties agree not to initiate legal proceedings in relation to a dispute unless they have first tried and failed to resolve the dispute by negotiation and mediation. The procedure for dispute resolution does not apply to action relating to termination or urgent litigation or where a party unreasonably fails to participate in negotiation or mediation.

21. Termination

- 21.1 We may immediately terminate this Agreement by written notice to you if in our reasonable opinion:
- (a) you are no longer able or willing to complete the Grant Activity;
 - (b) you have a Conflict that cannot be resolved to our satisfaction or remains unresolved after a reasonable period of time;
 - (c) information provided to us by you contained materially incorrect, false or misleading information;
 - (d) you breach or otherwise fail to comply with this Agreement and you fail to remedy that breach within the period specified in our notice to you;
 - (e) an Intervening Event continues for more than 30 consecutive days; or
 - (f) you are insolvent or become subject to any form of external administration, and clause 10 will apply.

22. General

- 22.1 Survival: The expiry or earlier termination of this Agreement does not affect the continued operation of a clause that expressly or by its nature survives the termination or expiry of this Agreement.
- 22.2 No assignment: This Agreement is not assignable or transferrable without our written consent.
- 22.3 Variation: This Agreement may only be varied by an agreement in writing between the parties.
- 22.4 Warranties: You warrant that you are properly established and constituted at law and you have the power and authority to enter into this Agreement.
- 22.5 Compliance with laws: You agree to comply with all laws relevant to the Grant Activity and your obligations under this Agreement.
- 22.6 Entire Agreement: This Agreement constitutes the entire agreement between the parties in respect of the Grant.

- 22.7 Severance: If a court determines that a word, phrase, sentence, paragraph or provision in this Agreement is unenforceable, illegal or void then the rest of this Agreement continues in effect as if the invalid part were excluded.
- 22.8 Waiver: A waiver by a party of any right under this Agreement, including a failure to enforce an obligation or exercise a right, is not, and will not be deemed to be, a waiver of any other right of that party under this Agreement.
- 22.9 Governing law: This Agreement will be governed by and construed in accordance with the laws of the Northern Territory. The parties submit to the non-exclusive jurisdiction of the courts of the Northern Territory.
- 22.10 Execution: The parties agree that this Agreement may be executed in any number of counterparts, which may be signed using a digital signature and may be given to the other party by electronic means. Each signed counterpart when read together will be deemed to form one binding Agreement.
- 22.11 Legal costs: Each party must pay their own legal costs of and incidental to the preparation, negotiation and execution of this Agreement.
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