

FDA 2014 Food Safety Challenge RULES, TERMS & CONDITIONS

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POLICY UPDATES

Luminary Labs LLC may update these Terms, Conditions, and Rules periodically. Please check for updates when accessing the FDA 2014 Food Safety Challenge (the “**Challenge**”) in the future. By participating in the Challenge at any time after such update, you are agreeing to such changes.

Please contact us at info@foodsafetychallenge.com should you have any comments or questions about these Rules, Terms & Conditions.

SUMMARY

These Official Rules, Terms & Conditions apply to the 2014 FDA Food Safety Challenge. No purchase necessary to enter or win. A purchase will not improve your chances of winning. Void where prohibited. Please read these Rules, Terms & Conditions carefully before submitting to the 2014 FDA Food Safety Challenge. Agreeing to receive e-mail news updates does not affect chances of winning. Posting a link for the Challenge on Facebook, Twitter, or other social media does not increase your chances of winning. Neither Facebook, Twitter, nor any other social media outlet is the Sponsor of, or otherwise associated with, the Challenge.

SPONSOR

The sponsor of this Challenge is the U.S. Food and Drug Administration (“**Sponsor**”).

ADMINISTRATOR

The administrator of the Challenge is Luminary Labs, LLC, 185 Franklin St., Floor 5, New York City, NY, 10013 (“**Administrator**”).

PRIVACY POLICY

By participating in the 2014 FDA Food Safety Challenge, Entrants hereby agree to Administrator’s collection and usage of their personal information and acknowledge that they have read and accepted the privacy policy as indicated on <http://www.foodsafetychallenge.com/privacy> and described herein.

ACCEPTANCE AGREEMENT

Any individual or team who submits an entry to the 2014 FDA Food Safety Challenge must comply with all provisions set forth in these Official Rules, Terms, & Conditions,

and winning the Challenge is contingent upon fulfilling all requirements. By participating, you agree to these Official Rules, Terms, & Conditions and the decisions of Administrator, Sponsors, and Challenge Judges, which are final and binding in all respects. Void outside of the 50 United States and the District of Columbia, and where prohibited, taxed, or restricted by law. All Federal, state, and local laws and regulations apply.

CHALLENGE DESCRIPTION

The 2014 FDA Food Safety Challenge is a call to scientists, academics, entrepreneurs, and innovators from all disciplines to submit concepts applying novel and/or advanced methodologies to foster revolutionary improvements in foodborne pathogen detection. Specifically, concepts should apply cutting-edge techniques to achieve significant **improvements in the speed** of the **FDA's** detection methods for **Salmonella** with identification to the subtype level in minimally processed fresh **produce**. The FDA is most interested in concepts that explore the acceleration or elimination of sample preparation and/or enrichment in the testing process, and/or those that employ novel or revolutionary techniques to achieve pathogen detection. Concepts may combine new techniques with existing methodologies such as polymerase chain reaction (PCR), and must describe where time savings are achieved in the testing process as well as expected time from unprepared food sample to verifiable result.

At least five finalist teams will be selected from the open submission pool based on the evaluation criteria listed below. Finalists will be awarded \$20,000 each. Finalists are encouraged to use their winnings to improve upon their concepts through the course of the Challenge. Finalists will be included in a Field Accelerator Phase with the Administrator and the Sponsor currently scheduled to start on July 15 (subject to change) and to conclude on Pitch Day, currently scheduled to be held on Tuesday, September 9 (subject to change). The Field Accelerator is to include a Boot Camp at which finalist attendance is required. Following Pitch Day, Judges will select one or more winners who will receive a prize purse of up to \$400,000 in prize money. Entry into the Challenge does not constitute entry into any other challenge or promotion, including, without limitation, other similar challenges or promotions offered by the Sponsor and/or Administrator. By participating in the Challenge, each entrant unconditionally accepts and agrees to comply with and abide by these Official Rules, Terms & Conditions and the decisions of Sponsor, Administrator, and/or the individual Judges/Advisors, which shall be final and binding in all respects.

ELIGIBILITY

To be eligible to win a prize under this challenge, an individual or entity:

- (a) Shall have entered a submission on www.foodsafetychallenge.com, (“**the Challenge website**”) under the rules promulgated by the Administrator and Sponsor;
- (b) Shall have complied with all the requirements under this section;
 - (c) must be (1) an individual or team of U.S. citizens or permanent residents of the United States each of whom are 18 years of age and over, or (2) an entity incorporated in and maintaining a primary place of business in the United States. Foreign citizens can participate as employees of an entity that is properly incorporated in the U.S. and maintains a primary place of business in the U.S.
 - (d) May not be a Federal entity or Federal employee acting within the scope of their employment. An individual or entity shall not be deemed ineligible because the individual or entity used Federal facilities or consulted with Federal employees during a competition if the facilities and employees are made available to all individuals and entities participating in the competition on an equitable basis.
 - (e) Shall not be in the reporting chain of the Chief Science Officer/Research Director of the FDA.

Federal grantees may not use Federal funds to develop COMPETES Act challenge applications unless consistent with the purpose of their grant award. Federal contractors may not use Federal funds from a contract to develop COMPETES Act challenge applications or to fund efforts in support of a COMPETES Act Challenge submission.

Employees of Sponsor, Administrator, each of their affiliates, and/or any other individual or entity associated with the development, evaluation, or administration of the Challenge as well as members of such persons' immediate families (spouses, children, siblings, parents), and persons living in the same household as such persons, whether or not related, are not eligible to participate in the Challenge.

HOW TO ENTER

To enter a participant:

- (a) Shall have entered a submission on the Challenge Website under the rules promulgated by the Administrator and Sponsor.
- (b) go to Challenge Website, complete all required fields of the submission form before June **15th** at 11:59pm EST. Each Entrant must complete all of the required fields in the Challenge submission form in accordance with these Official Rules, Terms & Conditions, and with the Challenge criteria. Please note that only completed submission forms are eligible.

All entrants are required to provide consent to these Official Rules, Terms & Conditions upon or before submitting an entry. Submissions must be received during the Open Submission phase of the Challenge to be eligible. The Open Submission phase is to last from Challenge launch currently scheduled for Tuesday April 22, 2014, through close of open submissions currently scheduled for 11:59PM, Sunday, June 15, 2014. Dates are subject to change. The Administrator is the official timekeeper for the Challenge. Once entrants click the “submit” button, they will no longer be able to make edits or updates to the submission. No substitutions of new versions of Submissions will be accepted under any circumstances once the original Submission is submitted for consideration. The Administrator and/or the Sponsor reserve the right to disqualify any submission that Administrator or Sponsor deems inappropriate.

Entrants may enter individually or as part of a team, and teams are strongly encouraged. Each team member must be clearly identified on the team's Submission Form to be eligible. In the event of a dispute regarding the identity of the individual or team who actually submitted the entry cannot be resolved to Sponsor's and/or Administrator's satisfaction, the affected entry will be deemed ineligible.

Except as otherwise stated in these Official Rules, Terms & Conditions, personal information collected in connection with the Challenge will be used by the Administrator in accordance with Administrator's privacy policy available on www.foodsafetychallenge.com/privacy and with any additional consent given by an entrant at the time of entry.

All entry information and materials, including any copy of the Submission, become property of the Administrator and will not be acknowledged or returned. Proof of submission is not considered proof of delivery to or receipt of such entry. Furthermore, Sponsor and Administrator shall have no liability for any Submission that is lost, intercepted, or not received by Sponsor and/or Administrator. Sponsor and Administrator assume no liability or responsibility for any error, omission, interruption, deletion, theft, or destruction or unauthorized access to, or alteration of, Submissions.

Notwithstanding anything to the contrary, however, there is no obligation of the Administrator, Sponsor or any other person or entity to post or make any use of the submission of any particular participant, or of any participant's information. Please refer to the Challenge privacy policy for more information about the use of the information you enter into the Challenge Website.

Entrants retain full intellectual property (“IP”) rights to the concepts described in any

Submission. Please see below under **Intellectual Property** for further details about IP rights.

REPRESENTATIONS AND WARRANTIES/INDEMNIFICATION

By participating in the Challenge, each entrant represents, warrants, and covenants as follows:

- (a) Entrant is the sole author, creator, and owner of the Submission;
- (b) the Submission is not the subject of any actual or threatened litigation or claim;
- (c) the Submission does not and will not violate or infringe upon the intellectual property rights, privacy rights, publicity rights, or other legal rights of any third party;
- (d) the Submission does not and will not contain any harmful computer code (sometimes referred to as "malware," "viruses" or "worms"); and
- (e) the Submission, and entrants' use of the Submission, does not and will not violate any applicable laws or regulations, including, without limitation, applicable export control laws and regulations of the U.S. and other jurisdictions.
- (f) the Submission does not contain or depict, for example but not limited to, profanity, defamatory statements, words, or symbols widely considered offensive to individuals of any certain race, ethnicity, religious, sexual orientation, or socioeconomic group, threats to any person, place, business, group, or world peace; and each entrant warrants and represents that his/her submission complies with all of those conditions.

If the Submission includes any third party works (such as third party content or open source code), entrant must be able to provide, upon Sponsor and/or Administrator's request, documentation of all appropriate licenses and releases for such third party works. In the event entrant cannot provide documentation of all required licenses and releases, Sponsor reserves the right, in Sponsor's sole discretion, to disqualify the applicable Submission, or seek to secure the licenses and releases for Sponsor's benefit and allow the applicable Submission to remain in the Challenge, and reserves all rights with respect to claims based on any damages caused by participant's failure to obtain such licenses and releases.

Entrants will indemnify, defend, and hold harmless Sponsor and Administrator from and against all third party claims, actions, or proceedings of any kind and from any and all damages, liabilities, costs, and expenses relating to or arising from entrant's Submission

or any breach or alleged breach of any of the representations, warranties, and covenants of entrant hereunder. Sponsor and/or Administrator reserves the right to disqualify any Submission that Sponsor and/or Administrator, in their discretion, deem to violate these Official Rules, Terms & Conditions.

SUBMISSION LICENSE

Each entrant retains title and full ownership in and to their Submission. Entrant expressly reserves all intellectual property rights not expressly granted under this Agreement. By participating in the Challenge, each entrant hereby irrevocably grants to Sponsor and Administrator a limited, non-exclusive, royalty free, worldwide, license and right to reproduce, publicly perform, publicly display, and use the Submission to the extent necessary to administer the Challenge, and to publicly perform and publicly display the Submission, including, without limitation, for advertising and promotional purposes relating to the Challenge.

PUBLICITY RELEASE

By entering, each Entrant grants permission for the use of his/her/its submission, and his/her/its name and likeness (as well as the name and likeness of any team members or employees) to be posted on the Internet (including the Challenge Website) in connection with this Challenge, and the advertising, promotion, and publicity of the Challenge, and otherwise, as stated in these Official Rules, Terms, & Conditions (as solely determined by Administrator).

ACCESS TERMINATION/SUSPENSION

The Administrator reserves the right in its sole discretion to refuse, suspend, or terminate any participant's access to the Challenge Website and any portion of Challenge Website without notice.

Sponsor and Administrator each reserve the right in their sole discretion to disqualify any individual who is found to be tampering with the entry process or the operation of the Challenge or Website or other Challenge-related websites, to be acting in violation of these Official Rules, Terms & Conditions, or to be acting in an unsportsmanlike or disruptive manner, or with the intent to disrupt or undermine the legitimate operation of the Challenge, or to annoy, abuse, threaten, or harass any other person, and Sponsor and Administrator each reserve the right to seek damages and other remedies from any such person to the fullest extent permitted by law.

LINKS TO THIRD PARTY WEBSITES

The Challenge Website may contain links to third-party websites, advertisers, services, special offers, or other events or activities that are not owned or controlled by the Administrator or the Sponsor. The Administrator and/or the Sponsor do not endorse or assume any responsibility for any such third-party sites, information, materials, products, or services. If an entrant accesses a third party website from the Challenge Website, he/she/it does so at his/her/its own risk and expressly relieves the Administrator and/or the Sponsor from any and all liability arising from use of any third-party website, service, or content.

U.S. GOVERNMENT SUPPORT, RIGHTS, AND WAIVER

Sponsor and Administrator are administering the Challenge with the support of the U.S. Department of Health & Human Services pursuant to the America COMPETES Reauthorization Act (the "**Act**"). Subsection (j) of section 24 of the Act establishes that the Government is prohibited from acquiring an interest in intellectual property developed by a participant in a prize competition, such as the Challenge, without the written consent of the participant.

Registered participants shall be required to agree to assume any and all risks and waive claims against the Federal Government and its related entities, except in the case of willful misconduct, for any injury, death, damage, or loss of property, revenue, or profits, whether direct, indirect, or consequential, arising from their participation in a competition, whether the injury, death, damage, or loss arises through negligence or otherwise.

Individuals are not required to obtain liability insurance or demonstrate financial responsibility in order to apply to the Challenge. Depending on the concept, liability insurance or demonstration of responsibility may be required for some or all Finalists, at the discretion of the Challenge Administrator and Sponsor.

WINNER SELECTION/EVALUATION CRITERIA

A panel of experts will select finalist teams from the initial pool of eligible entries. These finalists will then refine their concept and will present the concept at Pitch Day (currently scheduled for September 9).

The judging will be based and scored upon judges' own discretion as to the quality of each entry according to criteria described below.

Judging criteria are below:

Finalist evaluation criteria

1. Speed: proposed reduction in time from unprepared food sample to verified pathogen to subtype level for *Salmonella* in fresh, minimally processed produce.
2. Path to impact: strength of evidence, data and/or argumentation regarding the application of submission's technique to create impactful acceleration of foodborne pathogen detection.
3. Applicability: applicability of solution to FDA testing processes.
4. Revolutionary: whether the concept would be a revolutionary improvement over the FDA's current testing procedures with potential to make a major impact on food testing.
5. Team: perceived ability of submitting team or individual to execute and develop their concept.

Winner selection criteria

Winner selection criteria will include finalist evaluation criteria plus the below:

1. Demonstration of team's ability to effectively iterate and improve their concept over the course of Challenge Field Accelerator phase.
2. Coachability of team in soliciting feedback from Advisory Board and Administrator.

The evaluation criteria are to be applied in the sole discretion of the Administrator, Sponsor and the individual Judges/Advisors and are subject to modification by these parties. By participating in the Challenge, each entrant into the Challenge acknowledges and agrees that such evaluations may differ from person to person and agrees to be bound by and not challenge the final decisions of Sponsor and the individual advisors.

When notification of the finalists and/or winner(s) is completed, or as soon as is practical thereafter, the submissions selected as finalists and/or winners will be listed on the website for public viewing. THE JUDGING SCORES WILL NOT BE POSTED OR OTHERWISE AVAILABLE. FEEDBACK WILL NOT BE PROVIDED.

NOTICE TO FINALISTS/WINNERS

The Administrator will manage outreach and contact information for entrants. Attempts to notify finalists and winner(s) will be made using the contact information provided on the submission form. Sponsor and Administrator are not responsible for e-mail or other

communication problems of any kind.

If, despite reasonable efforts, an entrant does not respond within three (3) days of the first notification attempt regarding selection as a finalist (or a shorter time as exigencies may require), or if the notification is returned as undeliverable to such entrant, that entrant will forfeit his, her or its finalist status and an alternate finalist may be selected.

If, despite reasonable efforts, a potential winner does not respond within three (3) days of the first notification attempt (or a shorter time as exigencies may require), or if the notification of prize or the prize itself is returned as unclaimed or undeliverable to such participants, that participant will forfeit his, her or its prize and an alternate winner may be selected.

If any potential prize winner is found to be ineligible, or if he, she or it has not complied with these Official Rules, Terms & Conditions or declines the applicable prize for any reason prior to award, such potential prize winner will be disqualified and an alternate winner may be selected. The Administrator and/or Sponsor may successively attempt to contact up to two (2) potential prize winners in accordance with such procedure, and if there is still no confirmed prize winner after any such attempts have been made, the applicable prize may go unawarded.

ATTENDANCE

Any selected finalists and winner(s) are required to participate in Challenge activities organized by the Administrator and/or Sponsor in order to maintain eligibility, which may include, but are not limited to, a Field Accelerator/Boot Camp, Pitch Day, and the Winner Announcement. If an Entrant is unable to participate in any mandatory activities, they will not be eligible to win the Challenge. Finalists may be required to attend these events at their own expense.

INTELLECTUAL PROPERTY

Entrants retain ownership of their Concepts, including any software, research or other intellectual property ("IP") that they develop in connection therewith, subject to the license granted to the Administrator and Sponsor to use Publicly Posted Materials as set forth herein.

The Administrator and Sponsor recognize that Entrants are concerned about protecting their IP, and are committed to responsible information handling practices. However, neither Administrator, nor Sponsor, nor any of the Judges, staff, or other participants (collectively, "Administrator/Sponsor Parties") are agreeing to non-disclosure

agreements. By taking part in the competition, Entrants agree that Administrator/Sponsor Parties do not assume any liability whatsoever for any disclosures of Concepts, IP, or other information (inadvertently or otherwise). In this regard, Entrants should also recognize that Administrator/Sponsor Parties may receive many business plans, proposals, and concepts, in some cases applying to similar markets and relating to similar businesses and/or technologies, and that such parties may in fact be engaged in similar markets or businesses themselves, and that Entrants shall not have any rights in any intellectual property of Administrator and/or Sponsor Parties.

Administrator retains all rights, title and interest in and to any materials that the Administrator provides to Entrant in connection with the Challenge. Entrants may only use such materials for the purposes of this Challenge and for the duration of this Challenge. If Entrants use non-Administrator materials, they are responsible for securing the necessary rights to use such non-Administrator materials for the purposes of the project.

ANTICIPATED NUMBER OF ENTRANTS

There will be many entrants, but a limited number of finalist teams will be selected. From this pool of finalists judges will select one or more winners. Actual odds of winning depend on the number of eligible entries received. Sponsor and Administrator cannot accurately predict the number of entrants who will participate in the Challenge.

PRIZES

Judges will select the winner(s) who are eligible to receive up to \$400,000 in prize money.

Finalists will be awarded \$20,000 each. Finalists are encouraged to use their winnings to improve upon their concepts through the course of the Challenge. Finalists will receive mentorship from the Advisory Board, Administrator and external experts during the Field Accelerator phase to further develop their concepts and to improve presentations for Pitch Day.

GENERAL PRIZE CONDITIONS

A potential winner may be required to execute an Affidavit of Eligibility, a Liability Release and (where imposing such condition is legal) a Publicity Release (collectively "**Prize Claim Documents**"). If a winner fails or refuses to sign and return all Prize Claim Documents within three (3) days of Sponsor's and/or Administrator's request (or a

shorter time as exigencies may require), the winner may be disqualified and an alternate winner may be selected. Prizes will be delivered only to an address in the U.S. No cash alternative or substitution or transfer of prizes will be allowed, except Sponsor reserves the right in its sole discretion to substitute prizes of comparable value, in whole or in part, for any reason. A WINNER IS RESPONSIBLE FOR REPORTING AND PAYING ANY INCOME TAXES OR OTHER TAXES THAT MAY APPLY TO ACCEPTING A PRIZE; SPONSOR AND ADMINISTRATOR ARE NOT RESPONSIBLE FOR AND WILL NOT PAY ANY SUCH TAXES.

DATES/DEADLINES

Because of the unique nature and scope of the Challenge, Sponsor and Administrator reserve the right, in addition to those other rights reserved herein, to modify any dates or deadlines set forth in these Official Rules or otherwise governing the Challenge.

CHALLENGE TERMINATION

The Administrator and Sponsor reserve the right to suspend, postpone, cease, terminate or otherwise modify this Challenge, or any Entrant's participation in the same, at any time, without assigning any reason, at their sole option and discretion, and Administrator and Sponsor shall have no liability, whatsoever, in any such event.

GENERAL LIABILITY RELEASE/FORCE MAJEURE

Each entrant agrees that Sponsor and Administrator

- (a) shall not be responsible or liable for any losses, damages, or injuries of any kind (including death) resulting from participation in the Challenge or any Challenge-related activity, or from entrants' acceptance, receipt, possession, use, or misuse of any prize; and
- (b) have not made any warranty, representation, or guarantee, express or implied, in fact or in law, with respect to any prize, including, without limitation, regarding such prize's merchantability or fitness for a particular purpose. Entrants will indemnify, defend, and hold harmless Sponsor and Administrator from and against all third party claims, actions, or proceedings of any kind and from any and all damages, liabilities, costs, and expenses relating to or arising from entrant's participation in the Challenge.

Sponsor and Administrator assume no responsibility for any damage to an entrant's computer system which is occasioned by accessing the Challenge Website or other Challenge-related websites or participating in the Challenge, or for any computer

system, phone line, hardware, software, or program malfunctions, or other errors, failures, delayed computer transmissions, or network connections that are human or technical in nature. Sponsor and Administrator do not warrant, endorse, guarantee, or assume responsibility for any product or service advertised or offered by a third party through the Challenge website or any hyperlinked website(s) or service(s) and the Administrator and Sponsor will not be a party to or in any way monitor any transactions between you and third-party providers of products or services.

Without limiting the generality of the foregoing, Sponsor and Administrator are not responsible for incomplete, illegible, misdirected, misprinted, late, lost, postage-due, damaged, or stolen entries or prize notifications; or for lost, interrupted, inaccessible, or unavailable networks, servers, satellites, Internet Service Providers, websites, or other connections; or for miscommunications, failed, jumbled, scrambled, delayed, or misdirected computer, telephone, cable transmissions or other communications; or for any technical malfunctions, failures, difficulties, or other errors of any kind or nature; or for the incorrect or inaccurate capture of information, or the failure to capture any information.

In the event an insufficient number of eligible entries are received or Sponsor and/or Administrator is prevented from awarding the prize(s) or continuing with the Challenge as contemplated herein by any event beyond its control, including, without limitation, fire, flood, natural or man-made epidemic, earthquake, explosion, labor dispute or strike, act of God or public enemy, satellite or equipment failure, riot or civil disturbance, terrorist threat or activity, war (declared or undeclared) or any Federal state or local government law, order, or regulation, public health crisis, order of any court or jurisdiction, or other cause not reasonably within Sponsor's control ("**Force Majeure**"), Sponsor and/or Administrator shall have the right to modify, suspend, or terminate the Challenge.

If the Challenge is terminated for Force Majeure before expiration of the Challenge Period, Sponsor and/or Administrator will (if reasonably possible) select winner(s) from all eligible, non-suspect entries received as of the date of the event giving rise to the termination.

These Official Rules, Terms & Conditions cannot be modified except by the Sponsor and Administrator. The invalidity or unenforceability of any provision of these Official Rules 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 Official Rules, Terms & Conditions 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.

EXERCISE

The failure of Administrator to exercise or enforce any right or provision of these terms and conditions shall not constitute a waiver of such right or provision.

ABILITY TO ACCEPT TERMS AND CONDITIONS

Entrants affirm that they are either more than 18 years of age and are fully able and competent to enter into the terms, conditions, obligations, affirmations, representations, and warranties set forth in these Official Rules, Terms & Conditions, and to abide by and comply with these Official Rules Terms & Conditions.

GOVERNING LAW

The Challenge is subject to all applicable federal laws and regulations and will be governed by the internal laws of the State of New York, without regard to any conflicts of law principles.

WINNERS LIST/OFFICIAL RULES/CONTACT

To obtain any legally-required winners list (after the conclusion of the Challenge) or a copy of these Official Rules, Terms & Conditions, send a self-addressed envelope with the proper postage affixed to: Administrator, 185 Franklin St., Floor 5, New York City, NY, 10013. Please specify "winners list" or "Official Rules" and the name of the specific Challenge in your request.