Fledge Particication AGREEMENT

This **Participation Agreement** (the “***Agreement***”) is made as of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (the “***Effective Date***”), by and between **The Founders** (each a “***Founder***” and, collectively, the “***Founders***”, listed below) and **Fledge, LLC**, a Delaware limited liability company (the “***Purchaser***”).

**Whereas**, to provide the Founders with additional resources to develop their business, Purchasers are willing to provide the Founders an aggregate payment of **$20,000** in cash plus **$17,500** in in-kind services, subject to the conditions specified herein; and

**Whereas**, the Founders have an existing “Business Organization” (as defined below) or are in the process of developing a commercial business using the assistance of Purchaser to form a “Business Organization”.

**Now, Therefore**, in consideration of the foregoing, and the representations, warranties, covenants and conditions set forth below, each Founder and Purchaser, intending to be legally bound, hereby agree as follows:

1. **Issuance of Equity Interests**
	1. **Issuance of Equity Interests.** Subject to the terms of this Agreement, the Founders agree that, in exchange for the aggregate payment of **$37,500** in cash and services to the undersigned Founders and for no additional consideration, they will cause a Business Organization (as defined below) to issue to Purchaser a **six percent (6%)** equity interest in the capital stock, membership interests or other equity or ownership interests (calculated on a fully-diluted basis, including all options, warrants, convertible securities and other rights to acquire such interests) of any such “Business Organization.”  Purchaser shall be deemed to hold a beneficial ownership interest in the Intellectual Property and other assets held by or related to such Business Organization, whether now held or hereafter acquired. “***Business Organization***” shall mean any corporation, partnership, proprietorship, limited liability company or similar commercial organization that is formed with the purposes or intent of pursuing a business that utilizes, owns any interest in, or otherwise results from the Intellectual Property. “***Intellectual Property***” shall mean any and all proprietary rights, concepts, ideas, plans or interests (including any patents, trademarks, service marks, trade names, copyrights, trade secrets, licenses or information) identified in the Fledge application and/or developed by the Founder or Founders over the course of the Fledge Program. For purposes of this Agreement, “***Fledge Program***” shall mean the Fledge incubator program and the guidance or advice related or offered to the Founders and/or any Business Organization by Purchaser, its advisors and affiliates.
	2. **Formation as a Corporation.**
		1. If the Founders have already formed a Business Organization, within 60 (sixty) days the equity interest issued pursuant to Section 1.1 shall be issued (at the election of Purchaser) in the same form as the equity interests issued to the Founders (incorporating all of the same special rights, interests and benefits as those provided to the Founders) pursuant to a Stock Purchase Agreement in substantially the form attached hereto as Exhibit A.
		2. If the Founders have not already formed a Business Organization, and unless otherwise agreed to by Purchaser, the Founders agree to form each Business Organization as a Delaware or Washington corporation. In such event, within 60 (sixty) days of incorporation, the equity interest issued pursuant to Section 1.1 shall be issued (at the election of Purchaser) in the same form as the equity interests issued to the Founders (incorporating all of the same special rights, interests and benefits as those provided to the Founders) pursuant to a Stock Purchase Agreement in substantially the form attached hereto as Exhibit A.
2. **Representations, Warranties and Covenants of the Founders**

Each Founder hereby represents and warrants to Purchaser as follows:

* 1. **Formation, Notification and Transfer.**
		1. If the Founders have already formed a Business Organization, the Founders hereby agree that, all Intellectual Property shall be transferred to the Business Organization without further consideration and without further action on the part of any Founder. Each Founder hereby agrees to take all such action as may be necessary or appropriate to satisfy the purposes and intent of the foregoing.
		2. If the Founders have not already formed a Business Organization, the Founders shall notify Purchaser within fifteen (15) days of incorporating or otherwise forming a business organization that includes or will include any of the Intellectual Property. The Founders hereby agree that upon formation of such Business Organization, all Intellectual Property shall be transferred to the Business Organization without further consideration and without further action on the part of any Founder. Each Founder hereby agrees to take all such action as may be necessary or appropriate to satisfy the purposes and intent of the foregoing.
	2. **Treatment as Fiduciary.** Until issuance of the equity interests pursuant to this agreement, the Founders shall at all times (i) act in good faith with respect to Purchaser and (ii) act in a fiduciary manner with respect to Purchaser, as though Purchaser was the stockholder of a corporation at which the Founders sat on the Board of Directors (i.e. act in accordance with the obligations a director of a corporation owes to its stockholders).
	3. **No Other Instruments**. The execution, delivery and performance of this Agreement and the consummation of the transactions contemplated hereby will not result in violation of any other agreement or be in conflict with, or constitute, with or without the passage of time and giving of notice, either a default under any provision, instrument, judgment, decree, order or writ or an event that results in the creation of any lien, charge or encumbrance upon any of the Intellectual Property.
	4. **Additional Companies.** In the event the Founders decide to form more than one Business Organization that utilizes, owns any interest in, or otherwise results from the Intellectual Property, the Founders agree that the terms of this Agreement shall apply to each such organization. The Founders further agree to execute such additional agreements as necessary to effect the purpose of this Agreement.
	5. **Multiple Investment Acknowledgement.** The Founders acknowledge that Purchaser and several of its affiliates, mentors and employees either are or are employed by professional investment funds (collectively, the “***Fledge Affiliate Funds***”), and as such invest in numerous portfolio companies, some of which may be competitive with the Company's business.  No Fledge Affiliate Fund shall be liable to the Founders or any Business Organization for any claim arising out of, or based upon, (i) the investment by a Fledge Affiliate Fund in any entity competitive to any Business Organization, or (ii) actions taken by any partner, officer or other representative of any Fledge Affiliate Fund to assist any such competitive company, whether or not such action was taken as a board member of such competitive company, or otherwise, and whether or not such action has a detrimental effect on any Business Organization.
	6. **Advisor Indemnification.** Since Purchaser and its affiliates will be acting on behalf of the Founders in providing guidance and advice as part of the Fledge Program, the Founders agree to the indemnity provisions and other matters set forth in Exhibit B which is incorporated by reference into this agreement. The terms and provisions of Exhibit B shall survive any termination or expiration of this agreement. The Founders further represent and warrant that they will undertake to cause any Business Organization(s), upon formation, to also accept the indemnity provisions and other matters set forth in Exhibit B. Founders acknowledge and agree that Purchaser, its advisors and affiliates will be acting solely in an advisory role and not as an employee, contractor, director or operating partner with respect to the Founders or any Business Organization formed in accordance with this Agreement.
1. **Miscellaneous.**
	1. **Notices.** All notices required or permitted hereunder shall be in writing and shall be deemed effectively given: (i) upon personal delivery to the party to be notified, (ii) when sent by confirmed telex or facsimile if sent during normal business hours of the recipient, and if not during normal business hours of the recipient, then on the next business day, (iii) five (5) calendar days after having been sent by registered or certified mail, return receipt requested, postage prepaid, or (iv) one (1) business day after deposit with a nationally recognized overnight courier, specifying next day delivery, with written verification of receipt. All communications shall be sent to the other party hereto at such party’s address hereinafter set forth on the signature page hereof, or at such other address as such party may designate by ten (10) days advance written notice to the other party hereto.
	2. **Non-Disparagement.** Each Founder and Purchaser agree that, except as required by applicable law, or compelled by process of law, at any time following the date hereof, neither such Founder or Purchaser, nor anyone acting on their behalf, shall hereafter make any derogatory, disparaging or critical statement about Founder, Business Organization or Purchaser, their subsidiaries or affiliates, or any of their current managers, employees, agents or members or any persons who were managers, employees, agents or members of Founder or Purchaser.
	3. **Participation in Program.** This Agreement shall not be deemed to create any obligation on the part of Purchaser to continue the participation of the Founders, or any Business Organization formed by the Founders, in the Fledge Program. Purchaser may, in its discretion, terminate the participation of the Founders, or any Business Organization formed by the Founders, in the Fledge Program at any time prior to the end of such program. In the event that Purchaser so elects to terminate the participation of the Founders, or any Business Organization formed by the Founders, in the Fledge Program, Purchaser shall present for cancellation the certificates representing any equity interest in such Business Organization held by Purchaser, and Purchaser shall otherwise take any action reasonably necessary to terminate and relinquish any and all rights and benefits with respect to any equity interest held by Purchaser in such Business Organization.
	4. **Successors and Assigns.** This Agreement shall inure to the benefit of the successors and assigns of the Business Organization and, subject to the restrictions on transfer herein set forth, be binding upon Purchaser, Purchaser’s successors, and assigns.
	5. **Governing Law; Venue.** This Agreement shall be governed by and construed in accordance with the laws of the State of Washington. The parties agree that any action brought by either party to interpret or enforce any provision of this Agreement shall be brought in, and each party agrees to, and does hereby, submit to the jurisdiction and venue of, the appropriate state or federal court in King County, WA.
	6. **Attorneys’ Fees**. In the event that any suit or action is instituted under or in relation to this Agreement, including without limitation to enforce any provision in this Agreement, the prevailing party in such dispute shall be entitled to recover from the losing party all fees, costs and expenses of enforcing any right of such prevailing party under or with respect to this Agreement, including without limitation, such reasonable fees and expenses of attorneys and accountants, which shall include, without limitation, all fees, costs and expenses of appeals.
	7. **Further Execution.** The parties agree to take all such further action(s) as may reasonably be necessary to carry out and consummate this Agreement as soon as practicable, and to take whatever steps may be necessary to obtain any governmental approval in connection with or otherwise qualify the issuance of the securities that are the subject of this Agreement.
	8. **Entire Agreement; Amendment.** This Agreement constitutes the entire agreement between the parties with respect to the subject matter hereof and supersedes and merges all prior agreements or understandings, whether written or oral. This Agreement may not be amended, modified or revoked, in whole or in part, except by an agreement in writing signed by each of the parties hereto.
	9. **Severability.** If one or more provisions of this Agreement are held to be unenforceable under applicable law, the parties agree to renegotiate such provision in good faith. In the event that the parties cannot reach a mutually agreeable and enforceable replacement for such provision, then (i) such provision shall be excluded from this Agreement, (ii) the balance of the Agreement shall be interpreted as if such provision were so excluded and (iii) the balance of the Agreement shall be enforceable in accordance with its terms.
	10. **Counterparts.** This Agreement may be executed in two or more counterparts, each of which shall be deemed an original and all of which together shall constitute one instrument.

**In Witness Whereof,** the parties hereto have executed this Agreement as of the day and year first above written.

**Fledge, LLC (Purchaser):**

By: Fledge Management, LLC, its manager

By: 

Name: Michael Libes

Title: Manager

Address: 200 2nd Ave S, Seattle, WA 98104

**Founder1 Founder2**

By: By:

Name: Name:

Title: Founder Title: Founder

Address: Address:

**Founder3 Founder4**

By: By:

Name: Name:

Title: Founder Title: Founder

Address: Address:

**Exhibit A**

Form of Stock Purchase Agreement **Exhibit B**

The Founders will indemnify and hold harmless Purchaser and its affiliates, partners, directors, agents, employees, controlling persons, and mentors, as well as any other participants in the Fledge Program (each an “***Indemnified Person***”) against any and all losses, claims, damages or liabilities in connection with or as a result of (a) the terms of the attached Participation Agreement (the “***Agreement***”), (b) any matter referred to in the Agreement, (c) any negligent act, error or omission by Purchaser or other Indemnified Person, including without limitation any guidance or advice related or offered to the Founders and/or any Business Organization by Purchaser or other Indemnified Person and/or (d) any third party claims regarding the misappropriation or infringement of any third party proprietary rights by the Founders and/or any Business Organization formed by the Founders. If for any reason the foregoing indemnification is unavailable to Purchaser or insufficient to hold Purchaser harmless, then the Founders shall contribute to the amount paid or payable by Purchaser as a result of such loss, claim, damage or liability (i) in such proportion as is appropriate to reflect the relative economic interests of the Founders and the Business Organization and its stockholders on the one hand and Purchaser on the other hand in the matters contemplated by the Agreement, and (ii) only if the allocation provided for in clause (i) is held unenforceable, in such proportion as is appropriate to reflect (i) as well as the relative fault of the Founders on the one hand and Purchaser on the other hand with respect to such loss, claim, damage or liability, and any other relevant equitable considerations.

The reimbursement, indemnity and contribution obligations of the Founders under the foregoing paragraph shall be in addition to any liability which the Founders may otherwise have. The Indemnified Persons other than Purchaser shall be deemed third party beneficiaries to this Agreement. The Founders will not, without the prior written consent of Purchaser, settle or compromise or consent to the entry of any judgment in any pending or threatened claim, action or proceeding relating to the matters contemplated by the Agreement (whether or not any Indemnified Person is a party thereto) unless such settlement, compromise or consent includes an unconditional release of Purchaser and each other Indemnified Person from all liability arising or that may arise out of such claim, action or proceeding.

**The provisions of this Exhibit B shall survive any termination the Agreement.**