



INCITE Co-Investment Fund

REQUIRED TERMS

Set forth on the accompanying pages are certain terms, provisions and agreements (the "Required Terms") that must be included or provided for in any securities purchase or other agreement pursuant to which Approved Investor(s) participating in the INCITE Co-Investment Fund and Tennessee Technology Development Corporation d/b/a Launch Tennessee ("LaunchTN") make a co-investment in a Qualified Business. The Required Terms have been prepared for inclusion in a securities purchase or other agreement which provides for a simultaneous sign-and-close transaction. The Required Terms must be included or provided for in the applicable securities purchase or other agreement without material modification. Failure to include any one or more of the Required Terms in the applicable securities purchase or other agreement may result in LaunchTN's failure or refusal to enter into the agreement and consummate the proposed co-investment.



INCITE Co-Investment Fund

REQUIRED TERMS CHECKLIST

The following is a checklist relating to the Required Terms. Indicate in the right-hand column (a) the agreement in which the applicable Required Term appears and (b) within the applicable agreement, the specific section which sets forth the corresponding Required Term (e.g., Securities Purchase Agreement § 6.4(a)). Provide LaunchTN with a completed copy of this Required Terms Checklist when you submit the transaction documents for review.

No.	TERM	AGREEMENT & SECTION REFERENCE
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A (1)	Affiliate	
A (2)	Approved Investors	
A (3)	Closing	
A (4)	Closing Date	
A (5)	Equity Holders	
A (6)	Exchange Act	
A (7)	Executive Officers	
A (8)	Governmental Entity	
A (9)	Investors	
A (10)	Law or Laws	
A (11)	Publicly-Traded	
A (12)	SEC	
A (13)	Securities	
A (14)	Securities Act	
A (15)	LaunchTN	
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C (1)(b)	Organizational Document Amendment(s)	
C (1)(c)	Legal Opinion	
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REQUIRED TERMS

A. DEFINED TERMS

(1) “Affiliate” means, with respect to any person, any person directly or indirectly controlling, controlled by or under common control with such person. For purposes of this definition, *“controlling”* (including, with correlative meanings, the terms *“controlled by”* and *“under common control with”*), when used with respect to any person, means the possession, directly or indirectly through one or more intermediaries, of the power to direct the management and/or policies of such person, whether through the ownership of voting securities or by contract or otherwise.

(2) “Approved Investors” *[must be defined, collectively, as all Approved Investors a party to the Agreement].*

(3) “Closing” *[must be defined as the closing of the transactions contemplated by the Agreement].*

(4) “Closing Date” *[must be defined as the date on which the closing of the transactions contemplated by the Agreement occurs].*

(5) “Equity Holders” means shareholders, stockholders, members, partners, or other holders of a *[Qualified Business]* equity interest, including without limitation holders of options, warrants or other rights to purchase or acquire any securities of the *[Qualified Business]*.

(6) “Exchange Act” means the Securities Exchange Act of 1934, as amended.

(7) “Executive Officers” means the *[Qualified Business’s]* “executive officers” as defined in Rule 3b-2 under the Exchange Act (regardless of whether or not such regulation is applicable to the *[Qualified Business]*).

(8) “Governmental Entity” means any court, agency, arbitrator, mediator, tribunal, commission, bureau, legislative body, regulatory authority or other governmental or administrative body, department, instrumentality or authority, whether domestic or foreign and whether federal, state or local.

(9) “Investors” *[must be defined, collectively, as LaunchTN and all Approved Investors a party to the Agreement].*

(10) “Law” or “Laws” *[must be defined to include, at a minimum, any domestic (whether federal, state or local) or foreign law, constitution, statute, code, ordinance, license, rule, regulation, policy, guideline, order, demand, writ, injunction, decree or judgment].*

(11) “Publicly-Traded” means a company that (i) has a class of securities that is traded on a national securities exchange and (ii) is required to file periodic reports with the SEC.

(12) “SEC” means the United States Securities and Exchange Commission.

(13) “Securities” *[must be defined, collectively, as the equity or other interests in the [Qualified Business] to be acquired by the Investors under the Agreement].*

(14) “Securities Act” means the Securities Act of 1933, as amended.

(15) “LaunchTN” means Tennessee Technology Development Corporation d/b/a Launch Tennessee, a non-profit corporation chartered under the laws of the State of Tennessee.

B. RECITALS

WHEREAS, the board of directors of LaunchTN has approved LaunchTN’s administration of the INCITE Co-Investment Fund in furtherance of the purposes for which LaunchTN was established by the General Assembly of the State of Tennessee.

C. CLOSING CONDITIONS

(1) Investor Closing Conditions. The obligation of the Investors to consummate the transactions contemplated by this Agreement is subject to the fulfillment (or waiver by the each of the Investors) at or prior to the Closing of each of the following conditions:

(a) No provision of any applicable Law and no judgment, injunction, order or decree of any Governmental Entity shall prohibit the transactions contemplated by this Agreement;

(b) The *[Qualified Business]* shall have duly adopted and, to the extent required by Law, filed with the Secretary of State or other applicable Governmental Entity of its jurisdiction of organization, such amendment(s) to its organizational documents as may be required to fully effectuate the transactions contemplated by this Agreement, and the *[Qualified Business]* shall have delivered to the Investors, if a filing with the Secretary of State or other applicable Governmental Entity of its jurisdiction of organization was required by Law, a copy of such amendment(s) as so filed with appropriate evidence from the Secretary of State or other applicable Governmental Entity that the filing has been accepted; and

(c) The *[Qualified Business]* shall have delivered to the Investors a written opinion from counsel to the *[Qualified Business]* (which may be internal counsel), addressed to LaunchTN and each of the Approved Investors and dated as of the Closing Date, in substantially the form of Annex/Exhibit [] .

(2) LaunchTN Closing Condition(s). In addition to the conditions set forth in *[Section C(1)]*, the obligation of LaunchTN to consummate the transactions contemplated by this Agreement is subject to (a) the execution and delivery by the *[Qualified Business]* and the Approved Investors of a Co-Investment Agreement in substantially the form attached hereto as Annex/Exhibit [] and (b) LaunchTN’s receipt of evidence, satisfactory to LaunchTN in its sole discretion, of the Approved Investor(s)’ provision of funds to the *[Qualified Business]* required to purchase that portion of the Securities to be acquired by the Approved Investor(s).

D. REPRESENTATIONS AND WARRANTIES OF QUALIFIED BUSINESS

(1) Securities. The Securities have been duly and validly authorized, and, when issued and delivered pursuant to and in accordance with the terms of this Agreement for the consideration stated herein, the Securities will be duly and validly issued and fully paid and non-assessable. Except as set forth on Schedule [], the Securities, when issued and delivered, shall be free of restrictions on transfer other than restrictions contained in this Agreement and under applicable state and federal securities Laws. The *[Qualified Business's]* issuance of the Securities to the Investors in accordance with the terms of this Agreement will not violate any preemptive or other rights of any person. Any securities issuable upon conversion of the Securities have been duly reserved for issuance, and upon issuance in accordance with the terms of Annex/Exhibit [], will be validly issued, fully paid and nonassessable and free of restrictions on transfer, other than restrictions on transfer under this Agreement or any other documents, instruments or agreements to which the *[Qualified Business]* is a party the execution and delivery of which is contemplated by this Agreement, applicable federal and state securities Laws and liens or encumbrances created by or imposed by an Investor.

(2) Qualified Business Requirements. The *[Qualified Business]* (a) is not Publicly-Traded, (b) is headquartered in, and its principal business operations are located in, the State of Tennessee, (c) as of the Closing Date, has less than 500 employees, and sixty percent (60%) or more of the employees of the *[Qualified Business]* provide services in Tennessee to the *[Qualified Business]*, (d) is not engaged in a business involving (i) real estate or real estate development or leasing, (ii) insurance, banking or lending, (iii) professional services provided by a lawyer, accountant, registered investment advisor or physician, (iv) oil and gas exploration or mining, (v) gambling enterprises (unless the *[Qualified Business]* earns less than thirty-three percent (33%) of its annual net revenue from lottery sales), (vi) construction, (vii) the production or distribution of motion pictures, television shows or sound recordings, (viii) pyramid sales, where the participant's primary incentive is based on the sales made by an ever-increasing number of participants, (ix) accommodation and food services establishments or (x) retail establishments (except where the primary purpose is the development or support of electronic commerce using the Internet), (e) is not engaged in any activity prohibited by applicable Law, including without limitation the production, servicing or distribution of otherwise legal goods or products that are to be used in connection with an illegal activity, (f) is not engaged in speculative activities that develop profits from fluctuations in price rather than through normal course of trade, such as wildcatting for oil and dealing in commodities futures, unless such activities are incidental to the regular activities of the *[Qualified Business]* and part of a legitimate risk management strategy to guard against price fluctuations related to the regular activities of the *[Qualified Business]*, and (g) is not a charitable, religious or other not-for-profit institution, government-owned corporation, consumer or marketing cooperative or church or other organization promoting religious objectives.

(3) Registration Rights. Except as provided in Annex/Exhibit [] to this Agreement, the *[Qualified Business]* has no obligation, and has not granted to any person any rights, to register or cause the registration of any presently outstanding securities of the *[Qualified Business]*, or any securities of the *[Qualified Business]* that may be subsequently issued, under the Securities Act.

(4) Small Business Concerns. If one or more Approved Investor(s) is a small business investment company within the meaning of the Small Business Investment Act of 1958, as amended (the "SBIA"), the *[Qualified Business]*, together with its "affiliates" (as such term is defined in 13 C.F.R. § 121.103), is a "small business concern" within the meaning of the SBIA, and the regulations

promulgated thereunder. The *[Qualified Business]* acknowledges that each Investor that is a small business investment company is a federal licensee under the SBIA.

E. COVENANTS

(1) Securities of LaunchTN and Approved Investors. The *[Qualified Business]* and each of the Approved Investors understand, agree and acknowledge that, except as expressly otherwise provided in this Agreement, the Securities issued to LaunchTN under this Agreement shall be issued on the same terms and shall have, in all respects, the same preferences, rights and limitations, including without limitation any rights with respect to the disposition of such Securities, as the Securities issued to the Approved Investors.

(2) Access, Information and Confidentiality. Until such time as LaunchTN no longer holds an interest in the Securities (or any other securities into which the Securities are converted or for which the Securities are exchanged), the *[Qualified Business]* will deliver, or will cause to be delivered, to the Investors:

(a) Within 45 days after the end of each calendar year, an Annual Report and Certification in substantially the form attached hereto as Annex/Exhibit [], signed on behalf of the *[Qualified Business]* by an Executive Officer; *provided, however,* that LaunchTN shall have the right to from time to time modify Annex/Exhibit [] to (i) reflect changes in applicable Laws or (ii) make such clarifications and/or technical corrections thereto as LaunchTN determines to be reasonably necessary;

(b) Prompt written notice of any of the following:

(i) The incurrence by the *[Qualified Business]* or any of its Affiliates of any new indebtedness in an aggregate amount in excess of \$1 million;

(ii) Any offering or sale of securities of the *[Qualified Business]* in an aggregate amount in excess of \$1 million;

(iii) The dissolution, bankruptcy (whether voluntary or involuntary) or adjudication of insolvency of the *[Qualified Business]* or any of its Affiliates;

(iv) In the event the president or chief executive officer (or other similarly situated, highest-ranking officer or executive) of the *[Qualified Business]* is convicted of or pleads guilty or *nolo contendere* to any felony;

(v) In the event the *[Qualified Business]* is convicted of or pleads guilty or *nolo contendere* to, or is imposed or incurs any fine or penalty as a result of, any criminal offense; or

(vi) In the event the *[Qualified Business]* at any time operates as a charitable, religious or other not-for-profit institution, government-owned corporation, consumer or marketing cooperative or church or other organization promoting religious objectives.

(c) As soon as such items become effective, any amendments to the organizational documents of the *[Qualified Business]*; and

(d) At the same time as such items are sent to any other Equity Holders of the [Qualified Business], copies of any information or documents sent by the [Qualified Business] to its other Equity Holders.

(3) INCITE Fund Program Guidelines. The [Qualified Business] covenants that, unless otherwise agreed to by LaunchTN in writing, during the 12-month period immediately following and beginning on the day after the Closing Date (or until such earlier time as LaunchTN no longer holds an interest in the Securities or any securities into which the Securities are converted or for which the Securities are exchanged), at least sixty percent (60%) of all employees of the [Qualified Business] will provide services in Tennessee to the [Qualified Business]. For so long as LaunchTN holds an interest in the Securities (or any other securities into which the Securities are converted or for which the Securities are exchanged), the [Qualified Business] covenants that (a) it shall be headquartered and maintain its principal business operations in the State of Tennessee, (b) it shall not engage in any business involving (i) real estate or real estate development or leasing, (ii) insurance, banking or lending, (iii) professional services provided by a lawyer, accountant, registered investment advisor or physician, (iv) oil and gas exploration or mining, (v) gambling enterprises, provided that the [Qualified Business] shall be permitted to earn less than thirty-three percent (33%) of its annual net revenue from lottery sales, (vi) construction, (vii) the production or distribution of motion pictures, television shows or sound recordings, (viii) pyramid sales, where the participant's primary incentive is based on the sales made by an ever-increasing number of participants, (ix) accommodation and food services establishments or (ix) retail establishments (except where the primary purpose is the development or support of electronic commerce using the Internet), (c) it shall not engage in any activity prohibited by applicable Law, including without limitation the production, servicing or distribution of otherwise legal goods or products that are to be used in connection with an illegal activity, (d) it shall not engage in speculative activities that develop profits from fluctuations in price rather than through normal course of trade, such as wildcatting for oil and dealing in commodities futures, unless such activities are incidental to the regular activities of the [Qualified Business] and part of a legitimate risk management strategy to guard against price fluctuations related to the regular activities of the [Qualified Business], and (e) it shall not operate as a charitable, religious or other not-for-profit institution, government-owned corporation, consumer or marketing cooperative or church or other organization promoting religious objectives.

(4) LaunchTN Put Rights.

(a) Upon the occurrence of any of the following, LaunchTN shall have the right and option to require the [Qualified Business] to redeem or repurchase the Securities held by LaunchTN (the "Put Right") by providing the [Qualified Business] with written notice (the "Put Notice") of its intent to exercise the Put Right:

(i) In the event the president or chief executive officer (or other similarly situated, highest-ranking officer or executive) of the [Qualified Business] is convicted of or pleads guilty or *nolo contendere* to any felony;

(ii) In the event the [Qualified Business] is convicted of or pleads guilty or *nolo contendere* to, or is imposed or incurs any fine or penalty as a result of, any criminal offense;

(iii) In the event that, at any time during the 12-month period immediately following and beginning on the day after the Closing Date, at least sixty percent (60%) of all employees

of the *[Qualified Business]* do not provide services in Tennessee to the *[Qualified Business]*, unless otherwise agreed to by LaunchTN in writing; or

(iv) In the event the *[Qualified Business]* at any time operates as a charitable, religious or other not-for-profit institution, government-owned corporation, consumer or marketing cooperative or church or other organization promoting religious objectives.

LaunchTN and the *[Qualified Business]* agree that the price to be paid for the Securities subject to the Put Right shall be an amount equal to the fair value of such Securities as of the date of the Put Notice as determined by an independent appraiser mutually agreed upon by LaunchTN and the *[Qualified Business]*. All costs and expenses of the appraiser or otherwise relating to the valuation of such Securities shall be borne by the *[Qualified Business]*. The closing of the purchase by the *[Qualified Business]* and sale by LaunchTN of the Securities subject to the Put Right shall occur at the offices of the *[Qualified Business]* on such date as is mutually agreed upon by LaunchTN and the *[Qualified Business]*, such date to be no later than 30 days after the date on which the independent appraiser delivers its valuation of such Securities to LaunchTN and the *[Qualified Business]*.

(b) In addition to the rights granted to LaunchTN in *[Section E(4)(a)]* above, LaunchTN shall have the right and option to, at any time, with or without cause, require the *[Qualified Business]* to redeem or repurchase the Securities held by LaunchTN (the “Discretionary Put Right”) by providing the *[Qualified Business]* with written notice (the “Discretionary Put Notice”) of its intent to exercise the Discretionary Put Right. LaunchTN and the *[Qualified Business]* agree that the aggregate price to be paid for all of the Securities subject to the Discretionary Put Right shall be \$1.00, and that the closing of the purchase by the *[Qualified Business]* and sale by LaunchTN of the Securities subject to the Discretionary Put Right shall occur at the offices of the *[Qualified Business]* on such date as is mutually agreed upon by LaunchTN and the *[Qualified Business]*, such date to be no later than 10 days after the date of the Discretionary Put Notice.

(5) Certain Transactions.

(a) Until such time as LaunchTN no longer holds an interest in the Securities (or any securities into which the Securities are converted or for which the Securities are exchanged), the *[Qualified Business]* shall not merge or consolidate with, or sell, transfer or lease all or substantially all of its property or assets to, any other party unless the successor, transferee or lessee party (or its ultimate parent entity), as the case may be (if not the *[Qualified Business]*), expressly assumes the due and punctual performance and observance of each and every covenant, agreement and condition of this Agreement to be performed and observed by the *[Qualified Business]*; provided, however, that this *[Section E(5)(a)]* shall not operate to prohibit the consummation by the *[Qualified Business]* of a transaction in or as a result of which LaunchTN receives cash or Marketable Securities in exchange for all of the Securities (and all securities, if any, into which the Securities are or have been converted or for which the Securities are or have been exchanged) owned by LaunchTN. For purposes of this *[Section E(5)(a)]*, the term “Marketable Securities” shall mean equity securities that have a “readily determinable fair value,” as defined by the Financial Accounting Standards Board Accounting Standards Codification, as amended.

(b) Without the prior written consent of LaunchTN, until such time as LaunchTN no longer holds an interest in the Securities (or any other securities into which the Securities are converted or for which the Securities are exchanged), the *[Qualified Business]* shall not permit any of its “significant

subsidiaries” (as such term is defined in Rule 12b-2 promulgated under the Exchange Act) to (i) engage in any merger, consolidation, statutory share exchange or similar transaction, unless the same does not and will not, directly or indirectly, constitute or result in the sale or other disposition of all or substantially all of the assets of the *[Qualified Business]*, (ii) dissolve or sell all or substantially all of its assets or property other than in connection with an internal reorganization or consolidation involving wholly-owned subsidiaries of the *[Qualified Business]*, unless such dissolution or sale of assets or property does not and will not, directly or indirectly, constitute or result in the sale or other disposition of all or substantially all of the assets of the *[Qualified Business]* or, (iii) issue or sell any shares of its capital stock or any securities convertible or exercisable for any such shares, other than issuances or sales in connection with an internal reorganization or consolidation involving wholly-owned subsidiaries of the *[Qualified Business]*, unless the significant subsidiary is, after the issuance or sale of such capital stock or securities, majority-owned by the *[Qualified Business]* on a fully diluted basis or the issuance or sale of such capital stock or securities does not and will not, directly or indirectly, constitute or result in the sale or other disposition of all or substantially all of the assets of the *[Qualified Business]*.

(6) Restriction on Dividends and Repurchases. The *[Qualified Business]* covenants and agrees that it shall not violate any of the restrictions on dividends, distributions, redemptions, repurchases, acquisitions and related actions set forth in its organizational documents, which are incorporated by reference herein as if set forth in full.

(7) Related Party Transactions. Until such time as LaunchTN no longer holds an interest in the Securities (or any other securities into which the Securities are converted or for which the Securities are exchanged), neither the *[Qualified Business]* nor any subsidiary of the *[Qualified Business]* shall enter into any transactions with Affiliates or “related persons” (within the meaning of Item 404 under the SEC’s Regulation S-K), unless such transactions are on terms no less favorable to the *[Qualified Business]* or subsidiary than could be obtained from an unaffiliated third party.

F. TERMINATION

Termination. As to LaunchTN, this Agreement will terminate immediately without further action of the Parties on the date which LaunchTN no longer holds an interest in the Securities (or any other securities into which the Securities are converted or for which the Securities are exchanged).

G. ADDITIONAL ITEMS

In addition to providing for each of the forgoing Required Terms in the applicable securities purchase or other agreement, each Approved Investor a party to such securities purchase or other agreement must execute and deliver to LaunchTN a Co-Investment Agreement substantially in the form attached hereto as Schedule A.

SCHEDULE A

FORM OF CO-INVESTMENT AGREEMENT

[See attached]

CO-INVESTMENT AGREEMENT

THIS CO-INVESTMENT AGREEMENT (this “Co-Investment Agreement”) is made and entered into as of [date] by and among the Tennessee Technology Development Corporation d/b/a Launch Tennessee, a Tennessee non-profit corporation (“LaunchTN”) and the investor(s) listed on Exhibit A attached hereto (the “Investors”), and is acknowledged by **[name of Qualified Business]**, a **[state of organization and type of entity]** (the “Company”). In this Co-Investment Agreement, LaunchTN and the Investors (together with any subsequent investors or transferees who become parties hereto pursuant to Section 16 below) are referred to collectively as the “Parties,” and each is referred to individually as a “Party.”

RECITALS

WHEREAS, in connection with the INCITE Co-Investment Fund (the “Fund”), in compliance with the Program Guidelines governing the Fund (the “Program Guidelines”) and concurrently with the execution of this Co-Investment Agreement, the Parties have entered into a **[Securities Purchase Agreement]** (the “Purchase Agreement”) with the Company, which provides for the sale and issuance by the Company and the purchase by the Parties of **[total number and type]** of the Company’s **[class of securities]** (together with any securities into which such securities are converted or for which such securities are exchanged, the “Securities”); and

WHEREAS, in connection with the purchase of the Securities by the Parties, the Parties desire to set forth, among other things, their agreements and understandings with respect to the voting of the Securities purchased by LaunchTN and certain reporting obligations of the Investors as participants in the Fund.

NOW, THEREFORE, in consideration of the foregoing, the mutual covenants, agreements, representations, and warranties hereinafter set forth, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. Voting of LaunchTN Securities. LaunchTN constitutes and appoints the Lead Investor (as defined in Section 8 hereof), or its designee, or either of them, with individual power of substitution, as its proxy and attorney-in-fact to vote the Securities owned by LaunchTN upon all matters to which LaunchTN, as a holder of such Securities, is entitled to vote. The proxy granted pursuant to this Section 1 is coupled with an interest and shall be irrevocable unless and until this Co-Investment Agreement terminates or expires pursuant to Section 7 hereof. LaunchTN hereby revokes any and all previous proxies or powers of attorney with respect to the Securities owned by LaunchTN and shall not hereafter, unless and until this Co-Investment Agreement terminates or expires pursuant to Section 7 hereof, grant any other proxy or power of attorney with respect to such Securities, deposit any of such Securities into a voting trust or enter into any agreement (other than this Co-Investment Agreement), arrangement or understanding with any person, directly or indirectly, to vote or grant any proxy or give instructions with respect to the voting of such Securities.

2. Distribution of Proceeds from Securities.

(a) Upon the occurrence of a Liquidity Event, LaunchTN shall make distribution of cash and/or Marketable Securities received by LaunchTN as proceeds from the Securities owned by LaunchTN that are the subject of the Liquidity Event as set forth in Section 2(b). For purposes of this Section 2, the term “Liquidity Event” shall mean the consummation of any transaction in or as a result of

which LaunchTN receives cash or Marketable Securities in exchange for all or any portion of the Securities owned by LaunchTN. For purposes of this Section 2, the term “Marketable Securities” shall mean equity securities that have a “readily determinable fair value,” as defined by the Financial Accounting Standards Board Accounting Standards Codification, as amended.

(b) Upon LaunchTN’s receipt of cash and/or Marketable Securities as proceeds from a Liquidity Event in respect of Securities owned by LaunchTN, LaunchTN shall distribute to the Investors, in the aggregate, an amount of such cash and/or Marketable Securities equal to 25% of LaunchTN’s Net Proceeds, if any, from the Liquidity Event (the “Carry”). Such distributions of the Carry shall be made pro rata in accordance with each Investor’s respective percentage ownership of the Securities. If LaunchTN’s proceeds from a Liquidity Event consist of both cash and Marketable Securities, the distribution of the Carry to the Investors shall be made partly in cash and partly in Marketable Securities, with the specific percentages of cash and Marketable Securities to be distributed to the Investors to be calculated based on the corresponding relative percentages of cash and Marketable Securities received as proceeds from the Liquidity Event by LaunchTN. For purposes of this Section 2(b), the term “Net Proceeds” shall mean an amount equal to (i) the sum of (A) the aggregate cash proceeds received by LaunchTN as a result of a Liquidity Event in respect of Securities owned by LaunchTN and (B) the fair market value of the Marketable Securities received by LaunchTN as a result of the Liquidity Event in respect of Securities owned by LaunchTN, less (ii) the amount of LaunchTN’s unreturned initial capital investment in the Securities. For all purposes of calculating the amounts distributable by LaunchTN to the Investors under this Section 2(b), including the calculation of LaunchTN’s Net Proceeds from a Liquidity Event and the calculation of the Carry and the amount thereof distributable to each Investor, Marketable Securities shall be valued at their fair market value as of the date of the Liquidity Event giving rise to such calculations.

(c) The provisions of this Section 2 shall survive any termination of this Agreement until the fulfillment of LaunchTN’s obligations hereunder.

3. Representations and Warranties.

(a) Representations and Warranties of Investors. Each Investor, severally on its own behalf and not jointly, hereby represents and warrants to LaunchTN and the other Investors as follows:

(i) Such Investor has full corporate or other requisite power and authority to execute and deliver this Co-Investment Agreement and to perform its obligations hereunder, and the execution, delivery and performance of this Co-Investment Agreement by such Investor have been duly authorized and approved by all necessary corporate or other action on the part of such Investor; and

(ii) When executed and delivered by such Investor, this Co-Investment Agreement will constitute the valid and legally binding obligation of such Investor, enforceable against such Investor in accordance with its terms, except as such enforceability may be limited by applicable bankruptcy, reorganization, insolvency, moratorium, or other similar laws from time to time in effect which relate to or affect creditors’ rights generally or by general principles of equity.

(b) Representations and Warranties of LaunchTN. LaunchTN hereby represents and warrants to the Investors as follows:

(i) LaunchTN has full corporate power and authority to execute and deliver this Co-Investment Agreement and to perform its obligations hereunder, and the execution, delivery

and performance of this Co-Investment Agreement by LaunchTN have been duly authorized and approved by all necessary corporate action on the part of LaunchTN; and

(ii) When executed and delivered by LaunchTN, this Co-Investment Agreement will constitute the valid and legally binding obligation of LaunchTN, enforceable against LaunchTN in accordance with its terms, except as such enforceability may be limited by applicable bankruptcy, reorganization, insolvency, moratorium, or other similar laws from time to time in effect which relate to or affect creditors' rights generally or by general principles of equity.

4. Investor Reporting.

(a) Reporting Requirements.

(i) On or before March 15th of each year, the Investors shall deliver to LaunchTN a completed Annual Report and Certification in substantially the form attached hereto as Exhibit B (the "Certification"), signed by each Investor, or a duly authorized representative thereof; provided, however, that LaunchTN shall have the right to amend or modify Exhibit B from time to time to (A) reflect changes in applicable laws, rules, or regulations or (B) make such clarifications and/or technical corrections to Exhibit B as LaunchTN determines to be reasonably necessary.

(ii) On or before March 15th of each year, each Investor shall provide LaunchTN the value of the Securities of such Investor as currently reflected on the books, records and financial statements of such Investor, as well as a detailed explanation of the underlying methodology used to derive such value.

(b) Non-Compliance. In the event the Investors fail to deliver any Certification to LaunchTN by March 15th in accordance with Section 4(a)(i) above, the Investors, jointly and severally, shall pay to LaunchTN the sum of \$5,000, as damages, and not as a penalty, for non-compliance with the reporting requirement set forth in Section 4(a)(i) above. Furthermore, the Investors shall pay to LaunchTN, as damages, and not as a penalty, for non-compliance with the reporting requirement set forth in Section 4(a)(i) above, the additional sum of \$2,500 for each additional 30 days after March 15th during which the Investors fail to deliver to LaunchTN such Certification.

(c) Survival. The provisions of this Section 4 shall survive any termination of this Agreement until the fulfillment of the obligations of the Investors with respect to the next annual reporting period following such termination.

5. Notice of Exercise or Waiver of Rights. The Investors shall give LaunchTN reasonable advance written notice of any exercise or waiver by any of the Investors of any rights of the Investors as holders of the Securities, including without limitation, as applicable, any exercise or waiver by the Investors of any Preemptive Right associated with the Securities. As used in this Co-Investment Agreement, a "Preemptive Right" shall mean any right given to a holder of Company equity (an "Equity Holder") to purchase newly issued securities of the Company in order to prevent dilution of the Equity Holder's ownership interest in the Company. The term Preemptive Right, however, does not include rights arising out of or in connection with options, warrants, other derivative securities or a convertible feature of the Securities. Furthermore, the term Preemptive Right includes only those rights arising with respect to the Securities, and shall not include any rights arising with respect any other Company securities owned or controlled by the Investors. The Investors shall also give LaunchTN reasonable

advance written notice of any sale, transfer, or other disposition by the Investors of all or any portion of the Securities.

6. Preemptive Right; New Application Required. In the event that any one or more of the Investors intend to exercise any Preemptive Right, the participating Investors agree to submit to LaunchTN the specified form of Preemptive Right exercise application (to be provided and available at www.tntechnology.org/incite) with respect to and at least 10 days prior to the exercise of such Preemptive Right. Submission of the Preemptive Right exercise application will afford LaunchTN the opportunity to participate in such Preemptive Right exercise, provided that (a) the Company has not previously received, in the aggregate, the maximum amount of co-investment funding permitted from the Fund as provided in the Program Guidelines, (b) all co-investment funds available in the Fund have not already been fully allocated, and (c) the Fund has not terminated in accordance with the Program Guidelines.

7. Term and Termination. This Co-Investment Agreement shall be effective as of the date hereof and shall continue in effect until and shall terminate upon the earliest of the following events: (a) at such time as no Investor holds any Securities; (b) at such time as LaunchTN no longer holds any Securities; and (c) upon written notice by LaunchTN of its intent to terminate this Co-Investment Agreement.

8. Lead Investor. The Investors shall designate one Investor to serve as the lead investor for purposes of this Co-Investment Agreement (the "Lead Investor") by listing such Investor as the Lead Investor on Exhibit A attached hereto. The Investors agree that, at all times prior to the termination or expiration of this Co-Investment Agreement, one Investor shall serve as the Lead Investor. If the Investor serving as the Lead Investor hereunder is unable to fulfill its obligations to vote the Securities owned by LaunchTN in accordance with Section 1 for any reason, including without limitation as a result of the Lead Investor's disposition of all Securities owned by such Lead Investor, the other Investors shall, upon learning of such inability, promptly (a) appoint another Investor to serve as the Lead Investor hereunder and (b) notify LaunchTN in writing of the identity of the new Lead Investor.

9. Transfer of Securities to Affiliates. An Investor shall not sell, assign, or otherwise transfer all or any portion of the Securities owned by such Investor to an Affiliate of the Investor unless such Affiliate expressly assumes the due and punctual performance and observance of each and every covenant, agreement and condition of this Co-Investment Agreement to be performed and observed by the Investor. For purposes of this Co-Investment Agreement, the term "Affiliate" shall mean, with respect to any person, any person directly or indirectly controlling, controlled by or under common control with such person. For purposes of the foregoing definition of "Affiliate," "*controlling*" (including, with correlative meanings, the terms "*controlled by*" and "*under common control with*"), when used with respect to any person, means the possession, directly or indirectly through one or more intermediaries, of the power to direct the management and/or policies of such person, whether through the ownership of voting securities or by contract or otherwise.

10. Headings. The section and other headings used in this Co-Investment Agreement are for convenience of reference only and shall not in any way affect the meaning or interpretation of this Co-Investment Agreement or any of the terms or provisions hereof.

11. Amendment and Waivers. This Co-Investment Agreement may not be amended, modified, or supplemented except by a written instrument executed by each of the Parties. No waiver of

any term or provision of this Co-Investment Agreement shall be effective unless set forth in a written instrument signed by the Party granting such waiver.

12. Partnership. Nothing contained in this Co-Investment Agreement shall be construed as creating a partnership or joint venture by or among the Parties.

13. Severability. In the event any term or provision of this Co-Investment Agreement is held to be invalid, illegal, or unenforceable for any reason or in any respect, such invalidity, illegality, or unenforceability shall in no event affect, prejudice, or disturb the validity of the remainder of this Co-Investment Agreement, which shall be and remain in full force and effect enforceable in accordance with its terms.

14. Governing Law and Submission to Jurisdiction. This Co-Investment Agreement and any claim, controversy or dispute arising under or related to this Co-Investment Agreement, the relationship of the Parties, and/or the interpretation or enforcement of the rights and duties of the Parties shall be enforced, governed and construed in all respects (whether in contract or in tort) in accordance with the federal law of the United States, if and to the extent such law is applicable, and otherwise in accordance with the laws of the State of Tennessee applicable to contracts made and to be performed entirely within such State. Each of the Parties (a) submits to the exclusive jurisdiction and venue of the state courts of record located in Davidson County, Tennessee and the United States District Court for the Middle District of Tennessee for any and all civil actions, suits or proceedings arising out of or relating to this Co-Investment Agreement and (b) agrees that notice may be served upon the Parties as set forth in Section 18 below. To the extent permitted by applicable law, each of the Parties hereby unconditionally waives its rights to trial by jury in any civil legal action or proceeding relating to this Co-Investment Agreement.

15. Further Assurances. Each of the Parties agrees to take such other and further actions and execute, acknowledge, and deliver such other and further agreements, documents, and instruments as may be necessary to carry out and fully effectuate the purposes and intent of this Co-Investment Agreement.

16. Successors and Assigns. This Co-Investment Agreement shall be binding upon and inure to the benefit of the Parties hereto and their respective successors and assigns; provided, however, that this Co-Investment Agreement shall not be assignable by a Party without the express prior written consent of all other Parties hereto, which consent may not be unreasonably withheld.

17. Counterparts. This Co-Investment Agreement may be executed by the Parties in two or more counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same instrument.

18. Notices. All notices, requests, demands, consents, and other communications required or permitted hereunder shall be in writing and will be deemed given (a) when delivered, if delivered personally, (b) on the third business day after mailing, if mailed, postage prepaid, by registered or certified mail (return receipt requested), (c) on the first business day after mailing, if sent by a nationally recognized overnight delivery service which maintains records of the time, place, and recipient of delivery, or (d) upon receipt of confirmation of a successful transmission, if sent by facsimile, electronic mail, or other electronic transmission, in each case to the Parties at the following addresses (or such other addresses as the Parties may designate from time to time by notice given in accordance with this Section 18:

If to LaunchTN: Tennessee Technology Development Corporation
d/b/a Launch Tennessee
230 4th Avenue North, Suite 601
Nashville, Tennessee 37219
Facsimile: (615) 249-9949
Attention: Brad Smith, Interim President and CEO

With a copy to: **[Company]**
[Address]
[Address]
Facsimile: (_____) _____
Attention: _____

If to one or more of the Investors: To such Investor(s) at the address(es) for such
Investor(s) set forth on Exhibit A to this Co-Investment
Agreement

With a copy to: **[Company]**
[Address]
[Address]
Facsimile: (_____) _____
Attention: _____

19. Construction. In the event an ambiguity or question of intent arises, this Co-Investment Agreement shall be construed as if drafted jointly by the Parties and no presumption or burden of proof shall arise favoring or disfavoring any Party by virtue of the authorship of any of the provisions of this Co-Investment Agreement.

[Signature Page Follows]

IN WITNESS WHEREOF, the Parties hereto have duly executed this Co-Investment Agreement as of the date set forth above.

LAUNCHTN

Tennessee Technology Development Corporation
d/b/a Launch Tennessee

By: _____

Name: _____

Title: _____

INVESTOR(S)

[Insert Name]

By: _____

Name: _____

Title: _____

[Add additional signature blocks, as necessary]

The Company, by signing below, acknowledges the existence and terms of this Co-Investment Agreement.

COMPANY

[Insert Name]

By: _____

Name: _____

Title: _____

Exhibit A

Investor Information

<hr/> <i>Name of Lead Investor</i> <hr/>			<hr/> <i>Approved Investor No.</i> <hr/>
<hr/> <i>Street Address for Notices</i> <hr/>			<hr/> <i>Organizational Form (e.g., corporation, limited liability company)</i> <hr/>
<hr/> <i>City</i> <hr/>	<hr/> <i>State</i> <hr/>	<hr/> <i>Zip Code</i> <hr/>	<hr/> <i>Jurisdiction of Organization</i> <hr/>
<hr/> <i>Fax Number for Notices</i> <hr/>			<hr/> <i>Name of Contact Person to Receive Notices</i> <hr/>
<hr/> <i>Name of Investor</i> <hr/>			<hr/> <i>Approved Investor No.</i> <hr/>
<hr/> <i>Street Address for Notices</i> <hr/>			<hr/> <i>Organizational Form (e.g., corporation, limited liability company)</i> <hr/>
<hr/> <i>City</i> <hr/>	<hr/> <i>State</i> <hr/>	<hr/> <i>Zip Code</i> <hr/>	<hr/> <i>Jurisdiction of Organization</i> <hr/>
<hr/> <i>Fax Number for Notices</i> <hr/>			<hr/> <i>Name of Contact Person to Receive Notices</i> <hr/>
<hr/> <i>Name of Investor</i> <hr/>			<hr/> <i>Approved Investor No.</i> <hr/>
<hr/> <i>Street Address for Notices</i> <hr/>			<hr/> <i>Organizational Form (e.g., corporation, limited liability company)</i> <hr/>
<hr/> <i>City</i> <hr/>	<hr/> <i>State</i> <hr/>	<hr/> <i>Zip Code</i> <hr/>	<hr/> <i>Jurisdiction of Organization</i> <hr/>
<hr/> <i>Fax Number for Notices</i> <hr/>			<hr/> <i>Name of Contact Person to Receive Notices</i> <hr/>

Exhibit B

Form of Annual Report and Certification

[See attached]



INCITE Co-Investment Fund
ANNUAL REPORT AND CERTIFICATION

This Annual Report and Certification (this “Certification”) is provided by the Investors to LaunchTN in accordance with Section 8 of that certain Co-Investment Agreement, dated _____, 20____, by and among LaunchTN and the Investors (the “Agreement”). All information provided by the Investors should be as of **December 31st** of the immediately preceding year ended. Capitalized terms used but not defined in this Certification have the same meanings given to them in the Agreement.

1. Qualified Investment Identification Number:

2. Census tract in which the principal executive office of the Company is located:

3. Zip code in which the principal executive office of the Company is located:

4. The total amount (\$) of financing invested in the Company through the INCITE Co-Investment Fund and, of such amount, that portion invested by LaunchTN:

Total amount of financing (\$): _____

LaunchTN investment (\$): _____

5. Date of initial investment in the Company (i.e., date of closing under the Purchase Agreement):

6. Company annual revenues (\$) for the last fiscal year ended:

7. Number of full-time equivalent (FTE) employees of the Company:

8. The North American Industry Classification System (NAICS) code for the Company’s industry:

9. The year in which the Company was incorporated or otherwise organized:

10. Estimated number of jobs created as a result of the Investors' investment in the Company:

11. Estimated number of jobs retained as a result of the Investors' investment in the Company:

12. The amount of all additional private financing (\$) received by the Company after the closing of the Investors' investment in the Company:

(a) The amount (\$) of such additional private financing that was the cause and result of the Investors' investment in the Company:

(b) Describe the rationale for determining that the amount of additional private financing reported in (a) above was the cause and result of the Investors' investment in the Company:

13. Participation by target populations:

[Signature Page Follows]

Each Investor hereby affirmatively certifies that (i) no false statements have been made and no false information has been provided in connection with this Certification and (ii) all information provided in this Certification is complete and accurate with no material omissions.

INVESTOR(S):

[INSERT NAME]

By: _____

Print: _____

Title: _____

[Add additional Investor signature blocks, as necessary]

ButlerSnow 14801116v3