

DATED

(1) <<Name of Founder A>>

(2) <<Name of Founder B>>

[(3) <<Name of Founder C>>]

(4) <<Name of Investor>>

(5) <<Name of Investor>>

(6) <<Insert Company Name>>

ENTERPRISE INVESTMENT SCHEME (EIS) SUBSCRIPTION AGREEMENT

THIS AGREEMENT is made the day of

BETWEEN:

- (1) <<Name of Founder>> of <<Insert Founder's Address>> ("Founder A");
- (2) <<Name of Founder>> of <<Insert Founder's Address>> ("Founder B");
- [(3) <<Name of Founder>> of <<Insert Founder's Address>> ("Founder C");]

Each a Founder and together the "Founders";

- (4) <<Name of Investor>> of <<Insert Investor's Address>>¹;
- [(5) <<Name of Investor>> of <<Insert Investor's Address>>;]

Each an "Investor" and together the "Investors";] and

- (6) <<Name of Company>>, a company incorporated in England and Wales under No. <<Insert Company Number>> whose registered office is at <<Insert Registered Office of Company>> (the "Company").

BACKGROUND:

- A. The Company was incorporated by the Founders under the laws of England and Wales as a private limited company on <<insert relevant date>>.
- B. At the date of this Agreement, the Company has an issued share capital of <<number>> shares of £<<amount>> owned by the Founders in the proportions as set out in Part 1 of Schedule 1.
- C. The Founders of the Company are (and have always been) the only registered and beneficial holders of the Shares and the only parties with any options over or other rights or equity interests in the Shares.
- D. The Company and the Founders wish to grow and expand the Business. On this basis, the Founders have made a Presentation to the Investors at which the Investors indicated a willingness to subscribe for new shares in the Company.
- E. The Investors now wish to subscribe for Ordinary Shares in the Company [on the basis of their agreement in the Term Sheet].
- F. The Subscription will be made on the terms and subject to the conditions of [the Terms Sheet and] this Agreement, following which the capitalisation of the Company will be as set out in Part 3 of Schedule 1.
- G. It is proposed that the Subscription will qualify as an investment under the Enterprise Investment Scheme.

IT IS AGREED as follows:

¹ If there is only 1 investor delete reference to Investors and refer instead to the Investor.

1. Definitions and Interpretation

1.1 In this Agreement, unless the context otherwise requires:

“Articles”

the Articles of Association of the Company as contained in the Agreement [in the form set out in Schedule 2] as may be amended from time to time;

“Board”

the Board of Directors (as constituted from time to time) of the Company;

“Business”

the business of the Company details of which are set out in Schedule 3;

“Business Day”

any day (other than Saturday and Sunday) on which the [clearing] banks are open for [their normal] business in <<London>>;

“Business Plan”

the Business Plan prepared by the Founders in respect of the [entire time period>>], outlining the details of the Business [and containing forecasts and an operating budget for the [entire time period>>]] and given to the Founders in [presentation];

“Confidential Information”

any information disclosed to each party to this Agreement by any party which is disclosed to the other party (“the Informant”) pursuant to this Agreement, whether in writing or by any other medium, and whether expressly stated to be confidential or not, provided that such information includes any information that is in the public domain solely by the breach of the confidentiality provisions set out in this Agreement;

“Director”

any person who is a Director of the Company for the time being;

“EIS” or “Enterprise Investment Scheme”

the Enterprise Investment Scheme as run and managed by HMRC;

“Encumbrance”

any mortgage, charge, pledge, lien, restriction, claim, right of pre-emption, first refusal, third party right or interest, encumbrance or security interest of any kind or preferential arrangement having effect in relation to any asset;

“HMRC”

Her Majesty’s Revenue & Customs;

“Insolvency Act”

the Insolvency Act 1986 and The Insolvency (England and Wales) Rules 2016, as either may be amended from time to time;

“Investor Director”

of the Company appointed in Clause 4;

“Operating Commitment”

commitments given by the Company as

“Ordinary Shares”

shares of £<<insert value of a share>> of the capital of the Company;

“Person”

any individual person or any corporation, partnership or other legal entity incorporated or formed;

“Presentation”

any presentation about the Company and its business made by the Founders to the Investors on or after the date>>;

“Reserved Matters”

Matters referred to in Clause 7 and requiring the written consent of the Investors;

“Shares”

Shares;

“Subscription”

the Subscription for Shares in the Company as described in Clause 2;

“Subscription Price”

the Subscription Price per Share of <<Insert the Subscription Price>> the Investors for the Subscription;

[“Term Sheet”

the [Term Sheet] letter of intent, entered into by the Founders relating to the Subscription on or after the date>>²]; and

“Warranty” or “Warranties”

the warranties and representations contained in the Term Sheet;

1.2 Unless the context requires otherwise, any reference in this Agreement to:

the reference in this Agreement to:

1.2.1 “writing”, and any other form of communication, includes a reference to any written communication, including facsimile transmission, email or any other electronic communication, in any form or by any means, whether or not signed, sealed or otherwise authenticated, and whether or not it is in writing or in any other form;

the term “writing”, includes a reference to any written communication, including facsimile transmission, email or any other electronic communication, in any form or by any means, whether or not signed, sealed or otherwise authenticated, and whether or not it is in writing or in any other form;

1.2.2 a statute or regulation, means a reference to that statute or regulation as it applies at the relevant time;

the term “statute or regulation” is a reference to that statute or regulation as it applies at the relevant time;

1.2.3 “this Agreement”, means this Agreement or any other agreement or document referred to in this Agreement or such other agreement or document as may be supplemented, modified or novated from time to time;

the term “this Agreement” means this Agreement or any other agreement or document referred to in this Agreement or such other agreement or document as may be supplemented, modified or novated from time to time;

1.2.4 Clauses and Schedules of this Agreement, and to this Agreement, means Clauses and Schedules of this Agreement, and to this Agreement, unless otherwise stated, and unless the context requires otherwise, the reference appears.

the term “Clauses and Schedules of this Agreement” means Clauses and Schedules of this Agreement, and to this Agreement, unless otherwise stated, and unless the context requires otherwise, the reference appears.

1.3 In this Agreement:

² A term sheet may or may not have been entered into.

appropriate.

- 1.3.1 all agreements between the parties to the Agreement which comprise more than one document shall be joint and several;
- 1.3.2 any reference to a party shall be a reference to their respective personal representatives, successors in title and permitted assignees;
- 1.3.3 any reference to a company shall include any body corporate, unincorporated association, partnership or other legal entity;
- 1.3.4 words importing the plural and vice versa; and
- 1.3.5 words importing the masculine gender shall include any other gender.
- 1.4 The headings in this Agreement are for convenience only and shall not affect its interpretation.
- 2. Subscription**
- 2.1 As soon as practicable after the execution of this Agreement, the Investors shall subscribe for <<insert number>> Ordinary Shares each to be issued at the Issuance Price.
- 2.2 The total value of the subscription shall be <insert amount £>>.
- 2.3 Each Investor shall be issued with <insert number>> Ordinary Shares as is set out next to his name in Part 2 of the Schedule.
- 2.4 Upon receipt from the Investors of the total subscription monies £>> in full, the Company shall issue and allot the Ordinary Shares to the Investors in proportion to the number of the Investors in the register of members of the Company and the holder of the relevant number of Ordinary Shares, and shall deliver to each holder of the relevant number of Ordinary Shares, the issue of share certificates accordingly.
- 2.5 The execution of the subscription may occur either in person at a meeting of the Investors, or by any means agreed, or else by means of a power of attorney.
- 3. Rights, Obligations and Responsibilities of Investors**
- The rights, obligations and responsibilities of the Investors with respect to the Ordinary Shares subscribed for pursuant to this Agreement shall be as set out in the Articles, the Schedule and this Agreement.
- 4. Investor Director**
- 4.1 The Investors, for so long as they hold not less than a minimum number of Shares as set out in the Schedule <<insert number>>, representing <<insert %>> of the Ordinary Shares, shall be entitled to appoint one director to the Board of Directors.
- 4.2 Such person shall be an Investor or a Director.
- 4.3 The Investors may remove or appoint any Director or any other person that they may think fit as director at any time and appoint or remove any other person as director.
- 4.4 The Investors may remove or appoint any Director or any other person that they may think fit as director at any time and appoint or remove any other person as director.

Investor Director.

- 4.5 If the Investors' shareholding in the Company falls below the required minimum percentage, the Investors shall procure that the Investor Director in question shall resign from his position as a director of the Company.

5. Warranties

- 5.1 The Founders and the Company warrant to the Investors that each of the statements set out in the Warranties is accurate and not misleading as at the date of this Agreement.
- 5.2 The Founders and the Company warrant to the Investors that they have given the Investors the Warranties with the intention of enabling the Investors to enter into this Agreement and that they have acted in good faith on the Warranties in entering into this Agreement.
- 5.3 Each Warranty is to be taken as a whole and independently and (except where this Agreement provides otherwise) is not limited by any other provision of this Agreement or any other document.
- 5.4 The Founders and the Company shall be jointly and severally liable for all the legal responsibility for all the Warranties.
- 5.5 Any knowledge or information that the Founders or the Company have about the Company's affairs at the time of the Warranties shall be based on the Warranties. The Founders and the Company shall be liable for the damages that the Investors are able to recover from the Company, if the Warranties are not correct.
- 5.6 If the Investors make a claim against any Founder and/or the Company, that Founder and/or the Company shall be entitled to make a claim against any other Founder, or any employee, director, adviser, agent or any other person for any contribution towards the liability arising from the Warranties. The Founder and the Company gives up any such right he/she/it may have.
- 5.7 Where any Warranty is made by the knowledge or awareness or belief of any Founder, the Founder shall be deemed to have been made after due and careful enquiry. In respect of any Warranty, such qualification shall mean the knowledge of any Director.
- 5.8 Subject to Clause 5.9, the liability of each Founder individually in respect of all or any of the Warranties shall not exceed the sum shown opposite to his name in (3) of Part 1 of Schedule 1 plus any costs and expenses incurred by him/her.
- 5.9 Subject to Clause 5.10, the Founders shall not be liable in respect of any claim for breach of Warranties if the total amount of all such claims made exceeds £<< >> in the aggregate. The Founders shall be liable for the whole amount of such aggregate claims in excess of the excess.
- 5.10 Subject to Clause 5.9, the Company shall be liable in respect of a claim for breach of Warranties if he/she/it has been given written

notice of the claim
“Expiry Date”) and
respect of such cla
liability in question i
being quantified in
of proceedings sha
actual and/or quar
Founders or the C
shall contain reaso
such information is

5.11 In the case of fraud
the Company giving
that Founder or the
Clauses 5.8 to 5.10

5.12 The maximum liabil
to the Warranties sh

6. Operating Commitments

The Company agrees to ta

6.1 Provide the Investo
activities and progre

6.2 Operate the Busine

6.3 Pursue the Busines
procure that the
endeavours to con
consents and auth
Business from time

- a. To the exten
to pursue a
shall not app
and
- b. A winding up
accordance
Clause 6.3.

6.4 In light of the fact t
be eligible for, and v
and that prior to th
assurance from HM
Company shall:

- a. Promptly an
that the Inve
- b. Promptly se
other docum
relief; and
- c. Subject to le
judicial auth
limit or jeop
Subscription

S

A

M

P

L

E

or before <<insert date>> (the
s have been issued and served in
of the Expiry Date save where the
(as the case may be) incapable of
[month] limit for the issue and service
until such liability shall become an
prejudice to the liability of the
of Warranty, each Notice of Claim
subject matter of the claim so far as

non-disclosure by any Founder or
t to the Warranties, the liability of
such claim shall not be limited by
2.

spect of all or any claims pursuant
value of the Subscription.

actions:

sonable detail, on the Company's
ery three months.

e Business Plan.

g reasonable efforts and due care,
managed, use all reasonable
laws, and maintain all licenses,
ed or necessary to carry on the

es to pursue the Business in order
obligation set out in this Clause 6.3
all apply to such different business;

a legitimate business failure and in
all not constitute a breach of this

ablished that the Company would
the Investors, relief under the EIS,
t the Company receives advance
shall be eligible for EIS relief, the

MRC all forms required to ensure

y certificates, correspondence or
ishing or otherwise related to EIS

der of a court or other competent
any actions whatsoever which may
e Investors to claim relief on the
reement.

7. Reserved Matters

The Founders shall procure that the Company shall not, without the prior written consent of the Investors, do any of the following, provided that such permission shall not be withheld or delayed:

- 7.1 alter its Articles or documents;
- 7.2 pass any resolution for the liquidation of the Company;
- 7.3 reduce or purchase its share capital;
- 7.4 alter the rights of the Shares, including Ordinary Shares;
- 7.5 issue or agree to issue any Shares, including Ordinary Shares;
- 7.6 create any new class of Shares;
- 7.7 create any share options;
- 7.8 pass any resolution for the Company to become a public company;
- 7.9 create or grant any security over the whole or any part of its Shares or assets;
- 7.10 lend, advance money to, or guarantee the indebtedness of any person, firm or corporation;
- 7.11 change the nature of the business other than that of the Business;
- 7.12 change the number of Shares;
- 7.13 instigate any litigation outside the ordinary course of business;
- 7.14 other than in the normal course of business, to sell, transfer or otherwise dispose of, or procure such disposal of, the whole or any substantial part of the assets of the Company by one transaction or a series of transactions.

8. Transfers

- 8.1 Subject to the Articles, any person other than the Founders may transfer their Shares (any or all) to any person at any time.
- 8.2 If a transfer is made in accordance with this Agreement shall not apply as otherwise agreed.

9. Other Matters

The matters set out in Schedule 1 shall be deemed to be incorporated herein by reference.

10. Conflict with the Articles

Insofar as any provision of the Articles, this Agreement shall prevail over the Articles.

11. Duration

- 11.1 This Agreement shall be binding on the Founders, the Company and each of the Investors and shall bind the Investors, the Company and each of the registered holders in the Shares issued hereunder.
- 11.2 In the event that a member of the Board, those provisions of this Agreement shall not apply as otherwise agreed.

to take or not to take
all other provisions
the period described

shall cease to bind such Director, but
continue to bind such Director for

12. Notices and Service

12.1 All notices to be given
be delivered personally
transmission or email

shall be in writing and shall either
by first class prepaid post, facsimile
duly served and received:

- a. in the case of
b. in the case of
Business Day
- c. in the case of
(being Business Day
after the date
- d. in the case of
business hours
normal business

personally, at the time of delivery;
by first class prepaid post, 2
Business Days
by airmail, 7 Business Days
to which the notice is dispatched)
in or email, if sent during normal
transmission and if sent outside
next following Business Day.

12.2 Any notice to an
Investor at such time
email address as the

to the registered address of the
notice sent by email, to such other
Company from time to time.

12.3 Any notice to the
Company or, in the case of
Company or such other
reasonably believes

to the registered office of the
email, to an email address of the
the Company which the Investor
regularly.

12.4 Any notice to a Director
or, in the case of a
Investors reasonably

registered office of the Company
to an email address of which the
checks regularly.

13. Confidentiality

13.1 In relation to Confidential
Informant that except
at all times during the
period e.g. 5 years>

the Recipient undertakes with the
by the Informant, he or she shall,
Agreement and within <<insert time

13.1.1 use his or her
Information;

keep confidential all Confidential

13.1.2 not disclose
current or
accountants
where such
obligations,
required to do

to any other person except its
s, bankers, lenders, partners,
sional advisers, in each case only
under appropriate confidentiality
or entity to whom any party is
information by law;

13.1.3 not use any
contemplated

for any purpose otherwise than as
terms of this Agreement;

13.1.4 not make any
any Confidential

any way or part with possession of

S

A

M

P

L

E

13.1.5 ensure that
done by that
13.1.1 to 13.

13.2 The provisions of the
terms, notwithstanding

14. No Partnership or Agency

14.1 This Agreement shall not
venture between and

14.2 Nothing in the Agreement
parties the agent of

15. No Waiver

No failure or delay by either
shall be deemed to be a waiver
of any provision of this Agreement
breach of the same or any

16. Severance

If any provision of this Agreement
be invalid or unenforceable
valid as to its other provisions

17. Entire Agreement

17.1 This Agreement together
between the parties
and understandings

17.2 Each party acknowledges
on any representation
except as expressly

17.3 Without limiting the
in respect of any
relied in entering into
the Presentation and
nothing in this Agreement
statement or act.

18. Non – Assignment

This Agreement is personal
charge (otherwise than by
or otherwise delegate any
of the other parties.

19. Further Assurance

Each party shall from time
after its termination) do all
reasonably necessary in order

20. Costs

Each party's costs and expenses
expenses) of the preparation

or advisors does any act which, if
of the provisions of Sub-clauses

shall continue in force in accordance with its
Agreement for any reason.

shall not be deemed to create a partnership or joint

shall not be deemed so as to constitute any of the

of its rights under this Agreement
waiver by either party of a breach
to be a waiver of any subsequent

court or other competent authority to
this Agreement shall continue to be
the affected provision.

This Agreement contains the entire agreement
replaces all previous agreements

In entering into this Agreement, it is not relying
factual statement or other provision
ent or the Presentation.

However, no party shall have any remedy
to him upon which he may have
is contained in this Agreement or
is for breach of contract. However,
include liability for any fraudulent

No party may assign, mortgage, or
its rights hereunder, or sub-contract
er, except with the written consent

for the continuance of this Agreement and
all such documents as may be
provisions of this Agreement.

Each party's professional, legal and accountancy
costs of this Agreement and any

associated documentation of the other party.

21. Counterparts

This Agreement may be signed in counterparts, each of which together shall constitute one agreement. If this Agreement is signed in counterparts, no signatory hereto shall be bound until all parties have signed counterparts, and no agreement shall be deemed to be executed, or caused to be duly executed, a counterpart of which has not been signed by a signatory.

22. Applicable Law and Jurisdiction

22.1 This Agreement shall be governed by and construed in accordance with the laws of England and Wales.

22.2 The parties agree to submit to the exclusive [non-exclusive] jurisdiction of the courts of England and Wales in connection with this Agreement.

IN WITNESS WHEREOF this Agreement has been executed the day and year first before written
SIGNED by

<<Name of Founder A>>

SIGNED by

<<Name of Founder B>>

SIGNED by

<<Name of Founder C>>

SIGNED by

<<Name of Investor>>

SIGNED by

<<Name of Investor>>

SIGNED by

<<insert name of person signing for
for and on behalf of <<Insert Company Name>>

SIGNED by

S

A

M

P

L

E

S

A

M

P

L

E

Name and Address	Number of Shares	Maximum Warranty Liability (£)
<<Founder A>>		
<<Founder B>>		
<<Founder C>>		
Total		

S

A

M

P

L

E

Name and Address	No.	Total Price £●
<< >>		
<< >>		
Total		

Capitalisation		Subscription
Name of Shareholder	N	Percentage of equity share capital held (%)
<< >>		
<< >>		
<< >>		
<< >>		
<< >>		
Total		

S

A

M

P

L

E

S

1. The Company has been duly incorporated under the laws of England and Wales.

A

2. The Founders are the legal owners of the Shares listed against their names in Part 1 of Schedule 1, and are holding them for anyone else. The shares are fully paid for and free from any Encumbrance.

3. The issued share capital of the Company is £1,000,000.

4. The Board has duly authorised the allotment of the Ordinary Shares contemplated by this Agreement, and the allotment is subject to the conditions set out in this Agreement.

5. The information in Part 3 of the Presentation will be true and accurate in all respects.

6. The Company has taken all necessary steps and has all necessary power and authority to enter into and perform the obligations contained in the Agreement.

7. The Business Plan and the Presentation are true and accurate in all material respects and not misleading in any respect.

8. Since the Presentation the Company has not experienced any adverse change in the financial or trading position of the Company.

9. The Company has no borrowed money or other than indebtedness to trade creditors incurred in the ordinary course of business.

10. The Company has not given any guarantee, indemnity, warranty or bond or incurred any other similar obligation or in respect of liabilities, actual or contingent, of any other person.

11. To the knowledge of the Company there are no Encumbrances over any of the assets of the Company.

12. The Company owns or has the right to use all intellectual property rights which it requires to carry on the Business as set out in the Presentation.

13. To the knowledge of the Company there have been or are being infringements of the Company's intellectual property rights.

14. To the knowledge of the Company the Company's current or planned activities infringe upon the intellectual property of any Person.

15. The Company has complied with data protection legislation in the way that it handles data from individuals and has given any notice of breach.

16. To the knowledge of the Company there is no litigation or dispute, current, pending, or threatened, between the Company and any third party.

17. To the knowledge of the Company the Company nor any of the Directors are in breach of any relevant legal obligations.

P L E

18. Neither the Company nor a Director has ever been convicted of any criminal offence involving dishonesty or fraud.
19. Accurate and complete copies of all the Company's contracts with its employees, Directors and consultants are included in the Presentation. There are no outstanding breaches of any contracts and the Company does not have any outstanding obligations under any contract. The Company does not have any salary or bonus payable to any employee or Director for any month earned in the month in which this Agreement is dated.
20. The Company has not received or expects to receive) any claims for redundancy, unfair, constructive dismissal, or any kind of discrimination, from any of its employees, Directors or consultants.
21. The Company has no outstanding pension, sick leave, holiday, or other benefits payable to any employee or consultants.
22. The Company has complied with all applicable laws, regulations and other legal requirements that apply to the Company, including all the permissions, licences and consents that it needs to carry out its business.
23. The Company has kept all its books and accounts up-to-date as required by law.
24. The Company has no subsidiaries or been a subsidiary of any other company.
25. All material agreements to which the Company is a party have been complied with in all material respects by the Company and the other party to those agreements to the knowledge of the Company.
26. To the knowledge of the Company, all agreements to which the Company is a party are valid and constitute enforceable obligations of the parties to those agreements.
27. No notice of any intention to disclaim, and no notice of any default in respect of, any agreement to which the Company is a party has been given or received by the Company.
28. No agreement to which the Company is a party can be affected by, nor does any such agreement prevent, the Company from performing this Agreement.
29. The Company is not insolvent or has not been affected by the Insolvency Act 1986.
30. The Company has not entered into any arrangement or voluntary or other arrangement with any of its creditors.
31. To the knowledge of the Company, the Company is not the subject of any order or resolution for its winding up or for an administration order to be made in respect of it, nor is any of its undertaking or assets, nor has any analogous thing done in respect of it.
32. To the knowledge of the Company, the Company is not the subject of any outstanding petition for its winding up or for an administration order to be made in respect of it, nor is any of its undertaking or assets, nor has any analogous thing done in respect of it.
33. The Company has filed all its tax returns with HMRC. It is not in arrears of any tax.

dispute with HMRC or any
of anything likely to lead to

any country, and it does not know

34. The Company has paid or
and it is not subject to any

taxation for which it is responsible,

35. The Company has not ente
the avoidance of taxation.

t designed completely or partly for

S

A

M

P

L

E

S

1. Definition of “Business”

The Business of the Company shall be <<insert relevant business>>.

2. Other Matters

- A. The Company shall not use the funds received from the sale of the Shares to cause the Company to, use the funds for the following purposes: <<insert relevant details>>.
- B. The Company shall not make any reimbursement or other payment of any kind (including salary, bonus, expense or other benefits) in £<< >> each to the Directors in any calendar year as the Company receives an EIS certificate as the Company receives an EIS certificate within two years after the date hereof.
- C. The Company shall not conduct its Business in such a way that the Company is not eligible for EIS relief as claimed by the Company and the Directors from HMRC shall not be jeopardised or put at risk.
- D. [Further provisions]

A

M

P

L

E

[AR ON]

S

A

M

P

L

E