

BRITISH BUSINESS ANGELS ASSOCIATION AND EVERSLEDs LLP
PRECEDENT TERM SHEET FOR BUSINESS ANGEL INVESTMENTS

[NAME]
[PROPOSED INVESTEE COMPANY]
[ADDRESS]

[DATE]

Dear [NAME]

PROPOSED INVESTMENT IN THE SHARE CAPITAL OF [NAME OF COMPANY]
TERM SHEET

Further to our recent conversations, this Term Sheet sets out a proposal from [NAME OF LEAD INVESTOR] and others as set out in **Appendix 1 (“the Investors”)** to provide an equity investment to the Company in order to facilitate its future growth (“**the Investment**”).

This Term Sheet is subject to contract and due diligence and it is agreed between us that neither this Term Sheet, nor our discussions so far, create any legally binding obligations, except for those set out at **paragraphs 7** (Professional Fees), **9** (Exclusivity), **10** (Confidentiality) and **11** (Governing Law and Jurisdiction) which the parties to this Term Sheet agree shall be legally binding.

1. THE BUSINESS

1.1 The Company [is currently engaged in / intends to engage in] the business of [INSERT DESCRIPTION OF ACTIVITY] (“**the Business**”). The purpose of the Investment is to enable the Company to [fund its general working capital requirements / [DESCRIBE OPPORTUNITY]].

1.2 The Investors are making this Investment with the aim of achieving an exit, by means of a sale of the entire issued share capital of the Company or its Business, a listing of the Company’s shares on a recognised stock exchange or a refinancing, within [INSERT] years of completion of the Investment.

2. INVESTMENT SUMMARY

2.1 The Investment will be made on the basis that the Company’s current value is £[AMOUNT]. The total equity investment by the Investors will be £[AMOUNT] which will comprise £[NUMBER] Ordinary Shares of £[0.01] each (“**the Ordinary Shares**”). This will represent [NUMBER]% of the issued share capital of the Company after such investment has been made. The Investment will be made in full at completion.

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2.2 [[NUMBER] of Ordinary Shares representing [NUMBER]% of the share capital of the Company will be reserved for the purposes of a share option scheme for the Company's employees in order to provide incentivisation and align their interests with those of the Investors.]

2.3 The capitalisation of the Company before and after the Investment is set out in **Appendix 2**.

3. **CONDITIONS PRECEDENT**

The Investment is conditional upon:

3.1 agreement of the terms of a shareholders' agreement ("**the Shareholders' Agreement**");

3.2 satisfactory completion of due diligence on behalf of the Investors, to include financial, legal and commercial due diligence [and the finalisation of the Company's management / audited accounts for the period [INSERT]];

3.3 the giving of standard warranties by [INSERT], [INSERT] and [INSERT] ("**Management**") in relation to [financial information provided including (but without limitation) the management accounts, trading position and forecasts of the Company], [the responses to the due diligence questionnaire provided to the Investors by the Management] and other relevant matters;

3.4 to the extent it is not already owned by the Company, the Business being transferred or licensed to the Company including, without limitation, all existing intellectual property rights developed for the Business on the date of completion of the Investment and all such rights so developed thereafter;

3.5 provisional clearance for the trade of the Business being granted for the purpose of Enterprise Investment Scheme relief, and such relief being available in respect of the Investment¹;

3.6 the entering into by the executive directors of new service agreements with the Company, on terms to be agreed by the Investors;

3.7 [keyman insurance in respect of the executive directors for the benefit of the Company and suitable directors and officers insurance being obtained;] [and]

3.8 the appointment of the Lead Investor as a director of the Company ("**the Investor Director**"); [and]

3.9 [INSERT OTHERS IF APPROPRIATE].

¹ Please note that some Investors may prefer to receive non-EIS approved shares and therefore this paragraph, and the structure of the Investment, may need to be amended accordingly.

4. **SHAREHOLDERS' AGREEMENT**

The Shareholders' Agreement will contain a number of features to protect the Investment made by the Investors, including, but not limited to:

- 4.1 a certain number of restricted matters which cannot take place without the consent of the Investors;
- 4.2 the obligation to provide the Investors with certain information relating to the Company; and
- 4.3 restrictive covenants on the part of the Founders not to compete or damage the goodwill of the Company.

5. **SHARE TRANSFERS**

Upon completion, the Company shall adopt new articles of association on terms approved by the Investors, which will include (but not be limited by) the following provisions:

- 5.1 customary good leaver / bad leaver provisions to the effect that, if a shareholder were to leave the Company, he or she would be required to offer his shares to the remaining shareholders;
- 5.2 if the holders of a majority of the share capital of the Company (such majority to include the Investors) accept an offer to acquire their shares in the Company, then the remaining shareholders shall be legally bound to accept the offer and transfer their shares to the proposed buyer (the **"drag along"**); and
- 5.3 there will be no sale of a controlling interest in the Company unless the Investors are entitled to participate in such a sale on the same terms (the **"tag along"**).

6. **COMPOSITION OF BOARD**

- 6.1 Following completion of the Investment, the board of directors of the Company shall consist of:
 - 6.1.1 [MANAGER(S)]; [and]
 - 6.1.2 the Investor Director; [and]
 - 6.1.3 [OTHERS IF APPROPRIATE].
- 6.2 The Lead Investor shall receive a fee of [INSERT] by way of remuneration for this appointment.

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6.3 [In addition, the Company will seek to appoint a [Finance Director], to be approved by the Investors, as soon as practicable following completion of the Investment.]

7. PROFESSIONAL FEES

7.1 The Company and the current shareholders shall be responsible for their own legal and professional fees in respect of the Investment. The Company's professional fees shall not exceed [LEVEL OF CAP].

7.2 The Investors' legal and due diligence fees are to be paid from the gross sum invested. These are estimated to be:

7.2.1 solicitors fees up to £[AMOUNT] plus VAT; and

7.2.2 other professional fees up to £[AMOUNT].

8. COMPLETION

The Investors intend to proceed as quickly as possible with the proposed Investment and anticipate that completion of the Investment will take place on or before [DATE].

9. EXCLUSIVITY

9.1 In consideration of our proceeding with the due diligence and incurring professional fees in relation to the Investment, you agree as follows:

9.1.1 immediately upon signing this letter you will terminate, and procure that your representatives terminate, any discussions currently taking place with anyone other than the Investors relating to possible investment in the Company;

9.1.2 during the period following signature of this letter until [DATE²] or such earlier date on which we notify you that we no longer wish to proceed with the negotiations contemplated by the letter, if earlier (the "**Exclusivity Period**") you shall not:

9.1.2.1 directly or indirectly solicit, initiate or respond to any approach made with a view to investment in or acquisition of the Company by any person other than us;

9.1.2.2 enter into any agreement or arrangement with anyone other than us or representatives relating to any investment in or acquisition of the Company; or

² An exclusivity period of 4 weeks from the issuing of Heads of Terms is generally considered to be appropriate.

- 9.1.2.3 give anyone other than us or our representatives any information in relation to such an approach, with the exception of information that is publicly available.
- 9.2 You will ensure that your employees, agents and advisers comply with the undertakings contained in **paragraphs 9.1.1** and **9.1.2** above.
- 9.3 You acknowledge that we will incur fees and expenses in reliance upon the undertakings that you have made in **paragraphs 9.1.1** and **9.1.2** above and shall be entitled to damages arising from any breach.
- 9.4 Without prejudice to any other rights we may have in the event of any breach by you of the undertakings set out in this **paragraph 9** or in the event that you withdraw from the negotiations with us without good cause, we shall be entitled to recover from you for such breach or all of our professional fees and other out of pocket costs incurred (including those already incurred as at today's date) in connection with the investigation and evaluation of the Investment and negotiation and preparation of this letter, the Shareholders' Agreement and other documents in connection with the proposed Investment.

10. **CONFIDENTIALITY**

This Term Sheet is written on the basis that its contents and existence are confidential and it will not, and neither will any other information provided by either the current shareholders, the Company or the Investors in relation to the Investment (except with the agreement in writing of the Investors and the Company) be revealed by the Company, the current shareholders or the Investors to any third party or be the subject of any announcement.

11. **GOVERNING LAW AND JURISDICTION**

- 11.1 This letter will be governed by and construed in accordance with the law of England and Wales.
- 11.2 The courts of England and Wales will have exclusive jurisdiction to settle any dispute which arises out of or in connection with this letter and each party agrees to submit to that jurisdiction. It is intended that the above is an outline of some of the key terms that will be contained in the Shareholders' Agreement and does not contain all matters which will be drafted into the Shareholders' Agreement, new articles of association of the Company and other relevant documents.

This offer of Investment will remain open until 5.00pm on [INSERT DATE]. Please acknowledge that you wish to proceed on this basis by signing and returning the enclosed copy of this Term Sheet to us. We look forward to working with you in respect of this Investment and assisting in the future growth of the Company.

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Yours sincerely,

.....
[NAME OF LEAD INVESTOR]
For and on behalf of
the Investors

We confirm our agreement as set out above.

.....
[NAME OF MANAGER]

Dated

.....
[NAME OF MANAGER]

Dated

.....
For and on behalf of the Company

Dated

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APPENDIX 1
THE INVESTORS

Name and Address of Investor	Amount of Investment (£)
TOTAL	

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APPENDIX 2

CAPITALISATION OF THE COMPANY

Name	Before Investment		After Investment			
	Number of Ordinary Shares	Percentage Holding	Value of Investment	Number of new Ordinary Shares	Total Ordinary Shares	Percentage Holding
[MANAGER]						
[MANAGER]						
[MANAGER]						
[INVESTOR]						
[INVESTOR]						
[INVESTOR]						
TOTAL		100				100

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