



Template seed subscription agreement

User notes

This agreement is for use when a start-up wishes to issue shares to a new investor as part of a seed investment round in Southeast Asia. It sets out the mechanics for the investment and the warranties to be given by the start-up. It provides for investment for ordinary shares in the company in one tranche, with no conditions (other than those relating to corporate authorisations).

There are no standard terms that apply to investment by seed investors – these types of investments can often be relatively informal and may not always include the investor protection provisions required by professional investors on larger series A investment rounds.

applicable law

This document is intended for use by companies domiciled in Southeast Asia. Because the laws in each Southeast Asian country are different, you may need to have the document reviewed by a local lawyer. We have suggested (as a placeholder) that the document be subject to Singapore law as this is the most common domicile of tech companies raising capital in Southeast Asia, and Singapore is well respected as a jurisdiction.

Under Singapore securities legislation, a company may not issue (or offer to issue) shares, options or other securities without issuing a prospectus unless it is satisfied that an exclusion applies under the Securities and Futures Act (Cap. 289) in relation to that offer or issue. Please see our guides to *raising seed capital in Southeast Asia* for further information and consult with a Singapore lawyer if necessary.

using this template

The **User Notes** and the statements in the footer below (all marked in red) are included to assist in the preparation of this document. They are for reference only – you should delete all user notes and the statements in the footer from the final form of your document.

The use of [*square brackets*] around black text means that:

- ▲ the requested details need to be inserted
- ▲ there are different options for you to consider within a clause
- ▲ the whole clause is optional and you need to consider whether to include it, based on the company's circumstances and the user notes.

Before finalising your document, check for all square brackets to ensure you have considered the relevant option and ensure that all square brackets have been deleted. If you delete any clauses or schedules, remember to cross reference check the document.

SEED SUBSCRIPTION AGREEMENT

DATE

PARTIES

- 1 The persons whose names and addresses are set out in part 1 of Schedule 1 (together the **Investors** and each an **Investor**)

[User note: Only include the Founders as parties to the agreement if they have individual obligations under the Agreement separate from those of the Company.]

- 2 [The persons whose names and addresses are set out in part 2 of Schedule 1 (together the **Founders** and each a **Founder**)]

- 3 **[INSERT NAME OF COMPANY]** (company number [insert]), a company incorporated in [insert] whose registered office is at [insert] (**Company**)

AGREEMENT

The Company agrees to issue, and the Investors agree to subscribe for, shares in the Company on the terms of this Agreement.

[User note: Use the following signature block if the Investor is an individual.]

SIGNED by **[INSERT NAME OF INDIVIDUAL]**:)
)

Signature

[User note: Use the following signature block if the Investor is a company.]

SIGNED for and on behalf of **[INSERT NAME OF COMPANY]** by:)
)

Signature of authorised signatory

Print full name

SIGNED by [*INSERT NAME OF*)
FOUNDER]:)

Signature

SIGNED for and on behalf of [*INSERT*)
NAME OF COMPANY] by:)

Signature of authorised signatory

Print full name

TERMS OF THIS AGREEMENT

1 INTERPRETATION

1.1 **Definitions:** In this Agreement the following words have the following meanings:

Term	Meaning
Accounts	the unaudited accounts for the year ended [<i>insert date</i>].
Accounts Date	[<i>insert</i>].
Agreement	this Agreement, including the Schedules attached to it.
Business	[<i>insert description of the business of the Company, e.g. the development, commercialisation and sale of [insert a description of the Company's products]</i>].
Business Day	Monday to Friday, other than any public holiday that occurs in [<i>Singapore</i>].
Companies Act	[<i>Companies Act (Cap. 50) of Singapore</i>].
Completion	the fulfilment of the completion obligations of the parties set out in clause 5.
Completion Date	the date that is two Business Days after satisfaction of all of the conditions set out in clause 3.1, or such other date as the parties agree.
Constitution	the constitution or articles of association (as applicable) of the Company (as amended from time to time).
Due Diligence Datasite	the datasite at [<i>insert link</i>].
Existing Shareholders	the Founders and [<i>insert names of existing non-founder shareholders (if any)</i>].
[Founders]	[User note: Delete definition if the Founders are parties to the agreement.] [<i>insert names of founders</i>].
Intellectual Property Rights	includes copyright and all rights conferred under statute, common law or equity relating to inventions (including patents), registered or unregistered trade marks and

designs, circuit layouts, data and databases, confidential information, know-how, and all other rights resulting from intellectual activity. **Intellectual Property** has a consistent meaning.

**Management
Accounts**

[User note: It is common to provide Investors with Management Accounts for the period from the day after the Accounts Date to the end of the month prior to Completion.]

the management accounts (including statements of financial performance and position) for the period from [insert] to [insert].

Ordinary Shares

ordinary shares in the Company having the rights set out in the Constitution.

Securities

any Share and any security that may be converted into Shares or that gives the holder of the security the right to have Shares issued to it (including options and warrants).

**Shareholders'
Agreement**

a shareholders' agreement to be entered into between the Company, the Investors and the Existing Shareholders at Completion, substantially in the form set out in Schedule 6.

Shares

all issued shares of any class in the capital of the Company.

Subscription Price

[\$insert] per Subscription Share.

Subscription Shares

the fully paid Ordinary Shares to be issued to the Investors, together with any additional Shares to be issued to the Investors by the Company under this Agreement.

**Tables of
Shareholdings**

the tables set out in Schedule 3.

Warranties

has the meaning given in clause 7.2.

Warrantor[s]

[User note: Investors often wish to include Founders as warrantors in addition to the Company as it provides greater comfort that relevant issues have been fully disclosed. Note this is a personal risk and potential liability to the individual Founders.]

the Company [and the Founders].

1.2 Interpretation:

- a a reference to:
 - i a **clause** or a **Schedule** is to a clause in or a Schedule to this Agreement;
 - ii a **person** includes a body corporate, an association of persons (whether corporate or not), a trust, governmental or other regulatory body, authority or entity, in each case whether or not having a separate legal personality;
 - iii **including** and similar words do not imply any limitation;
 - iv a **statute** includes references to that statute as amended or replaced from time to time;
 - v a **party** is a reference to a party to this Agreement, and includes that party's permitted assigns; and
 - vi **\$ or dollars** are to [*Singapore*] currency;
- b the **headings** in this Agreement are for convenience only and have no legal effect; and
- c the **singular** includes the plural and vice versa.

1.3 **References to knowledge:** A reference to a person's knowledge, information, belief or awareness (or any similar expression) includes the knowledge, information, belief or awareness which the person would have had if the person had made reasonable enquiry of the directors of the Company and the Founders.

1.4 **Status of Investors:** The obligations of the Investors under this Agreement, as between the Investors, are not joint and several and no Investor will be liable for any breach of this Agreement by any other Investor.

1.5 **Status of Founders:** The obligations of the Founders under this Agreement, as between the Founders, are not joint and several and no Founder will be liable for any breach of this Agreement by any other Founder.

2 SUBSCRIPTION SHARES

2.1 **Subscription for shares:** The Company must issue, and each Investor must subscribe for, the Subscription Shares on the terms and conditions of this Agreement, for the Subscription Price and in the proportions set out against each Investor's name in the table set out in Schedule 2.

2.2 **Fully paid:** Each Investor's Subscription Shares will be fully paid up upon payment of the relevant Subscription Price.

- 2.3 **Issue:** The Company must, on payment of the Subscription Price, issue the Subscription Shares to the Investors:
- a free of all mortgages, security interests, charges, liens and other encumbrances or adverse interests; and
 - b together with all rights, title and interest attaching to the Subscription Shares at the time of issue.
- 2.4 **Individual Investors:** Each Investor is only obliged to subscribe for the proportion of Subscription Shares set out against its name in the table set out in Schedule 2, and will be under no obligation to subscribe or pay for any additional Subscription Shares not paid for by any other Investor.
- 2.5 **Interdependence:** The issue of Subscription Shares is interdependent and unless all Investors subscribe for Subscription Shares in accordance with this Agreement, any Investor who advances the relevant Subscription Price is entitled to a refund in full.

3 **CONDITIONS**

- 3.1 **Conditions:** This Agreement is conditional on:
- a the Existing Shareholders approving the issue of the Subscription Shares to the Investors in accordance with the Companies Act;
 - b the Existing Shareholders (as applicable) waiving any rights of pre-emption relating to the issue of the Subscription Shares to the Investors arising under the Companies Act, the Constitution, or otherwise; and
 - c the execution of the Shareholders' Agreement by all of the Existing Shareholders.
- 3.2 **Best endeavours:** The Company must use its best endeavours to satisfy, or procure the satisfaction of, the conditions set out in clause 3.1.
- 3.3 **Effect of failure of condition:** If the conditions in clauses 3.1a to 3.1c are not satisfied on or before the date that is [30] days after the date of this Agreement, or a later date agreed in writing by the Company and the Investors, either the Company or the Investors may terminate this Agreement at any time by notice in writing, and no party will have any claim against any other party arising under or in connection with that termination, other than for a breach of this Agreement occurring before termination.
- 3.4 **Waiver of conditions:** The conditions in clauses 3.1a to 3.1c are for the benefit of the Investors and the Company. Any waiver will only be effective if given in writing by the parties who have the benefit of the condition being waived.

4 PENDING COMPLETION

From the date of this Agreement to Completion, the Company must:

- a ensure that the business of the Company is carried on in the normal course as a going concern with all due care and in accordance with the business practices employed by the Company as at the date of this Agreement, and in material compliance with all applicable laws; and
- b immediately notify the Investors in writing of any information or event that constitutes:
 - i a material breach of any Warranty; or
 - ii a material adverse change in the assets, liabilities, revenues, profitability, financial position, trading position or other affairs or prospects of the Company or the business of the Company.

5 COMPLETION

5.1 **Completion:** Completion of the issue of the Subscription Shares must take place no later than the Completion Date.

5.2 **Company's obligations:** On the Completion Date, the Company must:

- a issue all of the Subscription Shares to the Investors in the proportions set out against the Investors' names in Schedule 2; and
- b deliver to the Investors:
 - i a resolution in writing of the board of directors of the Company:
 - a recording the issue and allotment of the Subscription Shares to the Investors in the proportions set out against the Investors' names in Schedule 2;
 - b authorising the execution of this Agreement and the Shareholders' Agreement by the Company;
 - c approving the entry of the Investors' names in the Company's register of members as the holders of the Subscription Shares in the proportions set out against the Investors' names in Schedule 2;

[User note: The shareholders' agreement will include certain items that are generally replicated in the constitution of the company (e.g. board appointment rights, pre-emptive rights, co-sale and drag-along rights).]

- d *[approving the adoption of a new Constitution in the form set out in Schedule 8;]* and

[User note: Include the following clause 5.2bie if the Investors are appointing a director.]

- e *[approving the appointment of [insert] as a director of the Company];*
- ii signed waivers from the Existing Shareholders (as applicable) of any rights of pre-emption relating to the issue of the Subscription Shares to the Investors arising under the Companies Act, the Constitution, or otherwise;
- iii a resolution in writing of the Existing Shareholders:
 - a approving the issue and allotment of the Subscription Shares to the Investors in the proportions set out against the Investors' names in Schedule 2, in accordance with the Companies Act;
 - b *[approving the adoption of a new Constitution of the Company in the form set out in Schedule 8;]* and
 - c *[approving the appointment of [insert name] as a director of the Company].*

[User note: Include the following clause 5.2biv if it has been agreed that any existing directors will resign.]

- iv *[the written resignations of [insert] as directors of the Company with effect from Completion, in each case confirming he or she is owed no money by, and has no claim against, the Company];* and
- v the Shareholders' Agreement signed by the Company and all Existing Shareholders.

5.3 Investors' obligations: On the Completion Date, each Investor must:

- a deliver to the Company the Shareholders' Agreement signed by that Investor;
- b deliver to the Company a duly executed share application form, in the form prescribed under applicable law, for the number of Subscription Shares set out against that Investor's name in Schedule 2;
- c pay to the Company the total Subscription Price set out against that Investor's name in Schedule 2; and

[User note: Insert clause 5.3d if the Investor is appointing a director.]

d [deliver to the Company the written consent of [insert] to act as a director of the Company.]

5.4 **Interdependent obligations:** The parties' obligations at Completion are interdependent and Completion will not occur until the parties have complied with all of their obligations set out in this clause 5. Completion will be deemed to have occurred once all of such obligations have been complied with.

5.5 **Post-completion obligations:** Within 30 days of Completion, the Company must:

- a enter the name of each Investor in the register of members of the Company as the holder of the Subscription Shares as set out against that Investor's name in Schedule 2;
- b deliver to the Investors a copy of the updated register of members; and
- c make all filings and disclosures required under applicable law in respect of the issue and allotment of the Subscription Shares to the Investors, including all returns required to be made with [*the Accounting and Regulatory Authority of Singapore*].

6 PAYMENTS

6.1 **Payments:** Any payment made under this Agreement is to be made:

- a during normal banking hours on the due date;
- b in same day cleared funds;
- c without deduction, withholding or set-off (other than as provided for in this Agreement or as required by law); and
- d to the bank account specified by the payee, by notice to the payer.

6.2 **Date of payment:** If the date for payment of any amount under this Agreement is not a Business Day, then the payment must be made on the next day which is a Business Day.

6.3 **Full discharge:** Payment of any amount to the account specified in clause 6.1d is a full discharge of an Investor's obligation to pay that amount.

7 WARRANTIES

7.1 **Mutual warranties:** Each party warrants to each other party that the following is true as at the date of this Agreement:

- a if it is a company, it is a company duly incorporated and validly existing under the laws of [*Singapore*];

- b it has the power, and, if it is a company, it has taken all necessary corporate action (including the passing of all resolutions), to enter into, execute and deliver, and exercise its rights and perform its obligations under, this Agreement; and
- c it has validly executed and delivered this Agreement and its obligations under this Agreement are legal, valid and binding and enforceable against it in accordance with its terms.

[User note: Investors will often require the Warranties to be given on a joint and several basis which means that they can bring a claim against any one or more of the Warrantors for the entire amount of any claims.]

7.2 **Company warranties:** [*The/Each*] Warrantor [*jointly and*] severally warrants and represents to the Investors that each warranty contained in Schedule 4 (**Warranties**) is true as at the date of this Agreement.

7.3 **Warranties independent:** Each Warranty is to be construed independently and is not limited by any other Warranty.

7.4 **Right of termination prior to Completion:** If, before Completion:

- a there is a material breach of any Warranty; [*or*]

[User note: If there is a long period between signing and Completion, clause 7.4b below may give rise to a greater risk of the Investor having a right of termination.]

- b [*there is a material adverse change in the assets, liabilities, revenues, profitability, financial position, trading position or other affairs or prospects of the Company or the business of the Company,*]

the Investors may immediately terminate this Agreement by giving written notice to the Company.

7.5 **Warranties qualified:** Each of the Warranties is given subject to, and is deemed not to be (or to have been) untrue, and the Warrantor[s] [*has/have*] no liability whatsoever to the Investors in relation to any matter:

- a fairly disclosed in Schedule 5;
- b fairly disclosed in documentation contained in the Due Diligence Datasite or otherwise in writing to the Investors in connection with the Investors' due diligence investigation of the Company;
- c available on a public register, file or record maintained by the [*Accounting and Regulatory Authority and the Intellectual Property Office of Singapore,*] as at the date of this Agreement;

- d provided for, or contemplated by, this Agreement; or
- e done or omitted to be done after the execution of this Agreement with the prior written consent of the Investors.

7.6 **Aggregate maximum liability of Company:** The Warrantor['s][s] total liability to the Investors in respect of all claims under this Agreement is limited to the total Subscription Price paid by the Investors for the Subscription Shares.

[User note: Use the following clause 7.7 only if the Founders are giving the Warranties in addition to the Company.]

7.7 **[Aggregate maximum liability of Founders:** *Each Founder's aggregate liability to the Investors in respect of all claims under this Agreement will be limited to \$[insert].]*

7.8 **Timing:** The Warrantor[s] [*has/have*] no obligation to the Investors in relation to any claim by the Investors against the Warrantor[s] under this clause 7 (**Warranty Claim**) unless written notice of the Warranty Claim setting out the specific details of the Warranty Claim is given to the Warrantor[s] within [*18*] months of Completion (or within 6 years of Completion in the case of a Warranty Claim relating to paragraph 12 of Schedule 4).

7.9 **Further limitations on liability:** The Investors are not entitled to bring any claim against [*the/any*] Warrantor[s] under this Agreement:

- a unless the total amount of all claims exceeds \$[insert], and if such amount is exceeded the Warrantor['s][s] liability is limited to the excess over \$[insert];
- b where the Investors or the Company recovers any amount from any third party (including a taxation authority or insurer) in relation to the matter or circumstance giving rise to the claim;
- c unless the Investors, as soon as reasonably practical after they become aware of the possible breach (and in any event not more than 15 Business Days after [*it/they*] seek[s] advice from [*its/their*] solicitors about the breach), gives written notice to the Warrantor[s] regarding the claim;
- d to the extent that the Investors have actual awareness of such breach on the Completion Date;
- e if, and to the extent that, the claim occurs as a result of any legislation not in force at the date of this Agreement which takes effect retrospectively or occurs as a result of any increase in the rates of taxation in force as at the date of this Agreement; and

f if, and to the extent that, a specific allowance, provision or reserve has been made in the Accounts or the Management Accounts.

[User note: Use the following clause 7.10 only if the Founders are giving the Warranties in addition to the Company.]

[Investors may not accept this provision as it conflicts with the principle of joint and several liability under which they can bring a claim for breach of the Warranties against any one or more of the Warrantors for the entire amount of the claim.]

7.10 **[Order of Warranty Claims:** Any Warranty Claim must first be made against the Company, and only if the Company is unable to settle or dispose of that Warranty Claim to the reasonable satisfaction of the Investors may that Warranty Claim be made against any of the Founders.]

[User note: It is more common for ESOPs to be implemented later in the company's life cycle (e.g. immediately following a series A round. In any case we provide in clause 8 that any ESOP be put in place after Completion as it is unlikely that this will be done as a pre-condition of completing the seed investment.)]

8 [SHARE OPTION PLAN]

[ESOP: Within [90] days of the Completion Date, the Company will adopt an employee share option plan in a form acceptable to the Investors under which options over Ordinary Shares (subject to a maximum option pool of [insert] Ordinary Shares) may be granted to directors, employees and consultants of the Company.]

9 GENERAL

9.1 **Confidentiality:** Each party must keep this Agreement and information it receives about the Company and its business in connection with this Agreement (**Confidential Information**) confidential, and must not use or disclose that Confidential Information without the prior written consent of the other parties except to the extent that:

- a disclosure is required by law;
- b the relevant information is already in the public domain other than through the default of that party;
- c it is reasonably required to obtain professional advice; or
- d it is reasonably necessary in connection with any proposed:
 - ▲ financing of that party;

- ▲ sale of that party's interest in the Company; or
- ▲ sale of all or part of the business of, or the shares in, that party,

and the party receiving the Confidential Information has entered into confidentiality undertakings substantially the same as those set out in this clause.

9.2 **Announcement:** Any public announcement by a party regarding investment in, or involvement with, the Company must be pre-approved by the Company [*and*] [*the Investors*].

9.3 **Notices:** All notices and communications given under this Agreement must be in writing and will be delivered personally, sent by post or sent by email to the address or email address set out in Schedule 8 (or at such other address as notified from time to time by the party changing its address).

9.4 **Time of service:** Any notice given under this Agreement is deemed to be validly given:

- a in the case of delivery, when received;
- b in the case of posting, on the second day following the date of posting; or
- c if emailed, one hour after the email is sent unless a return email is received by the sender within that one hour period stating that the addressee's email address is wrong or that the message cannot be delivered,

provided that any notice received after 5 pm on a Business Day or on any day that is not a Business Day will be deemed to have been received on the next Business Day.

9.5 **Entire agreement:** This Agreement contains all of the terms, representations and warranties made between the parties relating to the matters dealt with in this Agreement and supersedes and cancels all prior discussions and agreements covering the subject matter of this Agreement. The parties have not relied on any representation, warranty or agreement relating to the subject matter of this Agreement that is not expressly set out in this Agreement, and no such representation, warranty or agreement has any effect from the date of this Agreement.

9.6 **Further assurances:** The parties must each sign all further documents, pass all resolutions and do all further things as may be reasonably necessary to give effect to this Agreement.

9.7 **Amendment:** This Agreement may only be amended by agreement of the parties in writing.

- 9.8 **Waiver:** No exercise or failure to exercise or delay in exercising any right or remedy will constitute a waiver by that party of that or any other right or remedy available to it.
- 9.9 **No assignment:** No party may assign any of its rights or obligations under this Agreement without the prior written consent of the other parties.
- 9.10 **Costs:** Except as otherwise provided in this Agreement, the parties must meet their own costs relating to the negotiation, preparation and implementation of this Agreement.
- 9.11 **Partial invalidity:** If any provision of this Agreement becomes invalid or unenforceable to any extent, the remainder of this Agreement and its application will not be affected and will remain enforceable to the greatest extent permitted by law.
- 9.12 **No merger:** The obligations, warranties and representations of the parties under this Agreement, to the extent not already performed at Completion, will not merge on Completion, or on the execution or delivery of any document in connection with this Agreement, but will remain enforceable to the fullest extent notwithstanding any rule of law to the contrary.
- 9.13 **Signature:** This Agreement may be executed in two or more counterparts, each of which is deemed an original and all of which constitute the same Agreement. A party may enter into this Agreement by signing and sending (including by email) a counterpart copy to each other party.

10 GOVERNING LAW

This Agreement, and any disputes or claims arising from or in connection with it, will be governed by, and interpreted in accordance with, the laws of [Singapore].

[User note: The clauses below provide that disputes that are not settled will be referred to the Singapore International Arbitration Centre (SIAC). SIAC is seen as a leading venue for the holding of commercial arbitration and is used by companies across Southeast Asia.]

11 [DISPUTE RESOLUTION

- 11.1 **Dispute:** *If any dispute, controversy or claim (**Dispute**) arises out of or relating to this Agreement, or to the interpretation, breach, termination or validity of this Agreement, the parties to the Dispute (**Disputing Parties**) must use their best efforts to resolve the Dispute through consultation or mediation. The consultation or mediation between the Disputing Parties must begin as soon as practicable after one Disputing Party has delivered to the other Disputing Party or Parties a written notice setting out the matter of the Dispute (**Dispute Notice**).*

11.2 **Arbitration:** *If a Dispute is not settled under clause 11.1 within 30 days after the date of the relevant Dispute Notice, the Dispute must be referred to and resolved by arbitration in Singapore in accordance with the Rules of the Singapore International Arbitration Centre (**SIAC Rules** and **SIAC** respectively). The tribunal will consist of one arbitrator, to be appointed by the President of the SIAC. The language of the arbitration will be English.*

11.3 **SIAC Rules:** *The SIAC Rules are deemed to be incorporated by reference in this clause 11. However, to the extent that the SIAC Rules are in conflict with the provisions of this clause 11, the provisions of this clause 11 will prevail.]*

SCHEDULE 1**Part 1 – The Investors**

Name	Registered no. / Identification	Address
[insert]	[insert]	[insert]

[Part 2 – The Founders]

Name	Identification	Address
[insert]	[insert]	[insert]

SCHEDULE 2**Subscription Shares**

Investor Name	Number of Subscription Shares	Total Subscription Price
<i>[insert]</i>	<i>[insert]</i>	<i>[insert]</i>

SCHEDULE 3**Tables of Shareholdings (Capitalisation Tables)****Part 1 - immediately before the issue of the Subscription Shares**

Shareholder Name	Number of Shares on a fully diluted basis*	Percentage shareholding
[insert]	[insert]	[insert]

* Include details of all options over shares in the Company, convertible loans and any other obligations to issue shares in the Company.

Part 2 - immediately after the issue of the Subscription Shares

Shareholder Name	Number of Shares on a fully diluted basis*	Percentage shareholding
[insert]	[insert]	[insert]

* Include details of all options over shares in the Company, convertible loans and any other obligations to issue shares in the Company.

SCHEDULE 4

Warranties

1 INFORMATION DISCLOSED

[User note: Investors generally seek some form of warranty as regards the accuracy and completeness of information provided by the Company. We recommend that this is narrowly defined and limited to documents in the datasite which contains the due diligence documentation. Other correspondence, emails and materials that are passed over to the Investors would be excluded.]

- 1.1 So far as the Warrantor[s] [are/is] aware, all written factual information relating to the Company and contained in the Due Diligence Datasite was, at the time it was given to the Investors and at the Completion Date, true in all material respects, excluding budgets, projections, forecasts and other forward-looking information.

2 SHARES AND OPTIONS

- 2.1 The existing Shares described in part 1 of Schedule 3 constitute all of the issued Shares at the date of this Agreement.
- 2.2 There is no option, right to acquire or encumbrance over or affecting any of the Shares, or any agreement to issue any Share or Security in the Company, except as detailed in part 1 of Schedule 3.
- 2.3 The Company has no shares or other securities in any other company and no partnership interest in any other business and has not agreed to acquire any such shares, securities or partnership interest.

3 TRANSACTIONS WITH THE EXISTING SHAREHOLDERS

- 3.1 There are no:
- a loans made by the Company to the Existing Shareholders;
 - b except in relation to unpaid salaries or expenses, debts owing by the Company to the Existing Shareholders; or
 - c guarantees entered into by the Company in respect of any loans, debts or other obligations of the Existing Shareholders.
- 3.2 Except for services provided to the Company by the Existing Shareholders:
- a there are no existing and continuing contracts or arrangements between the Company and the Existing Shareholders; and

b the Company does not depend in any material respect upon the use of any property, right or asset owned by any Existing Shareholder.

3.3 As far as the Warrantor[s] [are/is] aware, none of the Founders are engaged or concerned or interested in any business that is materially competitive with the Business.

4 VALID ISSUANCE

The issue of the Subscription Shares to the Investors does not violate any trust deed, instrument, agreement or other arrangement to which the Company is a party.

5 ASSETS UNENCUMBERED

The material assets of the Company are, other than assets held by the Company under a lease agreement, owned by the Company and are free of all encumbrances, mortgages, liens, charges, or any other claim by a third party, other than encumbrances arising by operation of law.

6 INTELLECTUAL PROPERTY

6.1 As far as the Warrantor[s] [are/is] aware, all Intellectual Property currently used by the Company in the Business, if licensed, is done so under valid, binding and enforceable agreements (**Licensed Intellectual Property**) that permit the Company to use the Licensed Intellectual Property as required by the Company for the Business, and the Company is not in breach of any such licence.

6.2 As far as the Warrantor[s] [are/is] aware, all Intellectual Property currently used by the Company in the Business, if not licensed, is owned by the Company without the need for any licence from a third party.

6.3 As far as the Warrantor[s] [are/is] aware, the Business as now carried on does not infringe the Intellectual Property Rights of any other person and, as far as the Warrantor[s] [are/is] aware, no claims against the Company relating to Intellectual Property used by the Company are pending or threatened by any third party.

6.4 The Company is not in breach of any agreement to which it is a party relating to the use of any material Intellectual Property that is owned by a third party.

7 ACCOUNTS

7.1 The Accounts have been prepared in accordance with applicable legislation. The Accounts give a true and fair view of the state of affairs of the Company at the Accounts Date end of the accounting period covered by the Accounts and of the profits and losses for that period.

- 7.2 All material liabilities of the Company as at the relevant date of the Accounts and the Management Accounts are disclosed in the Accounts or Management Accounts.
- 7.3 The Management Accounts contain no material inaccuracies and were prepared applying accounting practices consistent with those used to prepare the unaudited management accounts of the Company during the 6 month period ending on the date of this Agreement.
- 7.4 Since the date of the Management Accounts, the Company has not:
- a borrowed or raised any money or taken any financial facility;
 - b authorised or paid any dividend, or made any other distribution (as defined in the Companies Act) or repaid any loans from Existing Shareholders (other than with the prior written consent of the Investors or as contemplated by this Agreement);
or
 - c undertaken or committed to any material item of capital or other expenditure, other than in the ordinary course of business or otherwise without the Investors' prior written consent.

8 NO PROCEEDINGS

- 8.1 The Company is not a party to any legal action or proceedings, arbitration, or statutory or governmental inquiry of any kind, nor [are/is] the Warrantor[s] aware of any such legal proceedings, arbitration or inquiry, pending or threatened against, or involving, the Company.
- 8.2 As far as the Warrantor[s] [are/is] aware, there is no cause of action, or facts or circumstances existing that could or might be used for commencing legal proceedings, either civil or criminal, against the Company.

9 EMPLOYMENT

- 9.1 The Company is not involved in any employment, labour or personal grievance dispute or problem, or any dispute with any employee representative or organisation or body of employees, and, as far as the Warrantor[s] [are/is] aware, no event has occurred which might give rise to any such dispute.
- 9.2 The Company is not a party to a contract or arrangement under which any of its officers or employees are entitled to receive a share of income or profits or a bonus calculated on turnover, income or profits, or any component of any of them, or any similar benefit.
- 9.3 Since the date of the Management Accounts, the Company has not made any material changes to salary, wages or remuneration of any employee, director, officer, contractor or agreed to pay any redundancy.

10 INSURANCE

- 10.1 The Company is insured against accident, damage, injury, third party loss and other risks normally covered by insurance, as advised by a professional insurance broker as being appropriate for the business of the Company.
- 10.2 So far as the Warrantor[s] [are/is] aware, nothing has been done or omitted which would make any insurance policy void or unenforceable.

11 CONTRACTS

- 11.1 As far as the Warrantor[s] [are/is] aware, the Company:
- a is not in breach of any material contract, commitment or arrangement to which it is a party;
 - b has not received, or given, any notice of termination of any material agreement to which it is a party;
 - c is not a party to any agreement or commitment which is of an unusually restrictive, unusually onerous or unusually long term nature; and
 - d is not bound by any guarantee or indemnity under which a liability is outstanding.
- 11.2 No person is authorised to act as agent for the Company or to bind the Company (other than the directors of the Company acting as a board of directors) and there are not in force any powers of attorney given by the Company.
- 11.3 No one is entitled to receive from the Company any finder's fee, brokerage or other commission in connection with the financing of the Company.

12 TAXATION

- 12.1 The Company has paid, or the Accounts fully provide for, all taxation which the Company is or may become liable to pay in respect of the period up to and including the Accounts Date.
- 12.2 The Company has lodged all taxation returns, reports, declarations, notices, certificates, reconciliations and other information required to be lodged by it, with the appropriate body and within the relevant time limits.
- 12.3 All such returns, reports, declarations, notices, certificates, reconciliations and other information were accurate and complete at the time of lodgement, were made on a proper basis and are not the subject of any dispute.

13 BOOKS AND RECORDS

The Company has properly kept and maintained in all material respects:

- a all accounting records and books of account, properly entered and containing true, full and accurate records of all matters required to be dealt with in accordance with applicable legislation; and
- b all minute books, records, registers and other records required by applicable legislation containing full and accurate records of all matters required to be recorded in them.

14 CONSENTS

- 14.1 The Company holds all consents required for the carrying on of the Business and as far as the Warrantor[s] [are/is] aware is not in breach of the terms and conditions of any such consents.
- 14.2 So far as the Warrantor[s] [are/is] aware, none of the consents referred to in paragraph 14.1 will be prejudiced or revoked by virtue of the execution, delivery and performance of this Agreement.

SCHEDULE 5

Disclosures

The Warrantor[s] deliver[s] these disclosures to the Warranties given in this Agreement. This Schedule and the information and disclosures contained in it are intended only to qualify and limit the Warranties, and are not to be deemed to expand in any way the scope or effect of any of those Warranties. The paragraph numbers in this Schedule correspond to the paragraph numbers in Schedule 4 of this Agreement; *provided, however*, that any information disclosed in this Schedule under any paragraph number is deemed to be disclosed and incorporated in any other section or paragraph of this Agreement where such disclosure would be appropriate. Disclosure of any information or document in this Schedule is not a statement or admission that it is material or required to be disclosed. References to any disclosed document do not purport to be complete and are qualified in their entirety by the document itself. Capitalised terms used but not defined in this Schedule have the same meanings given to them in this Agreement.

[User note: It is necessary to review each Warranty and, to the extent that any of the statements in Schedule 4 are incorrect or otherwise misleading, set out specific disclosures to that effect in the table below.]

Warranty No.	Disclosure
[insert]	[insert]

SCHEDULE 6

Shareholders' Agreement

[Attached]

SCHEDULE 7**Details for Notices**

[INSERT NAME OF PARTY]	
Contact name	[insert]
Company	[insert]
Address	[insert]
Email address	[insert]

[INSERT NAME OF PARTY]	
Contact name	[insert]
Company	[insert]
Address	[insert]
Email address	[insert]

[INSERT NAME OF PARTY]	
Contact name	[insert]
Company	[insert]
Address	[insert]
Email address	[insert]

[SCHEDULE 8

Constitution

[Attached]