**SHORT FORM TERM SHEET**

**Explanatory Note**

A term sheet sets out key terms and conditions pursuant to which an investor (or group of investors) will subscribe for shares in a company. It also sets out the ongoing rights and obligations of the investors, founders and the company in relation to such company. Except for certain provisions which are stated to be legally binding among the parties, a term sheet is a non-binding agreement and the relevant parties must then enter into binding agreements to give effect to its terms.

This model term sheet assumes:

* a Singapore incorporated private company and its founders are entering into a term sheet with multiple investors for a Series A financing round, with one investor leading such financing round;
* there is an intervening period between the date of signing of the subscription agreement and the completion date when Series A preference shares are issued by the company to the investors;
* Series A preference shares are being issued by the company to the investors;
* prior to the issuance of the Series A preference shares, the founders are the only shareholders of the company and hold ordinary shares in the company;
* all the investors that are party to the subscription agreement will subscribe for the Series A preference shares, and pay the corresponding subscription price, at the same time in a single completion; and
* a shareholders' agreement between the company, the investors and the founders will come into effect at completion of the subscription.

This model term sheet should be customised to consider the capital structure of the company (including any rights existing investors may have).

Further explanatory notes are included in this model term sheet.

SHORT FORM TERM SHEET RELATING TO THE SUBSCRIPTION OF

**SERIES A PREFERENCE SHARES OF [*****INVESTEE COMPANY*][[1]](#footnote-1)**

Dated: []

This short form term sheet summarises the principal terms of the proposed subscription (the "**Subscription**") of Series A Preference Shares (the "**Series A Shares**" and each, a "**Series A Share**") of **[*Investee Company*]** (the "**Company**") by **[●*Lead* *Investor*]** (or its nominees) (the "**Lead Investor**") and **[●*Investor(s)*]** (or its/their nominees) (each, an "**Investor**" and collectively together with the Lead Investor, the "**Investors**" and together with the Company and the Founders, the "**Parties**" and each, a "**Party**").

This term sheet is not a commitment to invest and is conditional upon the completion of due diligence, legal review and execution of definitive documentation (the "**Definitive Documentation**") that are satisfactory to the Lead Investor.

**[**This term sheet shall expire on **[*date*]** if not accepted by the Company and the Founders by such date.**]** This term sheet is not legally binding except for the terms in paragraph 9 – "Non-Binding".

**GENERAL**

|  |  |
| --- | --- |
| Amount to be Raised | S$**[]** as per Appendix I ("**Subscription Consideration**") to be paid in full on completion of the Subscription ("**Completion**"). |
| Percentage of Ownership | **[]**% of the Company on a fully-diluted post-money basis as per Appendix I. |
| Initial Subscription Price Per Share, Fully Diluted Pre-Money Valuation | Price per Series A Share ("**Initial Subscription Price Per Share**") to be based on a fully diluted pre-money valuation of S$**[] [(and for the avoidance of doubt, including the []% employee share option pool – see paragraph 19 below)]**. |
| Anticipated Date of Completion | On or about **[]**. |
| Founders | The Founders are: **[]**. |
| Use of Proceeds[[2]](#footnote-2) | **[In the furtherance of the Company's business in accordance with the Business Plan and Annual Budget] / [towards the Group's** **working capital requirements].** |
| Exclusivity | Exclusivity period of **[]** days beginning from the date of this term sheet, or such longer period as may be agreed between the Parties in writing. |
| Confidentiality[[3]](#footnote-3) | The Parties agree to keep all negotiations with the Investor(s) confidential, including the existence and contents of this term sheet, except as required to be disclosed to its related corporations, and any of its respective officers, directors, employees and professional advisers solely in connection with the Subscription. |
| Non-Binding | This term sheet is not legally binding on the Parties, except for paragraphs 7 – "Exclusivity", 8 – "Confidentiality", 9 – "Non-Binding", 28 – "Counterparts", 29 – "Applicable Statutes and Governing Law" and 30 – "Dispute Resolution" which are intended to be legally binding. |
| Other Rights and Privileges | The Investor(s) shall enjoy rights and privileges that are no less favourable than those currently enjoyed by the existing shareholders of the Company. |
| Expenses | **[Any required legal, accounting and due diligence fees and disbursements incurred by [the Lead Investor] / [names of specific Investor(s) who are entitled to reimbursement] will be borne by the Company subject to a cap of S$[] upon Completion.]**  The Company, the Founders and the other Investors shall bear their own costs and disbursements incurred in the negotiations leading up to and in the preparation of the Definitive Documentation and of matters incidental to the Definitive Documentation. |

##### SUMMARY OF TERMS

|  |  |
| --- | --- |
| Dividends | [Holders of Series A Shares shall be entitled to receive dividends and distributions payable on the ordinary shares of the Company ("**Ordinary Shares**") as and when declared on an as-converted basis.] / [**[Cumulative] / [Non-cumulative][[4]](#footnote-4)** fixed preferential dividend payable in cash equal to **[●]%** of the Initial Subscription Price Per Share (as appropriately adjusted for any subdivisions, consolidations, share dividends or similar recapitalisations) per annum for each Series A Share held by each holder of Series A Share.]  The right of the holders of Series A Shares to receive such dividends shall rank **[on a** ***pari passu* basiswith] / [senior and prior to and in preference to]** the dividend rights of the holders of Ordinary Shares and any other class of shares in the Company. |
| Liquidation Preference | **[*1.0x plus accrued but unpaid dividends*], [participating / non-participating]**, applicable if a prescribed liquidity event occurs. |
| Voting Rights[[5]](#footnote-5) | Holders of Series A Shares to vote together on an as-converted basis with the holders of Ordinary Shares, except as specifically provided herein or the amended constitution of the Company or as otherwise required by law. |
| Conversion | Series A Shares convert into Ordinary Shares, at the holder's option, at an initial conversion ratio of 1:1, subject to any adjustment in accordance with paragraph 16 – "Anti-dilution Provisions".  The Series A Shares shall automatically be converted into Ordinary Shares, at the then applicable conversion ratio (a) immediately prior to the consummation of a Qualifying IPO (as defined below) or (b) with the consent in writing of the Series A Majority (as defined below) or with the sanction of **[a special resolution]** passed at a separate class meeting of the holders of the Series A Shares.  As used in this term sheet:   1. "**Qualifying IPO**" means the closing of a firmly underwritten public offering of shares of the Company **[at a per share public offering price (prior to underwriting commission and expense) with a fully diluted pre-money valuation of not less than S$[]]**, for the purpose of and in connection with the admission of the Company to the Official List of the Singapore Exchange Securities Trading Limited or any other recognised securities exchange agreed by the Series A Majority and the listing of the shares of the Company on such securities exchange, resulting in net proceeds to the Company of not less than S$**[]** being raised; and 2. "**Series A Majority**" means the **[holder(s) of [more than 50] / [at least [75]]% of the outstanding Series A Shares from time to time]**. |
| Anti-dilution Provisions[[6]](#footnote-6) | Broad-based weighted average anti-dilution protection for any new equity issuances (subject to customary exclusions) by the Company at a price lower than the then applicable conversion price. |
| Conditions Precedent | Completion shall be conditional upon the fulfilment of customary conditions precedent for a transaction of this nature, as well as any transaction-specific conditions precedent, to the satisfaction of the **[Lead Investor]**, other than those Conditions that have been waived by the **[Lead Investor]** on or before Completion.[[7]](#footnote-7) |
| Representations and Warranties; General Indemnity; Liability Basis | Unless otherwise agreed by the Parties, the Founders and the Company will give customary representations and warranties for a transaction of this nature and shall provide a general indemnity against the same, subject to customary limitations on liability for a transaction of this nature **[on** **a** **joint and several basis / on a several and not joint basis / jointly and severally** **between the Company and the Founders but several between the Founders *inter se*].[[8]](#footnote-8)**  Unless otherwise agreed by the Parties, the liability of the Founders under the shareholders’ agreement shall be **[on a joint and several basis / on a several and not joint basis]**.[[9]](#footnote-9) |
| Employee Share Option Plan ("Share Option Plan")[[10]](#footnote-10) | **[[●]% of the immediate post-Completion share capital of the Company (on a fully-diluted basis) will be available for issuance pursuant to [a Share Option Plan to be established by the Company, on terms reasonably acceptable to the Series A Majority] / [the Company's existing employee share option pool]].** Any increase of the Company's existing Share Option Plan to that **[●]**% level is **[included in the fully diluted pre-money valuation]**.**[[11]](#footnote-11)**  The holders of such compensatory Ordinary Shares (or options) shall be subject to such restrictions on transfers provided for in the shareholders' agreement. |
| Board of Directors | Board of Directors will consist of a maximum of **[]** members.  Each Founder shall have the right to appoint **[]** directors (the "**Founder Director[s]**").  As long as an Investor holds **[]%** of the shares of the Company (on an as-converted basis), such Investor shall have the right to appoint **[]** directors (the "**Investor(s) Director[s]**") **[and appoint a representative to attend as observer]**.  The quorum for any initial meeting of the Board of Directors shall be **[]** Directors, at least **[]** of whom shall be **[an]** Investor Director**[s]**. |
| Reserved Matters[[12]](#footnote-12) | Customary board reserved matters (which shall require the approval of a simple majority of the Board of Directors (and including the approval of **[all or at least [- *insert number*] of]** Investor Directors)) and shareholder reserved matters (which shall require the approval of the Series A Majority **[including the Lead Investor]**) shall apply. |
| Pre-Emption Rights; Right of First Refusal | Customary pre-emptive rights over new equity issuances (subject to customary exclusions) and right of first refusal of any transfer of existing securities of the Company shall apply. Available to **[each shareholder holding more than []% of the shares in the Company (on an as-converted basis) (each such shareholder, a “Significant Shareholder”)] / [all shareholders]**. [[13]](#footnote-13) |
| Tag-Along Right | Customary tag-along rights over any proposed sale of securities of the Company shall apply. Available to holders of Series A Shares. |
| Drag-Along Right[[14]](#footnote-14) | Collectively, **[shareholders representing at least [75]% of the issued share capital of the Company (on an as-converted basis) (who shall include the Series A Majority )]**, shall have customary drag-along rights. |
| Restrictions on Founder Transfers[[15]](#footnote-15) | Each Founder shall not transfer his shares in the Company within **[]** months from the date of Completion (subject to customary exclusions or the consent of the Series A Majority). |
| Restrictive Covenants on Founders | Each Founder shall be required to give customary non-compete and non-solicitation undertakings and covenants. |
| Information Rights | Customary information and inspection rights shall apply. Available to **[Significant Shareholders] / [all Investors]**.[[16]](#footnote-16) |
| Counterparts | This term sheet may be executed by the Parties hereto in separate counterparts, each and all of which when so executed and delivered to the Parties by facsimile, or by electronic mail in "portable document format" (.pdf) form, or by any other electronic means intended to preserve the original graphic and pictorial appearance of a document, or by a combination of such means, shall be deemed an original, but all such counterparts shall together constitute one and the same instrument. Each counterpart may consist of a number of copies hereof each signed by less than all, but together signed by all of the Parties hereto. Any Party may enter into this term sheet by signing any such counterpart transmitted electronically, or by facsimile, or other electronic signatures (such as DocuSign or AdobeSign), by any of the Parties to any other Party and each receiving Party may rely on the receipt of such document so executed and delivered as if the original had been received. The Parties agree that signatures executed by way of electronic means (such as DocuSign or AdobeSign) shall be recognised and construed as secure electronic signatures to the fullest extent under applicable law, and that the Parties accordingly shall deem such signatures to be original signatures for all purposes. |
| Applicable Statutes and Governing Law | A person who is not a party to this term sheet has no rights under the Contracts (Rights of Third Parties) Act 2001.  This term sheet shall be subject to the provisions of the Companies Act 1967.  This term sheet shall be governed by, and construed in accordance with, the laws of Singapore. |
| Dispute Resolution[[17]](#footnote-17) | In the event of any dispute arising out of or in connection with this term sheet, including any question regarding its existence, validity or termination (the "**Dispute**").  **[OPTION 1: COURT]**  **[the Parties irrevocably agree that the courts of Singapore are to have exclusive jurisdiction to settle any such Dispute.][[18]](#footnote-18)**  **[OPTION 2: ARBITRATION]**  **[the Dispute shall be referred to and finally resolved by arbitration administered by the Singapore International Arbitration Centre[[19]](#footnote-19) in accordance with the Arbitration Rules of the Singapore International Arbitration Centre for the time being in force, which rules are deemed to be incorporated by reference in this paragraph 30. This arbitration agreement shall be governed by Singapore law. The seat of the arbitration shall be Singapore. The Tribunal shall consist of one arbitrator. The language of the arbitration shall be English. The award shall be final and binding on the Parties. Judgment upon the award may be entered by any court having jurisdiction thereof or having jurisdiction over the relevant Party or its assets.]**  The Parties hereto also agree that prior to the commencement of **[arbitration]/[litigation]** proceedings, a Party hereto (the "**Requesting Party**") may provide (but is not obliged to provide) written notice to the other Party hereto (the "**Receiving Party**") requesting to refer the Dispute to mediation in Singapore at the Singapore Mediation Centre ("**SMC**")(the "**Mediation Proposal**") in accordance with SMC’s Mediation Procedure for the time being in force.[[20]](#footnote-20) If the Receiving Party agrees to the Mediation Proposal, it shall provide its written confirmation to the Requesting Party (the "**Confirmation**") within 14 days of receipt of the Mediation Proposal. The Mediation Proposal and the Confirmation shall together constitute the Parties’ agreement to mediate at SMC(the "**Agreement to Mediate**"). For the avoidance of doubt, if no Confirmation is provided to the Requesting Party within 14 days of the Receiving Party’s receipt of the Mediation Proposal, the Receiving Party shall be deemed to have rejected the Mediation Proposal. Mediation shall be commenced by the submission by either of the Parties of the Request for Mediation to SMC. Unless otherwise agreed by the Parties hereto, the mediation shall be conducted by one mediator appointed by SMC, the mediation will take place in Singapore in the English language, and the Parties hereto shall be bound by any settlement agreement reached. If neither Party submits a Request for Mediation to SMCwithin 14 days of the Receiving Party’s receipt of the Confirmation or if the Parties hereto are unable to resolve the Dispute through mediation within **[30 days]** of the submission of the Request for Mediation to SMC, the Parties’ Agreement to Mediate will lapse unless otherwise agreed. |

Acknowledged and Agreed to by:[[21]](#footnote-21)

**The Company**

Signed by **[*insert name of director*]**

for and on behalf of **[*insert name of the Company*]**

………………………..

Director

Name:

**[Investor 1]**

Signed by **[*insert name of director*]**

for and on behalf of **[*insert name of Investor 1*]**

………………………..

Director

Name:

**[****Investor 2]**

Signed by **[*insert name of director*]**

for and on behalf of **[*insert name of Investor 2*]**

………………………..

Director

Name:

**[****Founder 1]**

Signed by **[*insert name of Founder 1*]**

………………………..

**[*insert name of Founder 1*]**

**[****Founder 2]**

Signed by **[*insert name of Founder 2*]**

………………………..

**[*insert name of Founder 2*]**

APPENDIX I[[22]](#footnote-22)

Subscription Details

| **(1)**  **Name of Investor** | **(2)**  **Number of**  **Series A Shares** | **(3)**  **Subscription Consideration (S$)** | **(4)**  **Shareholding percentage (on a fully-diluted post-money basis) (%)** |
| --- | --- | --- | --- |
| **[Lead Investor]** | **[●]** | **[●]** | **[●]** |
| **[other Investor(s)]** | **[●]** | **[●]** | **[●]** |
| Total | **[●]** | **[●]** | **[●]** |

1. Explanatory Note: This is a short form term sheet and may be used if the Parties prefer to postpone the discussion in relation to the specifics of the various terms until the preparation of the subscription agreement and the shareholders' agreement. [↑](#footnote-ref-1)
2. Drafting Note: To amend, as appropriate, to reflect the agreed use of the Investors' subscription proceeds. [↑](#footnote-ref-2)
3. Drafting Note: To be amended / removed accordingly if a separate non-disclosure agreement in relation to the Subscription is in force. [↑](#footnote-ref-3)
4. Drafting Note: Please refer to the Lexicon for an explanation on the differences between cumulative and non-cumulative dividends. [↑](#footnote-ref-4)
5. Drafting Note: To be amended accordingly. [↑](#footnote-ref-5)
6. Drafting Note: This term sheet provides for a broad-based weighted average ratchet mechanism. There are two (2) other main types of anti-dilutive mechanisms that may be considered: narrow-based weighted average ratchet and full ratchet, both of which are more advantageous to investors. Please refer to the Lexicon for an explanation on the different formulations. The Parties are to discuss their preference for the appropriate mechanism for the transaction. [↑](#footnote-ref-6)
7. Drafting Note: Transaction specific conditions precedent can also be included, for example, any work to be done to rectify gaps uncovered by due diligence. [↑](#footnote-ref-7)
8. Explanatory Note: While the representations and warranties to be given would be subject to negotiations and limitations and depend on the business of the Company, warranties relating to the Company's share capital, authority and capacity, and insolvency are standard fundamental warranties which should not be subject to any forms of limitations (e.g. on time periods or amounts). Limitation of liability (including a cap) to be discussed and adjusted depending on negotiations and context of investment. [↑](#footnote-ref-8)
9. Drafting Note: Please refer to the Lexicon for an explanation on the different liability bases. If the circumstances require the Founders to give undertakings and provide confirmations as a group, then liability should be joint. [↑](#footnote-ref-9)
10. Drafting Note: This term sheet provides for language covering the situations where (a) the Company has an existing Share Option Plan and (b) the Company does not have an existing Share Option Plan. Further language may be included to provide for any key terms to be incorporated into any Share Option Plan. [↑](#footnote-ref-10)
11. Drafting Note: This term sheet assumes that the increase in the Company's existing employee share option pool is included in the fully diluted pre-money valuation. Parties may also consider increasing the employee share option pool as part of the post-money valuation which would have a dilutive effect on all shareholders, including the Investor(s). [↑](#footnote-ref-11)
12. Drafting Note: A version of the board and shareholder reserved matters may be obtained from the long form term sheet. [↑](#footnote-ref-12)
13. Drafting Note: It is common for the pre-emption right to be extended to a smaller sub-set of shareholders that have a meaningful/substantial stake. [↑](#footnote-ref-13)
14. Drafting Note: There are many variations to the drag-along right provision. As a start, this term sheet provides for drag-along rights to be triggered if shareholders representing at least 75% of the issued share capital of the Company (on an as-converted basis) (who shall include the Series A Majority) agree to exercise such drag-along right. The Parties may also wish to consider whether they prefer the drag-along right to be made subject to additional conditions so as to ensure, e.g. that the drag-along right is only exercisable in certain scenarios contemplated by the Parties (e.g. at a certain exit valuation). [↑](#footnote-ref-14)
15. Drafting Note: It is common for Founders to be locked up at the Series A funding stage. The length of time for the lock-up will be negotiated on a case by case basis and will depend on the deal/context. It is sometimes possible for Founders to negotiate a small liquidity basket in later funding rounds, but this also tends to be negotiated on a case by case basis depending on the deal/context. [↑](#footnote-ref-15)
16. Drafting Note: Parties to consider whether information or access rights should be provided or granted to Significant Shareholders only, as opposed to all Investors. [↑](#footnote-ref-16)
17. Drafting Note: To be amended depending on whether court proceedings, arbitration or mediation is the preferred dispute resolution mechanism. This term sheet provides the Parties to opt for mediation in the first instance. The Parties should consider whether court proceedings or arbitration should be resorted to in the event the Dispute is not resolved by mediation. [↑](#footnote-ref-17)
18. Drafting Note: Parties may also wish to consider the Singapore International Commercial Court as a dispute forum and its website may be accessed at: <https://www.sicc.gov.sg/>. [↑](#footnote-ref-18)
19. Drafting Note: The Singapore International Arbitration Centre's website may be accessed at: <http://www.siac.org.sg/>. [↑](#footnote-ref-19)
20. Drafting Note: The Singapore Mediation Centre's website may be accessed at: <http://www.mediation.com.sg/>. The Singapore International Mediation Centre is another designated mediation service provider in Singapore, and its website may be accessed at: <http://simc.com.sg/>. [↑](#footnote-ref-20)
21. Drafting Note: Depending on the number of Parties involved, these execution blocks should be amended accordingly. [↑](#footnote-ref-21)
22. Drafting Note: Subject to the finalisation of subscription details, Appendix I can be reflected in Schedule 3 of the subscription agreement. [↑](#footnote-ref-22)