



IVCA Model Term Sheet

Confidential - Subject to Contract / Contract Denied

Term Sheet

Proposed Investment in [Company Name]

Note: This term sheet is intended for a seed stage investment in an Irish company by a venture capital or angel investor. It contemplates a straightforward investment for a simple class of preference shares with downside liquidation preference over existing ordinary shares in the Company.

Other potential investment instruments for a seed funding round include:

- (i) Ordinary shares, which do not carry any liquidation preference and rank equally with founder ordinary shares;*
- (ii) Convertible loan note. Normally for a seed funding round the convertible shares do not carry a fixed conversion ratio, and are convertible on the next preference share funding round of the company into the new class of preference shares issued in that funding round, but at a discounted price, and with a fixed valuation cap placed on conversion, so that the Investors gets an additional benefit if the funding round exceeds that valuation cap.*
- (iii) SAFE Instrument. A SAFE (Simple Agreement for Equity) is a convertible instrument which is convertible on similar terms to those described above for the convertible loan note, but which is not repayable by the Company except in very limited circumstances (a sale of the Company or liquidation). SAFEs are generally standard form documents designed to simplify the negotiation process (and therefore costs) on an early stage investment, but have limited protections for the Investor.*

This Term Sheet summarises the principal terms of a proposed investment in [XYZ] Limited (the **Company**) by [] (the **Investor**). This Term Sheet is not intended to be exhaustive and is not, and is not intended to be, legally binding, except for those provisions expressly stated to be legally binding below.

INVESTMENT

Company:	[XYZ] Limited
Founder:	[]
Investor:	[] [Note: could be expanded to more than one Investor if there is a syndicate of Investors]



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Investment Amount: €[]

Investment Instrument: Non-participating preference shares (the **Preference Shares**).

Valuation: The investment will be made on the basis of a pre-money valuation of €[], which will be inclusive of the ESOP set out below. An indicative share capitalisation table is attached at the Appendix hereto. *[Note: normally the ESOP will be included in the pre-money valuation, which means that dilution from the ESOP will hit the Founder rather than the Investor]*

TERMS ATTACHING TO THE PREFERENCE SHARES

Conversion: The Investor shall be entitled to convert the Preference Shares at any time into ordinary shares of the Company at an initial conversion ratio of 1:1, subject to proportional adjustments for share splits, dividends or recapitalisations and any anti-dilution adjustments, and shall be subject to automatic conversion upon the listing of the ordinary shares of the Company upon a recognised stock exchange.

Liquidation Preference: Upon a liquidation, dissolution, winding up or merger of the Company, or a sale, exclusive licence or other disposal of all or a majority of the shares in the Company or all or a majority of the assets of the Company (a **Liquidation Event**), the holders of the Preference Shares shall be entitled to receive an amount out of the proceeds of the Liquidation Event equal to the higher of (i) one times (1x) the original amount invested for the Preference Shares and (ii) the amount they would have received if the Preference Shares had been converted to ordinary shares immediately prior to the Liquidation Event. For the avoidance of doubt the Preference Shares shall not carry any additional participation right beyond such amount. *[Note: this liquidation preference gives the Investor downside protection on its investment compared to ordinary shares but no additional upside participation right. Participating preference shares are not commonly used in early-stage investments and are generally seen as not founder friendly.]*

Anti-dilution: Subject to customary exclusions (including issues of shares pursuant to the ESOP) the conversion price of the Preference Shares will be subject to adjustment on a broad-based weighted average basis in the event that the Company issues shares or instruments convertible into shares where the purchase price per share is less than the current conversion price *[Note: weighted average anti-dilution rights are more customary and more founder friendly than the alternative of full ratchet anti-dilution rights. A broad-based calculation means that the ESOP is included in the weighted average calculation]*

Redemption: The Investor shall be entitled to redeem the Preference Shares for their original issue price after the [fifth] anniversary of their date of issue.



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Dividend: The Preference Shares shall rank pari passu for dividends with the Company's ordinary shares on an as-converted basis. [*Note: alternatively the Investor may seek non-cumulative or cumulative preference dividend rights. Cumulative preference dividends can end up being costly for the Founders.*]

Voting: The Preference Shares shall vote pari passu with the Company's ordinary shares on an as-converted basis.

OTHER TERMS

Pre-Conditions: The investment shall be subject to standard pre-conditions, including:

- The Investor being satisfied with the results of its due diligence in respect of the Company;
- An IP assignment by the Founder in a form satisfactory to the Investor;
- Adoption of a new constitution for the Company including the Preference Share rights and in a form satisfactory to the Investor; and
- The Founder entering into an employment agreement with the Company on terms satisfactory to the Investor.

Documentation warranties: and The investment will be entered into pursuant to an investment agreement to be entered into between the Investor, the Company and the Founder which will include customary warranties from the Company and the Founder. The Founder's liability in respect of such warranties will be capped at a maximum of [one times (1x)] Founder's annual salary.

Use of Proceeds: The Company shall use the monies subscribed by the Investor solely for the purposes of the Company's business plan from time to time and other financial budgets approved from time to time by the Board.

Board: So long as [he/she] continues to hold shares in the Company the Founder shall have the right to nominate [two] persons to act as directors of the Company.

So long as it continues to hold shares in the Company the Investor shall have the right to nominate [one] person to act as director of the Company. As an alternative the Investor shall have the right to appoint an observer to the Board.

Investor Consent: The Investment Agreement will include a customary list of actions/matters which the Company shall not undertake without the prior written consent of the Investor

Information Rights: The Company shall provide the Investor with customary information rights, including:

- Annual [audited] accounts within [180] days of year end

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- [monthly/quarterly] management accounts; and
- Annual budget, approved by the Board, at least [4 weeks] prior to the beginning of each financial year.

Restrictive Covenants: The Founder shall enter into customary non-compete and non-solicit restrictive covenants for the benefit of the Company with effect from completion.

ESOP: The Company shall establish an employee share option plan of non-voting shares, representing []% of the Company's share capital on a fully-diluted basis. The Board shall be responsible for approving the allocation of options pursuant to the ESOP.

Reverse Vesting: The Founder's shares will be subject to [quarterly] reverse vesting over a period of [3 years] from completion with customary good leaver/bad leaver provisions. Accelerated vesting to apply in the event of an exit event within the [3 year] period.

Pre-Emption Rights: Standard pre-emption rights shall apply in respect of new issuances of shares, subject to customary carve outs including in respect of the ESOP.

Pre-emption rights shall apply in respect of transfers of existing shareholdings. The Investor shall have standard permitted transfer rights in respect of its shares. Subject to Founder lock-in during the reverse vesting period, the Founder shall have standard permitted transfer rights in respect of his/her shares with regard to transfers to family members/trusts.

Tag Along: Subject to permitted transfer rights, each shareholder shall have the pro rata right to participate on identical terms (on an as-converted basis) in the sale of any shareholding in the Company [representing over []% of the Company's issued share capital on a fully diluted, as-converted basis]

Drag Along: If an offer is received to acquire the Company, and the holders of not less than []% of the voting share capital of the Company wish to accept the offer, such holders may require all other holders of shares in the Company to sell to the intending shareholder at the same price (subject to the liquidation preference rights of the holders of the Preference Shares)

Costs: The Company shall pay the Investor's costs and expenses in respect of the investment[, not to exceed €[] plus VAT]

Non-binding: This Term Sheet is non-binding and of no legal force or effect, except for the obligations set forth below in the paragraphs entitled "Exclusivity", "Confidentiality", "Counterparts" and "Law and Jurisdiction". No party shall be otherwise bound unless and until definitive agreements are executed.

Exclusivity: This paragraph is legally binding. The Company and the Founders undertake that, except with the prior written consent of Investors, they shall not (either directly or indirectly) solicit offers or otherwise



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negotiate terms with any other investor or potential investor in the Company, or make available any information for the purpose of such an investment for a period commencing on the date of signing hereof and expiring [45 days] thereafter or such later date as the parties may agree by mutual consent.

Confidentiality:

This paragraph is legally binding. The matters contemplated by this term sheet are to be treated as confidential and should not be disclosed to any person other than the relevant employees and advisers of the parties who are subject to appropriate confidentiality obligations. The Investor undertakes that it will not disclose or make use of for their own benefit, any of the information of a confidential nature relating to the Company which is or has been disclosed to it during the course of its due diligence investigation and otherwise in connection with the proposed investment. The provisions of this paragraph do not apply to any information which is publicly available at the time of disclosure unless disclosed through breach of the undertakings in this paragraph, nor does it apply to any information disclosed by the parties to the extent that disclosure is required by any law or regulation.

Counterparts:

This paragraph is legally binding. This term sheet may be executed in any number of counterparts and by the parties hereto on separate counterparts, each of which shall be an original and all of which, together, shall constitute one and the same instrument. The expression "counterpart" shall include any executed copy of these heads of terms executed by way of electronic signature or transmitted electronically in Portable Document Format (PDF).

Law and Jurisdiction:

This paragraph is legally binding. This term sheet and any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with it shall be governed by and construed in accordance with the laws of Ireland, and the courts of Ireland shall have exclusive jurisdiction to settle any such dispute or claim.

Expiry:

This Term Sheet shall expire at midnight on [insert date] if it has not by that time been signed on behalf of the Company by a duly authorised officer and by the Founder.

Signed:

For and on behalf of [Investor]

Date:

Acknowledged and agreed:



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[Founder]

Date:

[Founder]

Date:

For and on behalf of [XYZ]Limited

Date:



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APPENDIX

SHARE CAP TABLE

With thanks to the participants in the IVCA Term Sheet Working Group for the preparation of this model term sheet.

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