

Term Sheet

Dated: _____ 20**

This term sheet relates to the proposed new equity investment by [] (the "Investor") in [] Limited (the "Company").

This document is not intended to create any binding legal relations. All negotiations, communications, discussions, exchanges of information and draft documents relating to the proposed new investment are subject to one or more formal written agreements being drawn up and agreed and signed by the parties.

Company	[] Limited, registered in England and Wales under number [], with its registered office [and principal place of business] at [] [and its principal place of business at []].
Existing issued share capital	[] [ordinary] shares of [£1] each.
Existing shareholders of the Company and their shareholdings	1. [Name]; [address]; [number of shares: []]. 2. [Name]; [address]; [number of shares: []]. 3. [Name]; [address]; [number of shares: []].
Existing directors of the Company	1. [Name] of [address]. 2. [Name] of [address]. 3. [Name] of [address].
Investor	[Full Name and address]
Timing	It is intended that the investment will be completed ("Completion") by [date].
Pre-investment valuation of the Company	£[].
Investment in preferred ordinary shares	Amount of the investment: £[]. Number of preferred ordinary shares of [£1] each to be subscribed: []. Price per share: £[]. Representing []% of the enlarged issued share capital of the Company.
Rights of preferred ordinary shares	On a sale or flotation of the Company, a sale of the business of the Company or a liquidation of the Company, the proceeds available to shareholders will be divided in the following order of priority: 1. First, the holders of the preferred ordinary shares will receive back the subscription price paid by them. 2. Secondly, the holders of the ordinary shares will receive back the subscription price paid by them. 3. Thirdly, the balance of the proceeds will be divided equally between the holders of the preferred ordinary shares and the ordinary shares. In all other respects, the preferred ordinary shares and ordinary shares will rank equally.

[Downround right]	[If equity shares in the Company are issued following Completion at a price less than the price paid by the Investor for its preferred ordinary shares, the Investor will have the right to subscribe for additional preferred ordinary shares at par so as to result in the Investor having paid in subscribing for its entire holding of shares, on average, a price per share equal to the subsequent price.]
[Loan[s]]	<p>[The Investor will make the following loan[s] [facility] available to the Company (in proportion to their shareholdings):</p> <p>Amount: £[] [in aggregate].</p> <p>Drawdown: [In full on Completion][Drawable at any time up to [date] in minimum tranches of £[] on [5] business days' notice].</p> <p>Final repayment date: [].</p> <p>Early repayment: [At any time at the option of the Company. Amounts repaid may not be re-drawn].</p> <p>Interest rate: [].</p> <p>Default interest rate: [].</p> <p>Interest payment dates: [The usual quarter days][Half yearly on [31 March] and [30 September]].</p> <p>Early payment events: [A sale of the Company or a flotation or on the usual events of default].</p> <p>Secured/unsecured: [].]</p>
[Warrant]	<p>[The Company will grant to the Investor on Completion a warrant to subscribe for [preferred] ordinary shares in the Company as follows:</p> <p>Number of shares: [] [in aggregate], representing []% of the fully diluted share capital of the Company.</p> <p>Exercise price: £[] per share.</p> <p>Exercise period: [At any time during the period of [7] years following Completion][At any time upon an exit event (a trade sale or flotation of the Company)].</p> <p>[Conditions to vesting: [].]</p>
Conditions precedent	<p>Completion will be subject to the satisfaction of the following conditions:</p> <ol style="list-style-type: none"> 1. The business plan of the Company ("Business Plan") being finalised to the reasonable satisfaction of the Investor. 2. A legal due diligence questionnaire being completed by the Company ("Due Diligence Questionnaire") to the reasonable satisfaction of the Investor. 3. A director's fidelity declaration ("Director's Declaration") being completed by each of the existing directors of the Company to the reasonable satisfaction of the Investor. 4. A financial due diligence report on the Company being prepared for the Investor by [] to the reasonable satisfaction of the Investor.] 5. Venture Capital Trust advance assurance being granted by HM Revenue & Customs in respect of the proposed investment in terms satisfactory to the Investor.]

	6. [Others as appropriate].
Principal investment documents	<p>The principal investment documents will comprise:</p> <ol style="list-style-type: none"> 1. [Completed Business Plan] 2. Completed Due Diligence Questionnaire 3. [Completed Financial Due Diligence Report] 4. Completed Directors' Declarations 5. Subscription Agreement 6. Shareholders' Agreement 7. New Articles of Association 8. [Warrant Instrument] 9. [Loan Stock Instrument][Loan Notes][Loan Facility Agreement] 10. [Debenture] 11. [Intercreditor agreement between the Company, its bankers and the Investor] 12. [Appointment letter for [investor director]] 13. [Share option agreement[s] for []] 14. [Employment agreement[s] for []] 15. Directors' resolutions to implement the investment 16. Shareholder resolution to implement the investment
Use of investment proceeds	<i>Describe how the money will be used and any restrictions on its use</i>
Investor director	<p>The Investor will be entitled to appoint a non-executive director of the Company ("Investor Director"). [This will be dependent on the Investor holding a minimum share qualification of []% of the issued share capital from time to time.] The Investor Director will be entitled to a fee of £[] per annum. This fee will increase in line with the Retail Prices Index. The first Investor Director will be []. The Investor Director will be entitled to appoint an alternate of his or her choosing.</p> <p>During any period while an Investor Director is not in office, the Company will pay the Investor a monitoring fee at the rate of £[] plus VAT per annum, such fee to be paid in equal monthly instalments in advance. This fee will increase in line with the Retail Prices Index.</p>
[Observer]	[While an Investor Director is not appointed,] the Investor will be entitled to appoint an observer to attend board meetings of the Company. [This will be dependent on the Investor holding a minimum share qualification of []% of the issued share capital from time to time.] The observer will not be entitled to any fee from the Company. [The first observer will be [].] The observer will be entitled to receive copies of board packs.]
The Board	Following completion, the board of directors of the Company will comprise [names]. Unless otherwise agreed with the Investor Director, board meetings will be held at least [ten] times a year.
[Independent chairman]	[A new independent chairman of the Board will be appointed as soon as reasonably practicable following completion of the investment with the approval of the Investor.]
Information rights	The Investor will be entitled to receive annual accounts within six months of the financial year end of the Company, monthly management accounts and such other financial information as may reasonably be requested from time to time.
Warranties	<p>[Founding shareholders/executive directors] will warrant to the Investor that the information given in the Business Plan, the Due Diligence Questionnaire, the Financial Due Diligence Report and the Directors' Declarations is accurate.</p> <p>The warranties will be subject to customary limitations, including:</p> <p>(i) a de minimis limit (providing that trivial claims of less than £[1,000] will be ignored);</p>

	<p>(ii) that claims cannot be made until they reach an aggregate limit of £[typically 5-10% of the amount of the investment] but after that the full amount can be claimed and not merely the excess;</p> <p>(iii) a maximum limit of £[usually equal to the amount of the investment];</p> <p>(iv) a maximum limit per individual warrantor as follows: [(usually in proportion to shareholdings)]; and</p> <p>(v) a time limit for making claims (six years from Completion where the claim relates to taxation and two years for other claims).</p>
Reserved matters requiring Investor approval	The parties will agree a list of important matters that the Company will be restricted from carrying out (not in the ordinary course of its business) without the consent of the Investor (see schedule for draft set of matters)
Step in rights	<p>The Investor will have the right at its option to reconstitute the board of directors of the Company in the event that there is (i) a breach of warranty which remains unremedied, (ii) a continuing breach of the Shareholders' Agreement (other than by the Investor) [or (iii) a payment default under the [Loan Stock Instrument][Loan Notes][Loan Facility Agreement]].</p> <p>[In the case of (iii) above, the preferred ordinary shares will carry [five votes] per share while the default continues.]</p> <p>The Investor will have the right to remove a delinquent director, namely a director who has become bankrupt, committed a criminal offence, become prohibited by law from being a director or who is in material breach of his duties to the Company.</p>
Quorum rights	A meeting of shareholders or of the Board will not be quorate unless it includes the Investor or the Investor Director, but if at the adjourned meeting a quorum is not present it need not include the Investor or the Investor Director.
Terms of service of executive directors	<p>Each of [names] will be employed on service agreements with the Company on the following annual salaries:</p> <ol style="list-style-type: none"> 1. [Name]: £[] 2. [Name]: £[] <p>They will be employed for an initial term of [one year], subject to [three] months notice expiring at the end of the initial term or at any time afterwards. The agreements will contain customary protections for the Company.</p>
[Key person insurance]	<i>[Insert details of any key person life assurance to be taken out by the Company in respect of any of the executive directors]</i>
Employee share option pool	Shares representing up to [5] per cent of the enlarged issued share capital of the Company will be reserved for the grant of options to employees on terms to be approved by the Board and the Investor.
Confidentiality	All shareholders will agree to observe appropriate restrictions in respect of the Company's confidential information that they receive.
Restrictive covenants	<i>[Founding shareholders/executive directors]</i> will be subject to appropriate restrictive covenants preventing them from competing with the Company and soliciting its customers and employees while they are shareholders in the Company and for a period of [one year] after ceasing to be a shareholder.
Pre-emption rights on new issues of shares and subscription rights	Following Completion, the Company will be required to offer any newly issued shares (and rights to subscribe for shares or convert loans into shares) to the existing shareholders in proportion to their shareholdings before they can be issued to any third party. This will be subject to agreement to the contrary by the holders of [65]% of the issued shares [and each 15% shareholder] and the Investor.

Pre-emption rights on transfers of shares	Following Completion, a shareholder will be required to offer his shares for sale to the other shareholders in proportion to their shareholdings before he can sell to any third party. This will be subject to agreement to the contrary by the holders of [75]% of the issued shares and the Investor. The Board or the Investor (and in the case of conflict, the Investor) will be able to nominate the Company or another person as the preferred purchaser ahead of any third party selected by the selling shareholder.
Tag along right	Following Completion, shareholders holding a simple majority of the ordinary share capital who wish to sell their shares to a third party will be required to procure the third party to make an offer for the shares of the minority shareholders on the same terms.
Drag along right	[Following Completion, shareholders holding 75% of the issued share capital who wish to sell their shares to a bona fide third party will be able to require the minority shareholders to sell their shares on the same terms (subject to the preference conferred by the preferred ordinary shares) with the approval of the Investor.] [Following Completion, if the Investor wishes to sell its shares to a bona fide third party it will be entitled to require the other shareholders to sell their shares on the same terms (subject to the preference conferred by the preferred ordinary shares).]
Compulsory transfers	Following Completion, a shareholder will be obliged (if required by the Board or the Investor) to offer his shares for sale at fair value (subject to not being a Bad Leaver, as described below) to the other shareholders in proportion to their shareholdings in certain circumstances, including that shareholder becoming insolvent or mentally ill, dying or ceasing to be an employee of the Company, or suffering a change of control in the case of a corporate shareholder (not being the Investor).
Bad Leavers	A shareholder who is employed by the Company will be required to offer his shares for sale to the other shareholders at the lower of (i) fair value and (ii) the price he paid for them if he leaves the Company without good reason (e.g. other than normal retirement, redundancy, illness, unfair dismissal etc) within [five] years of Completion.
Permitted transfers	[Following Completion, a shareholder will be entitled to transfer his shares to close relatives or to family trusts where the beneficiaries are close relatives or, in the case of a corporate shareholder, to another group company free of the pre-emption rights on transfers. However, such shares can be required to be offered for sale to the other shareholders at fair value if that special relationship subsequently ends.] The Investor may transfer its shares to other investment funds free of any restriction.
Deed of adherence	Following Completion, future shareholders will be required to sign a deed of adherence agreeing to be bound by the terms of the shareholders' agreement.
Exit	The parties will use their reasonable endeavours to achieve an exit event for the Investor (a trade sale or a flotation of the Company) within [five] years of Completion. On an exit, the Investor will not be required to give any warranties except as to title to its shares and, in relation to a flotation, will not be required to agree to any dealing restrictions on its shares (other than as required by the rules of any stock exchange).
Commitment pending exit	Prior to an exit event, [founder shareholders/executive directors] will not dispose of their shareholdings in the Company without the prior written consent of the Investor.
Fees and expenses	On Completion, the Company will pay [the Investor][arranger] an arrangement fee of £[] plus VAT [and will pay the Investor's reasonable legal fees in connection with the investment [up to a maximum of £[] plus VAT]]. Otherwise, the parties will bear their own costs and expenses in relation to the investment.

Matters requiring investor approval

The Company will not do any of the following without the prior written consent of the Investor:

- 1.1 alter its issued or unissued share capital, issue any option over its unissued shares or issue any securities convertible into shares, pass any special resolution or alter, waive, disapply, modify, suspend or relax in whole or in part any of the provisions of its memorandum or articles of association or adopt new articles of association;
- 1.2 pay or make any dividend or other distribution of its assets or lend any money or grant any credit to any person (except for dividends or loans to another company in the Group or for reasonable loans to its employees or for credit granted to its customers in the normal course of business);
- 1.3 create any charge or other encumbrance over any of its assets or give any guarantee or indemnity (other than in the ordinary course of business);
- 1.4 borrow any money or factor its debts (except for borrowings and factoring of debts for which contractual commitments exist at the date of this agreement) or agree any material amendment to the terms of its financial facilities;
- 1.5 change the nature or scope of its business as carried on from time to time or discontinue such business or commence any new business not being ancillary or incidental to such business;
- 1.6 expand or develop its business otherwise than through itself or any wholly-owned subsidiary;
- 1.7 acquire or make any investment in another company or business (other than a wholly-owned subsidiary already owned);
- 1.8 dispose of or issue (otherwise than to the Company or any of its wholly-owned subsidiaries) any issued or unissued share capital of any of the Company's subsidiaries;
- 1.9 dispose or permit the disposal (otherwise than to the Company or a wholly-owned subsidiary of the Company) of the whole or any part of the undertaking or assets of the Company or any of its subsidiaries where such disposal individually, or collectively with any other such disposal made within any consecutive period of 12 months, has an aggregate book value taken as at the date of such disposal, or the date of each such disposal, of a sum equal to more than 10 per cent of the aggregate net asset value of the Company and, if it has any subsidiaries, its subsidiaries as shown in its or their accounting records as at the date of such disposal or, if more than one such disposal has occurred, the date of the last to be made of such disposals;
- 1.10 acquire, dispose of, license, transfer, assign or otherwise deal with any intellectual property rights (other than in the ordinary course of business);
- 1.11 incur any material expenditure or liability of a capital nature except in respect of office machinery and equipment reasonably required in the ordinary course of business;
- 1.12 approve or vary any budget;

Draft 1: [date]

SUBJECT TO CONTRACT

- 1.13 enter into or vary any contract or arrangement otherwise than on wholly arm's length terms;
- 1.14 make any gift or donation;
- 1.15 appoint or remove any director or the chairman of the Company or create any committee of directors;
- 1.16 employ any senior employee (meaning an employee whose total remuneration (including commission and pension benefits) may exceed £[40,000] per annum) or dismiss any senior employee (save in circumstances where it is entitled summarily to dismiss that senior employee);
- 1.17 employ or engage any director or employee on terms that the minimum notice which may be given to that director or employee to terminate his employment or engagement without liability exceeds 3 months;
- 1.18 vary the terms of engagement or employment of any director or senior employee (including any increase in remuneration or benefits);
- 1.19 increase or permit the increase of the remuneration or benefits provided to any shareholder or any associate of a shareholder in his capacity as a director or employee of or consultant to any company in the Company's group or award any discretionary bonus or commission payment to any shareholder or any associate of a shareholder or enter into or vary any contract or arrangement in which any shareholder or any associate of a shareholder has an interest;
- 1.20 repay any loan owing to a Shareholder or any associate of a Shareholder;
- 1.21 commence any legal or arbitration proceedings (other than routine collection of trade debts);
- 1.22 change its bankers, registered office, auditors, accounting policies (except as required by law or compliance with applicable accounting standards) or accounting reference date;
- 1.23 acquire or dispose of any freehold or leasehold property or enter into any agreement so to do, or vary the terms of any lease or licence (or agree any sub-lease or licence to a third party) relating to any site which it occupies or from which it operates;
- 1.24 enter into any long term or onerous contract outside the ordinary course of business or, which if within the ordinary course of business, might reasonably be regarded as exceptional;
- 1.25 permit any of its subsidiaries to do any of the things mentioned above in this clause 4 as though they, instead of the Company, were referred to.