

# Advance Subscription Agreement



**The Subscriber has agreed to make advance subscription funds available to the Company for the purpose and on the terms more particularly described in this agreement.**

# It Is Agreed as Follows

## 1. Definitions

1.1 Unless the context requires otherwise, terms defined in the articles of association adopted by the Company as at the date of this agreement shall have the same meaning in this agreement.

## 1.2 In this agreement:

<b>"Advance Subscription Funds"</b>	has the meaning given in clause 2.1;
<b>"Aggregate Advance Subscriptions"</b>	has the meaning given in clause 2.1;
<b>"Conversion Price"</b>	<p>Means a price per Conversion Share of £[INSERT PRICE PER SHARE].</p> <p>Such Conversion Price is limited to the Advance Subscription and not any additional amounts raised in excess of the Advance Subscription that make up the total Aggregate Advance Subscriptions (as defined below)</p>
<b>"Conversion Shares"</b>	<p>means either:</p> <ol style="list-style-type: none"><li>1. in the case of shares issued pursuant to clause 3.1(a), the Next Round Shares; or</li><li>2. in the case of shares issued pursuant to clause 3.1(b), (c) or (d), the highest class of share then in issue</li></ol>
<b>"Financing Round"</b>	<p>a subscription for equity in the Company by one or more persons raising an aggregate of at least £[INSERT VALUE] (excluding the Aggregate Advance Subscriptions), which amount can be raised in one or in a series of fundraisings on or before the Longstop Date;</p>
<b>"Insolvency"</b>	<p>means a situation in which:</p> <ul style="list-style-type: none"><li>• an order is made for the Company's compulsory liquidation; or</li><li>• the Company is placed into voluntary liquidation (otherwise than for the purpose of reconstruction or amalgamation); or</li></ul> <p>the Company has an administrator or receiver appointed over the whole or any part of its assets or undertaking;</p>
<b>"Longstop Date"</b>	[ANY DATE THAT IS NOT MORE THAN 6 MONTHS AFTER THE ASA IS ENTERED INT]
<b>"Next Round Shares"</b>	means, in respect of a Financing Round, the highest class of share issued in such Financing Round; and
<b>"Subscription Price"</b>	means, in respect of a Financing Round, the lowest price paid per Next Round Share issued pursuant to such Financing Round.

## 1.3 References

In this agreement, references to a party include its successors in title, transferees and assignees.

## 2. Advance Subscription

### 2.1 Advance Subscription

Subject to the terms of this agreement, the Subscriber agrees on the date of this agreement to make available to the Company £[INSERT AMOUNT] (the “**Advance Subscription**”).

### 2.2 Purpose

The Company will apply the Advance Subscription towards its general working capital purposes, for the raising of additional financing, and for such other purposes as the Company and Subscriber may from time to time agree in writing.

### 2.3 Payment

The Advance Subscription shall be paid to the Company to the following bank account:

**[INSERT COMPANY BANK DETAILS]**

### 2.4 Waiver

The Company hereby undertakes to procure all consents, waivers and shareholder resolutions necessary (pursuant to the Company’s articles of association or otherwise) so as to enable the issue of shares in the capital of the Company contemplated by this agreement to proceed free of pre-emption rights or other restriction.

## 3. Conversion

3.1 The Advance Subscription shall automatically convert into Conversion Shares at the Subscription Price, and the Company shall issue and allot to the Subscriber (or as the Subscriber shall direct) the number of fully paid Conversion Shares to which it is entitled calculated by dividing the Advance Subscription by the Subscription Price:

(a) in the event of a Financing Round, immediately prior to the unconditional completion of such Financing Round (for the avoidance of doubt, after the establishment of any unallocated share option plan created as part of such financing round),

and Conversion Shares so allotted and issued shall be in full satisfaction and discharge of all obligations of the Company under this agreement to the Subscriber and this agreement shall terminate automatically and immediately on completion of such conversion.

3.2 The Advance Subscription shall automatically convert into Conversion Shares at the Conversion Price, and the Company shall issue and allot to the Subscriber (or as the Subscriber shall direct) the number of fully paid Conversion Shares to which it is entitled calculated by dividing the Advance Subscription by the Conversion Price:

(a) on the Longstop Date (if no Financing Round) has unconditionally completed on or prior to the Longstop Date); or

(b) in the event of an Insolvency occurring before any of the events set out in sub-clauses 3.1 (a) or 3.2 (a), immediately prior to the occurrence of such Insolvency event.

and (in each case) Conversion Shares so allotted and issued shall be in full satisfaction and discharge of all obligations of the Company under this agreement to the Subscriber and this agreement shall terminate automatically and immediately on completion of such conversion.

## 4. Major Investor Rights

4.1 Subscriber shall have the following major investor rights:

(a) Information Rights: in accordance with appendix 1.

(b) Participation Rights: Each time the Company proposes to offer a subscription for equity in the Company at any time prior to and including the closing of a Financing Round (any such offering referred to as a “Financing”) the Company shall provide the Subscriber with at least ten (10) business days prior written notice of such offering, including the price and terms thereof. The Subscriber shall have a pro rata right, but not an obligation, to participate in such financing in an amount that would permit it to hold up to a total aggregate of [•]% of the Company on a fully diluted basis following such financing round.

(c) Board Observer Rights: The Subscriber shall be entitled to appoint a non-voting observer to attend all meetings of the board of directors of the Company for a period of 9 months from the date of this agreement (extendable by mutual agreement of both the Subscriber and the Company).

## 5. Representations and Warranties

The Company hereby represents and warrants to the Subscriber that: (a) The Company is a company duly formed, validly existing and in good standing under the laws of England and Wales, with full corporate power and authority to enter into and perform its obligations under this agreement; (b) the Company has full power and authority to consummate the transactions contemplated hereunder; (c) No consents, authorisations or approvals of any kind of any governmental authority or other third party are required in connection with the execution or performance of this agreement by the Company; (d) The consummation of the transactions contemplated hereunder and the performance of this agreement by the Company do not violate the provisions of the Articles of Association of the Company, or any applicable law, and will not result in any breach of, or constitute a default under, any note or instrument to which the Company is a party or by which it is bound; (e) The execution and performance of this agreement by the Company has been duly authorised by all necessary actions, and this agreement has been duly executed and delivered by the Company

## 6. General

### 6.1 Status of funds

For the avoidance of doubt, no interest is payable on the Advance Subscription in any circumstance. No amount of the Advance Subscription is repayable by the Company in any circumstance but such amount may be converted into shares in the Company as set out in clause 3.

### 6.2 Termination and Variation

This agreement shall automatically terminate in accordance with clause 3 and otherwise shall only be terminated or varied in a writing signed by the Subscriber and the Company.

### 6.3 Counterparts

This agreement may be executed in counterpart, and this has the same effect as if the signatures on the counterparts were on a single copy of this agreement. The exchange of a fully executed version of this agreement (in counterparts or otherwise) by electronic transmission in PDF format or by facsimile shall be sufficient to bind the parties to the terms and conditions of this agreement and no exchange of originals is necessary.

### 6.4 Jurisdiction

This agreement will be governed by and construed in accordance with English law and the English courts shall have exclusive jurisdiction.

This agreement has been entered into on the date stated at the beginning of this agreement.

**[INSERT COMPANY NAME]**

By:

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**[INSERT SUBSCRIBER NAME]**

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# Appendix 1 Information Rights

## Monthly:

- monthly company KPIs – to include but not limited to: revenue, runway, cash in bank, fundraising status and others where relevant (we will work with you to understand what are important for your stage of business)

## Quarterly:

- annual turnover for the previous financial year – expected only to change ~ on an annual basis
- total number of employees QE (for the latest quarter end accounting period)
- cap table updates for quarterly reporting

## Other:

- annual accounts
- P&L forecasts (2-3 years)
- follow-on investments: provide fully executed documentation & latest cap table at time of investment
- confirm if company is in liquidation / dissolved

**Disclaimer:** This draft is provided for illustrative purposes only and does not constitute legal advice. Should you be considering an ASA you should consult your accounts and / or lawyers).