**INVESTMENT AGREEMENT**

This investment agreement (the “**Agreement**”) is signed on [●] (the **Signing Date**) between:

[**Firm name**], registration number: [●], legal address [●] (the **Company**), represented by [●],

[**Firm name**], registration number: [●], legal address [●] (the **Investor**), represented by [●],

[**Firm name**], registration number: [●], legal address [●] (the **Convertible** **Investor**), represented by [●]],

[**Firm name**], registration number: [●], legal address [●] (the **Founder**), represented by [●],

*[Please add other parties, as required]*

(each also a **Party** and together the **Parties**).

WHEREAS:

1. The Company is seeking financing for its business of *[please add information on the business of the Company]* (the **Business**) and the Investor has agreed to provide such financing by making an investment in the Company.
2. [*Please add other recitals, as necessary*][[1]](#footnote-1)

THE PARTIES AGREE AS FOLLOWS:

1. DEFINITIONS

The capitalized terms used in this Agreement have the meanings set forth in Schedule 1.

1. Investment
   1. Investment Amount

The Investor shall make an investment in the Company by a monetary contribution to the share capital of the Company in the amount [of EUR [●]] / [set out opposite such Investor’s name in section “Investment” of the capitalization table in Schedule 2][[2]](#footnote-2) (each an **Investment**).

* 1. Purpose of the Investment

The Company and the Founder shall ensure that the Investment is used solely for the purpose of developing the Business.

* 1. New Shares

In exchange for the Investment, the Company shall issue to the Investor [[●] shares] / [such number of new Shares as is set out opposite such Investor’s name in section “Post-investment” of the capitalization table in Schedule 2 representing such portion of the Fully Diluted Share Capital as is set out in the same section][[3]](#footnote-3) (the **New Shares**). The New Shares shall give their holders relevant rights and subject their holders to relevant obligations set forth in the Articles of Association and the Shareholders’ Agreement.

* 1. [Capitalisation of Convertible Loans

Together with the issuance of the New Shares to the Investor, the Convertible Loans shall be capitalised and the Company shall issue to each Convertible Investor such number of New Shares as is set out opposite such Convertible Investor’s name in section “Post-investment” of the capitalization table in Schedule 2. In order to capitalise its Convertible Loan, each Convertible Investor shall pay for New Shares by contribution in kind by transferring its claim rights in respect of the Convertible Loan and payment of interest (if any) to the Company.

* 1. No claims after the capitalisation of the Convertible Loans

Each Convertible Investor hereby agrees that as of the moment such Convertible Investor is issued the New Shares in accordance with Section 2.4, all obligations towards such Convertible Loan Investor in relation to the Convertible Loan have been satified in full and the Convertible Loan Investor shall have no further claims and rights in relation to the Convertible Loan.][[4]](#footnote-4)

1. Closing
   1. Conditions Precedent

The Investor’s obligation to transfer the Investment to the Company shall be conditional upon the fuflilment of the following conditions (the **Conditions Precedent**):

* + 1. the Parties have signed the Shareholders’ Agreement;
    2. [*the Company has received evaluations of the Convertible Loans*][[5]](#footnote-5);
    3. [*please insert other Conditions Precedent, as necessary*][[6]](#footnote-6)
  1. Fulfilling the Conditions Precedent

Each Party that is responsible for the fulfilment of any Condition Precedent under Section 3.1 shall do everything in its power to fulfil each such Condition Precedent without delay, and the Parties shall immediately notify each other thereto and confirm such fulfilment.

* 1. Closing Actions and Transfer of Investments

Subject to fulfilment of the Conditions Precedent set out in Section 3.1, at the Closing the Parties shall carry out the following actions:

3.3.1 the Founder shall adopt a shareholders’ resolution to increase the share capital of the Company by issuing New Shares to the Investor [and Convertible Loan Investors] and adopt respective terms of share capital increase and Articles of Association in a new wording;

3.3.2 the Founder shall waive its pre emptive rights to the New Shares[[7]](#footnote-7);

3.3.3 each Investor shall subscribe to the respective New Shares by submitting a respective application to the Company;

3.3.4 [each Convertible Investor shall subscribe to the respective New Shares by submitting a respective application to the Company];

3.3.5 each Investor shall transfer its Investment to the Company’s account specified in Schedule 3;

3.3.6 [each Convertible Investor and the Company shall sign a deed of transfer and acceptance of the contibution in kind];

3.3.7 upon receipt of the payments in accordance with Section 3.3.5, the Founder and the Company shall ensure that the Company’s Management Board enters the Investor [and the Convertible Investors] in the Company’s shareholders registers folio as shareholders owning the respective New Shares;

3.3.8 [Please add other Closing actions as necessary][[8]](#footnote-8);

3.3.9 the Company shall immediately submit the documents set out in Sections 3.3.1 - 3.3.4 and 3.3.6 – 3.3.8 to the Latvian Commercial Register.

1. TERMINATION
   1. Termination by the Investors

4.1.1. In case the Conditions Precedent have not been fulfilled within [●] Business Days of the Signing Date (unless such fulfilment is waived by the Investor), then the Investor shall have the right to terminate this Agreement by sending a written notice to the other Parties.

4.1.2. If the Company has not submitted the documents to the Latvian Commercial Register as set out in Section 3.3.9, then the Investor shall have the right to terminate this Agreement by sending a respective written notice to the other Parties.

4.2**. Termination by the Company**

If the Investor has not transferred its entire Investment to the Company in accordance with this Agreement, then the Company shall have the right to withdraw from this Agreement by sending a respective written notice to the other Parties.

1. Representations and warranties
   1. Representations and warranties of all Parties

Each Party hereby represents and warrants to the other Parties that:

* + 1. the representative of the Party (if applicable) has all rights, power and authority, including necessary internal corporate approvals (if applicable), necessary to enter into this Agreement and any other document or instrument made in connection with the Agreement;
    2. the obligations of the Party set forth in this Agreement are valid, binding on and enforceable against the relevant Party;
    3. neither the signing nor the performance of this Agreement conflicts with or results in a violation of any provisions of: (a) the articles of association of the Party or any other similar instruments governing the Party (if applicable); (b) any legal acts to which the Party is subject; (c) any agreement or obligation binding on the Party (if applicable); (d) any judgment, order, injunction, decree or ruling of any court or governmental or local authority to which the Party is subject; (e) the terms and conditions of any licence or permit granted to the Party; and
    4. no bankruptcy petition, corporate restructuring application, liquidation application, execution application, or any other similar action under any applicable jurisdiction has been filed against the Party; the Party is not subject to any other insolvency, corporate restructuring or similar proceedings; the Party has not received any notice regarding any intention to initiate any such proceedings.
  1. Representations and warranties of the Warrantors

The Founder (“**Warrantor**”) hereby represents and warrants to the Investor that the statements set forth in Schedule 4 (the “**Warranties**”) are true and correct in all respects as at the Signing Date or, in case of Warranties explicitly made as at a specific date, as at such date.

1. LIABILITY
   1. Liability in case of breach of Warranty

Upon a breach of Warranty, the Investor shall have the right to claim that:

* + 1. the Warrantor pays the Company compensation in an amount necessary to put the Company in a position in which it would have been in case the breach of Warranty had not occurred; or
    2. the Warrantor pays the Investor compensation in an amount necessary to put the Investor in a position in which it would have been in case the breach of Warranty had not occurred.
  1. Limitations of liability

6.2.1 The Investor may claim compensation for a breach of Warranty only if the Investor has, within [●] Business Days of obtaining actual knowledge about the breach of Warranty, delivered to the Founder a notice describing the breach of Warranty in such detail as is reasonably possible at the time the Investor obtains actual knowledge about the breach of Warranty (“**Notice of Breach**”).

6.2.2 The Warrantor shall not be liable for a breach of Warranty to the extent that information indicating that a Warranty is incorrect has been disclosed to the Investor in the course of a due diligence conducted by the Investor prior to the Signing Date.

6.2.3 The Warrantor shall not be liable for a breach of Warranty unless the Warrantor’s aggregate liability for all breaches of Warranties exceeds EUR [●], in which case the Warrantor shall be liable for the entire amount and not merely the excess.

6.2.4 The aggregate liability of the Founder under this Agreement shall be limited to [EUR [●]] [[●] % of the Investment] [[9]](#footnote-9).

6.2.5 The Warrantor shall have no liability for a breach of Warranty, if the breach of Warranty, if capable of being remedied, is remedied within [●] days of the date of receipt of a Notice of Breach.

6.2.6 The Investor’s right to claim for compensation under Section 6.2.1 shall expire within [●][[10]](#footnote-10) months of the Signing Date.

6.2.5. The liability limitations set out in Sections 6.2.1 – 6.2.6 shall not apply in case of fraud or gross negligence by the Founder.

1. NOTICES
   1. Any notice or other formal communication under the Agreement must be in English and in writing and must be addressed to the e-mail address or address of each Party specified on the signature page.
   2. All notices and other communications under the Agreement shall be deemed to have been received by a Party, when: a) sent by registered mail or courier, on the fifth Business Day after posting, unless actually received earlier (if sent from outside the European Union, it shall be deemed to have been received by a Party on the day of delivery), or b) delivered by hand, on the day of delivery, or c) when sent by e-mail, on the day the receiving Party confirms its receipt (the confirmation to be provided by e-mail).
2. other Provisions
   1. Unless the Parties have agreed otherwise, each Party shall pay its own costs and expenses in connection with negotiation, preparation, execution and/or performance of the Agreement and/or transactions contemplated under the Agreement, including but not limited to all fees and expenses of the representatives, agents, brokers, legal and financial advisers and authorities.
   2. The Agreement contains the entire understanding between the Parties hereto and supersedes any arrangements, understandings, promises or agreements made or existing between the Parties prior to the Agreement.
   3. Any amendments to the Agreement shall be made in writing and signed by the Parties.
   4. In case any of the provisions of the Agreement becomes or appears to be invalid or unlawful, it shall not affect the validity, lawfulness or enforceability of the remaining provisions hereof, and the Parties shall make their best efforts to replace such provision within reasonable time with another provision that complies with the applicable laws and is the most similar to the original provision and aim of the Parties.
3. CONFIDENTIALITY
   1. Each Party undertakes to keep confidential the terms and conditions of the Agreement and not to use or disclose any Confidential Information unless:
      1. required to do so by law or pursuant to any order of court or other competent authority or tribunal;
      2. required to do so by any applicable stock exchange regulations or the regulations of any other recognised market place, or audit and compliance procedures and any other applicable regulations or procedures;
      3. such disclosure has been consented to by the other Parties in writing;
      4. the information is already in the public domain other than through breach of confidentiality obligations under the Agreement;
      5. disclosed to its professional advisers or Affiliates (who are bound to such Party by a duty of confidentiality which applies to any information disclosed).
   2. If a Party becomes required, in circumstances contemplated by 9.1.2 or 9.1.2 to disclose any information, the disclosing Party shall use its reasonable endeavours to consult with the other Parties prior to any such disclosure. For the avoidance of doubt, a Party may disclose the Confidential Information to its Affiliates only to such extent as reasonably necessary.
   3. Confidentiality undertakings under this Section 9 shall not be affected by the termination or expiry of the Agreement.
4. Governing Law and Dispute Resolution

10.1 The Agreement shall be governed by the substantive laws of Latvia.

10.2 [Any dispute, controversy or claim arising out of or relating to this Agreement, or the breach, termination or invalidity thereof, shall be finally settled by arbitration in accordance with the Arbitration Rules of the Arbitration Institute of the Stockholm Chamber of Commerce. The arbitral tribunal shall be composed of three arbitrators. The seat of arbitration shall be Stockholm. The language to be used in the arbitral proceedings shall be English.] [Any dispute, controversy or claim arising out of or relating to this Agreement, or the breach, termination or invalidity thereof, shall be settled by the courts of Latvia.]

Schedules

This Agreement has the following Schedules:

Schedule 1 Definitions and Rules of Interpretation

Schedule 2 Cap Table

Schedule 3 Payment Details

Schedule 4 Representations and Warranties

**THE PARTIES HAVE SIGNED THIS AGREEMENT AS FOLLOWS:**

**THE COMPANY:**

|  |  |
| --- | --- |
| Name: | **[●]**,incorporated under the laws of Latvia, registration number [●] |
| Signature: |  |
|  |  |
| Represented by: | [●] |
| Title | [●] |
| Address: | [●] |
| E-mail: | [●] |
|  |  |

**THE INVESTOR:**

|  |  |
| --- | --- |
| Name: | **[●]**,incorporated under the laws of Latvia, registration number [●] |
| Signature: |  |
|  |  |
| Represented by: | [●] |
| Title | [●] |
| Address: | [●] |
| E-mail: | [●] |
|  |  |

**THE CONVERTIBLE INVESTOR:**

|  |  |
| --- | --- |
| Name: | **[●]**,incorporated under the laws of Latvia, registration number [●] |
| Signature: |  |
|  |  |
| Represented by: | [●] |
| Title | [●] |
| Address: | [●] |
| E-mail: | [●] |
|  |  |

**THE FOUNDER:**

|  |  |
| --- | --- |
| Name: | **[●]**,incorporated under the laws of Latvia, registration number [●] |
| Signature: |  |
|  |  |
| Represented by: | [●] |
| Title | [●] |
| Address: | [●] |
| E-mail: | [●] |
|  |  |
|  |  |

1. Definitions and Rules of Interpretation
2. In this Agreement the following capitalized terms shall have the following meanings:

|  |  |
| --- | --- |
| **Affiliate** | shall mean any person:  (a) who directly or indirectly Controls, or is Controlled by, or is under the common Control of a Party; or  (b) who directly or indirectly beneficially owns or holds 50 (fifty) per cent or more of the voting shares, or any class of voting shares in a Party; or  (c) in whom 50 (fifty) percent (or more) of the voting shares are directly or indirectly beneficially owned or held by a Party as the case may be; or  (d) who is either directly or indirectly Controlled by a Person who is an Affiliate of a Party; or  (e) who is a member of the management board of a Party or an Affiliate of the Party; or  (f) who is the spouse, parent, sibling or child of the owner of an Affiliate or the management board member of the Party or its Affiliate; |
| **Agreement** | shall mean this Investment Agreement together with all appendices, schedules and amendments hereto as may be concluded in writing by the Parties from time to time; |
| **Articles of Association** | shall mean the Articles of the Association of the Company [as attached in Schedule [●]]; |
| **Business** | shall mean the business of the Company as defined in Recital A; |
| **Business Day** | shall mean any day when commercial banks are generally open in Latvia and [●][[11]](#footnote-11) for banking operations, excluding in any case Saturday, Sunday and public holidays; |
| **Closing** | shall mean execution of the Investments under this Agreement, as defined in Section 3; |
| **Conditions Precedent** | defined in Section 3.1; |
| **Control**, **Controlled** and **Controlling** | in relation to any entity, an entity is deemed Controlled by another person if that other person, whether directly or indirectly:  (a) holds by the right of ownership more than 50% of the share capital (or other ownership interest) of that entity, whether or not such holding give de facto control; or  (b) whether by ownership of the share capital (or other ownership interest), possession of voting power, contractually or otherwise appoints and/or removes (or has a right to appoint and/or remove) the majority of the members of other managing and/or supervisory body of that entity; or  (c) otherwise controls or has a power to control affairs and policies of that entity; |
| **[Convertible Investor** | a person referred to as a “Convertible Investor” on the signature page.] |
| [**Convertible Loan** | the convertible loan granted to the Company by a Convertible Investor.] |
| **Encumbrance** | means any pledge, mortgage, seizure, option, pre-emptive right (or right of first refusal or similar rights), usufruct, lease or any other right or encumbrance or restriction, or any agreement to create any of the foregoing in the future, including conditional arrangements, to the benefit of any third party; |
| **Financial Statements** | (a) the management accounts of the Company comprising a balance sheet, an income statement and a cash flow statement as at and for the period ended on [date]; and (b) the annual accounts of the as at and for the period ended on [date]. |
| **Founder** | a person referred to as a “Founder” on the signature page. |
| **Fully Diluted Share Capita**l | the amount of share capital of the Company calculated as the sum of: (a) the total number of Shares issued; plus (b) the total number of Shares which would be issued upon the exercise or conversion of all vested and unvested options, convertible loans and other instruments giving their holders the right to acquire Shares. |
| **GDPR** | defined in Schedule 4 Section 13.1.1. |
| **Intellectual Property** | shall mean any patents, licences, trade marks, trade names, domain names, designs, copyrights, utility models, semiconductor protection rights, inventions, design rights, software properties, know-how, rights in databases, as well as all other registered or unregistered intellectual property of the Company in any jurisdiction. |
| **Investment** | defined in Section 2.1. |
| **Investor** | a person referred to as an “Investor” on the signature page. |
| **Material Agreement** | any agreement which is material to Company’s Business as currently conducted. |
| **New Share** | defined in Section 2.3. |
| **Notice of Breach** | defined in Section 6.3.1. |
| **Ordinary Course of Business** | the ordinary course of Business of the Company consistent with sound business practices, past customs and business practices and the arms’ length principle. |
| **Party** or **Parties** | defined in the preamble. |
| **Shares** | means all and any ordinary registered shares of the Company of EUR [●] par (nominal) value each from time to time; |
| **Shareholders’ Agreement** | the Shareholders’ Agreement of the Company signed on or around the date of this Agreement. |
| **Signing Date** | the date referred to in the preamble. |
| **Warrantor** | defined in Section 5.2. |
| **Warranty** or **Warranties** | shall mean representations and warranties of the Founder as defined in Section 5.2. |

1. In this Agreement, except where the context or the express provisions of this Agreement require otherwise, the following rules of interpretation apply:
   1. References to words “include” or “including” (or any similar term) are not to be construed as implying any limitation and general words introduced by the word “other” (or any similar term) shall not be given a restrictive meaning because they are preceded or followed by words indicating a particular class of acts, matters or things.
   2. Except where the context specifically requires otherwise, words importing one gender shall be treated as importing any gender, words importing the singular shall be treated as importing the plural and vice versa, and words importing the whole shall be treated as including a reference to any part thereof.
   3. References to “writing” or “written” include electronic form; and references to “form reproducible in writing” include electronic mail (including pdf).
   4. References to “person”, “third party” or “individual” include private individuals, legal entities, unincorporated associations and partnerships and any other organisations, whether or not they have separate legal personality.
   5. Reference to a “Party” includes the successors and permitted assignees (immediate or otherwise) of that Party.
   6. The section and paragraph headings used in this Agreement are inserted for ease of reference only and shall not affect construction.
   7. Any reference to a section, paragraph or a schedule means a reference to section, paragraph or schedule of this Agreement.
   8. The term “to Warrantor’s knowledge” means the actual knowledge of the Warrantor and the knowledge that each such person should have had as a prudent and careful manager under the applicable law after diligent inquiries with the Company’s board members and key employees.
2. Cap Table

“Pre-investment”

|  |  |  |  |
| --- | --- | --- | --- |
| **Name of shareholder** | **Identity code / Registration number** | **Number of shares** | **% of shares owned** |
|  |  |  |  |
|  |  |  |  |
|  |  |  |  |
|  |  |  |  |
| **Total** |  |  | **100%** |

1. Payment Details

|  |  |
| --- | --- |
| Name of the account holder | [name] |
| IBAN | [IBAN] |
| Name of the bank | [name] |
| SWIFT/BIC | [SWIFT/BIC] |
| Payment description | Investment under Investment Agreement of [●] |

1. Warranties

1. corporate EXISTENCE AND POWER
   1. The Company is duly incorporated and validly existing under the laws of Latvia, with full power and authority to carry out any business activities, including the Business.
   2. No voluntary or compulsory liquidation, bankruptcy (including in-court or out-of-court proceedings), reorganisation, restructuring, asset administration, cessation of business activities, compromise with creditors, insolvency or similar proceedings have been initiated (by the Company, the Founder or any other person), threatened or warned with respect to the Company. The Company is not insolvent within the meaning of applicable laws and regulations.
   3. The Company do not hold any shares or any other interest, directly or indirectly, in any entity, partnership or unincorporated body and does not have any other branch in any country.
2. CAPITALISATION AND TITLE
   1. The share capital of the Company is EUR [●] (at the Signing Date). The shares of the Company have been validly issued, fully paid for and are free and clear of any Encumbrances. The Company has no other shares in any class, or other equity instruments (including convertible loans) issued, decided to be issued, conditionally or otherwise, or outstanding other than set out in Section “Pre-investment” of the capitalization table in Schedule 2.
   2. The Company has full legal authority to issue the New Shares to be issued to the Investor and [Convertible Investors] under this Agreement and such New Shares, when issued, will be without any Encumbrances.
3. CORPORATE DOCUMENTS
   1. All material constitutional and other corporate documentation of the Company required by the applicable laws, including statutory documents, Articles of Association, annual reports, decisions of the shareholder’s meetings and management bodies, permits and licences have been obtained, made, executed, maintained and filed properly and correctly in accordance with the applicable laws in all material aspects and are kept at the main office of the Company. There are no registrations of any changes pending with the relevant authorities. The Company is not in violation of its Articles of Association or resolutions of any of its bodies.
   2. All meetings of the bodies of the Company have been duly convened, none of the members of any bodies of the Company has challenged or may challenge any of the decisions of any body of the Company. All decisions of the bodies of the Company were taken in accordance with the applicable laws and the Articles of Association of the Company and are valid.
   3. All members of management and supervisory bodies have been duly elected in accordance with the applicable laws and will remain in place until the Closing, and no other person will be appointed as a member of any body of the Company other than in accordance with this Agreement.
4. Financial Statements and commitments
   1. The Financial Statements have been prepared in accordance with the applicable generally accepted accounting principles and are, in material respects, a complete and correct representation of the results of operation, the financial condition and the assets and liabilities of the Company for the relevant periods.
   2. The Company has not secured any obligations of any by the way of guarantee, surety, indemnity or otherwise. The Company has not entered into any contract pursuant to which it has assumed any liability call for any actions or activities of any person. The Company has no other off-balance sheet obligations.
   3. The Company does not, as at the Signing Date, have and will not, as at Closing, have any liabilities (including actual or contingent and whether on- or off-balance sheet), which relate to any event or circumstance which occurred before the Signing Date [and which, in aggregate, exceed EUR [●]] other than:
      1. liabilities disclosed in the Financial Statements; and
      2. liabilities incurred in the Ordinary Course of Business after the date of the Financial Statements.
   4. The Company is not in breach of any financial facilities agreement and there are no events or circumstances that give, or after notice or lapse of time, or both, would give any third party the right to call for repayment by the Company of any loan or other financial facility prior to the normal maturity.
5. EMPLOYMENT
   1. The Company has duly performed all of its obligations to its current and former employees under relevant agreements and applicable laws. All of the Company’s employment agreements are valid, binding and enforceable in accordance with their terms. No notice of termination has been served nor received with respect to any of the Company’s employment agreements. To the Warrantors’ knowledge, no employee of the Company has any intention to terminate its employment agreement with the Company.
   2. To the best of Warrantors knowledge, there are no disputes or disagreements between the Company and any of its employees or any claims or proceedings pending or threatened against the Company.

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* 1. Except as required by law, the Company has no, and has not undertaken to have any future obligation (whether current or contingent) to contribute to, and have no liability with respect to, any plan, agreement or arrangement which is an employment, consulting (in respect of a former employee) or deferred compensation agreement, or an executive compensation, incentive bonus or other bonus, employee pension, profit-sharing, savings, retirement, stock option, stock purchase, severance pay, life, health, disability or accident insurance plan, or vacation, or other employee benefit plan.

1. TAXES
   1. The Company has properly filed with the appropriate tax authorities all tax returns and reports required to be filed, such filings are true, correct and complete, and the Company is not in arrears with the payment of any taxes due to any tax authority.
   2. All taxes that have become due have been fully paid. The Company does not have any liability in respect of the taxes (whether actual or contingent) that is not disclosed or provided for in the Financial Statements.
   3. There are no tax related inspections, audits, disputes or litigation currently on-going with respect to the Company.
   4. The Company has not been involved in any transaction or series of transactions which, or any part of which, may be disregarded or reconstructed for any tax purposes by reason of any motive to avoid, reduce or delay a possible liability to tax.
2. aSSETS
   1. The Company owns or has a lawful right to use all of the assets, rights and property which it is currently using in its Ordinary Course of Business. To the extent the Company owns relevant assets, the assets are free and clear of any Encumbrances. To the Warrantors’ knowledge, there are no grounds for the termination of the Company’s right to use any such assets, rights or property within a period of [●] months as of the Signing Date.
   2. The Company owns all necessary equipment and assets, tangible and intangible, necessary to comply with the applicable legal requirements, its contractual obligations and to carry on the Business as it is presently conducted and these assets are in good operating condition, ordinary wear and tear excepted, and fully maintained and serviced on a timely basis according to the minimum market/statutory standards, and fit for the purpose for which they are meant to be used.
   3. The Company has executed and shall execute due accounting of its stock and inventory, all records of the Company’s stock and inventory reflect correct and true figures and the actual situation and Company’s inventory and stock are in good and saleable condition at its book value.
3. AGREEMENTS
   1. All Material Agreements are valid, binding and enforceable in accordance with their terms and such terms are in line with the arm’s length principle. No notice of termination has been served nor received with respect to any of the Material Agreements. To the Warrantors’ knowledge, no counterparty of any of the Material Agreements is in default under any of the Material Agreements and no event has occurred which would constitute such a default. The Company has not received or given any notice on breach and/or termination of any Material Agreement.
   2. The Company is not in breach of any Material Agreement. None of the other parties to any of the Material Agreements is in breach of such Material Agreement. The entry into and performance of this Agreement would not constitute a breach of any Material Agreement or relieve any party to a Material Agreement from its obligations under such Material Agreement or enable any party to a Material Agreement to prematurely terminate, unilaterally amend, rescind or render void any Material Agreement or enforce any Encumbrance.
   3. The Company has no outstanding offers, which are capable of binding acceptance by any person, except in the Ordinary Course of Business.
   4. The Company is not a party to any of the following agreements:
      1. any non-competition undertakings or any agreement that limits the freedom of the Company to conduct its Business in any part of the world as it deems appropriate or to freely to use any information in its possession;
      2. any agreement containing provisions for material price re-determination or price revision;
      3. any agreement, judgment or order under which the execution or performance of the Agreement (i) would give any other contracting party the right to terminate or adversely change the terms and conditions of such agreement or which contain other change of control provisions, or (ii) would constitute a violation or default by the Company, or (iii) would result in the creation of an Encumbrance on any assets of the Company, or (iv) would restrict the freedom of the Company to continue its Business operations, or (v) would have a negative effect for the Company otherwise;
      4. any agreement which cannot readily be fulfilled or performed by the Company on time;
      5. any agreement, arrangement or practice which is or could be contravening applicable laws on competition or state aid;
      6. any joint venture, consortium, partnership, unincorporated association or profit sharing arrangement or agreement.
4. COMPLIANCE WITH LAW
   1. To the best of Warrantors’ knowledge, the Company has conducted its Business at all times in accordance with and has complied with applicable laws relating to its operations and the Business.
   2. To the best of Warrantors’ knowledge, all necessary licences, consents, permits and authorisations have been obtained by the Company to enable the Company to carry on the Business in the places and in the manner in which such Business is now conducted and all such licences, consents, permits and authorisations are valid and subsisting and have been complied with in all respects, and there is no reason why any of those licences, consents, permits and authorities should be suspended, cancelled, revoked or not renewed on the same terms.
   3. To the best of Warrantors’ knowledge, there is no controversy or investigation pending or threatened or expected with respect to the Company or the Business by any governmental agency or authority or any other person relating, inter alia, to any violation or possible violation of applicable laws and no injunctions, cautions or remarks by authorities have been directed towards the Company, and there are no outstanding orders, decrees or judgments in respect of the Company.
   4. To the best of Warrantors’ knowledge, neither Company, nor any director, officer, employee, agent or representative of the Company, has at any time taken any action, directly or indirectly, in violation of applicable anti-bribery or anti-money laundering laws and the Company has conducted its Business in material compliance with applicable anti-bribery and anti-money laundering laws and regulations.
5. disputes and litigation
   1. There are no current or any threatened or pending litigation (civil, criminal or administrative), arbitration or other proceedings (including tax proceedings) against the Company, the Business or assets, and there are no such proceedings pending or threatened by the Company against any other Person, and there are no circumstances likely to give rise to any such proceedings.
   2. There are no outstanding court orders or court or arbitration decisions against the Company (as a defendant, claimant or otherwise) or to which any of Company’s assets are subject.
   3. No person for whose actions or omissions the Company may be liable is involved in any civil, criminal or administrative court, or arbitration proceedings and no proceedings of that kind are pending or threatened.
6. INTELLECTUAL PROPERTY
   1. The Company is the exclusive owner of its Intellectual Property with full and unrestricted ownership and right of disposition. The Company’s Intellectual Property is not subject to any Encumbrances and no third party is claiming that such Encumbrances exist.
   2. The Company has taken all reasonable steps to protect its Intellectual Property. All Intellectual Property which has been registered, has been duly registered, renewed and in any other respects maintained valid and asserted by the Company.
   3. All Intellectual Property that is necessary in order to fully and effectively conduct the Company’s Business as conducted at the Signing Date, is licensed to the Company without any material fees and the Company has the right to use such Intellectual Property in the manner and for the purpose that the Company uses such Intellectual Property at the Signing Date.
   4. To the Warrantor’s knowledge, the Company’s use of any Intellectual Property is not infringing the rights of any third party. There are no current, pending, or threatened or anticipated challenges, claims or proceedings regarding the Company’s use of any Intellectual Property.
   5. There has been no infringement by any third party of any of the Intellectual Property.
7. Information Technology
   1. The Company has valid and sufficient licences in respect to all and any of the software it uses. All computer software used by the Company operates substantially as intended and no defect or flaw interferes in any material respect with the operation thereof. The Company has in place adequate back-up, disaster recovery and other systems and procedures to enable its business to continue without material adverse change in the event of a failure of any of the Company’s computer systems.
   2. The content of each of the Company’s websites complies with all applicable laws and regulations.
8. data protection
   1. The Company is and has always been materially compliant with all requirements of Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) (the “GDPR”) and other applicable data protection laws.
   2. The Company has never received any claim or notice from any data protection supervision authority stating that its processing of personal data violates the requirements of the GDPR or any other applicable data protection laws and requirements, nor any personal data breach has ever occurred in the Company, nor the Company has received any notice from any personal data subject stating that its processing of personal data violates the requirements of the GDPR or any other applicable data protection laws and requirements.
9. INSURANCE
   1. The Company maintains all adequate insurances required under laws or agreements and that are normally maintained by a person carrying on the same type of Business as the Company.
   2. The Company is in compliance with all material terms and conditions of its insurance policies and nothing has been done or omitted to be done which would make any policy or insurance void or voidable.
   3. No claims have been made to and no claim is outstanding under the Company’s insurance policies, and, to the best of the Warrantor’s knowledge, there are no circumstances likely to give rise to any such claims.
10. INFORMATION
    1. All the documents and the information that has been provided to the Investor before the Signing Date by or on behalf of the Company in connection with the transactions contemplated under this Agreement have been correct and complete in all material respects and are, in light of the circumstances in which they were made, not misleading and give, in all material respects, a true and complete picture of the business, financial, and legal condition of the Company. All the documents and the information that has been requested by the Investor with respect to the Company has, to the extent it exists, been provided to the Investor by or on behalf of the Company.
    2. There are no material facts or circumstances relating to the affairs of the Company which have not been disclosed to the Investor and which, if disclosed, might reasonably have been expected to influence the decision of the Investor to make Investment in the Company on the terms of the Agreement.

1. NOTE TO DRAFT: Other background information could be included in the recitals, e.g., if a letter of intent has been concluded between the parties etc. [↑](#footnote-ref-1)
2. NOTE TO DRAFT: In case there is one investor, the information on the investment amount may be included directly in the body of the Agreement. In case there are multiple investors, it might be more efficient to use a capitalization table as a Schedule to the Agreement. [↑](#footnote-ref-2)
3. NOTE TO DRAFT: In case there is one investor, the information on the new shares may be included directly in the body of the Agreement. In case there are multiple investors, it might be more efficient to use a capitalization table as a Schedule to the Agreement. [↑](#footnote-ref-3)
4. NOTE TO DRFAT: Sections 2.4. and 2.5. are relevant only if there are prior convertible loans that need to be capitalised. [↑](#footnote-ref-4)
5. NOTE TO DRAFT: If the Convertible Loans will be capitalised, it will require evaluation of the contribution in kind carried out by a certified evaluator included in the list kept by the Latvian Commercial Register. [↑](#footnote-ref-5)
6. NOTE TO DRAFT. Other Conditions Precedents, as required for the respective transaction, should be added. Such could be, e.g., entry into Management Board member agreements, completion of Due Diligence by the Investor etc. [↑](#footnote-ref-6)
7. NOTE TO DRAFT: If there are other shareholders in the Company, all of the existing shareholders not subscribing for the New Shares should waive their pre-emptive rights. [↑](#footnote-ref-7)
8. NOTE TO DRAFT: Other Closing actions as necessary for the transaction might be added, e.g., appointment of new Management Board members, creation of Supervisory Board etc. [↑](#footnote-ref-8)
9. NOTE TO DRAFT: This amount should be high enough to ensure that the Founder is motivated to make sure that the Warranties are true and correct and not misleading. [↑](#footnote-ref-9)
10. NOTE TO DRAFT: The liability for the breach of warranties could be set to, e.g., 12 months, which is the common market deadline. Exception could be made to material warranties or tax warranties setting it to the statutory time periods. [↑](#footnote-ref-10)
11. NOTE TO DRAFT: The countries of banks used by all Paties shall be indicated. [↑](#footnote-ref-11)