**Term Sheet: EIT DIGITAL Option Agreement**

Participation of the Company in [name] EIT Digital Activity ….

By and between

1. **[●]**, a limited liability company organized and existing under the laws of [country] with its statutory seat in [●], [country], registered with [●], [country], having its business address at [●], [●], [country]

* “**Company**” -

1. **[●]**, born on [●], with address at [●], [●],

* “**Founder/Shareholder 1**”-

1. **[●]**, born on [●], with address at [●], [●],

* “**Founder/Shareholder 2**”-

1. **[●]**, born on [●], with address at [●], [●],

* “**Founder/Shareholder 3**”-

**And**

**EIT Digital IVZW**, an international non-profit association incorporated under Belgian Law, with registered office at Rue Guimard, 7, 1040 Brussels, Belgium, registered with the Crossroads Bank for Enterprises under the number 0831.431.639, represented by Mr. Willem Jonker, CEO.

Hereinafter referred to as “EIT Digital”;

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| **Background** | [Name] is a start-up based in [●] (in the following the “**Company**”).  The Company intends to participate in EIT Digital´s Innovation project using the Activity (the **“Activity”**). The Activity focuses on supporting innovative start-ups. In consideration for the grant provided by EIT Digital, EIT Digital shall assume a participation in the Company, which will be structured as a participation by options (each an “**Option**” and together the “**Options**”).  The Company was accepted to the Activity and shall thus be entitled to take advantage from its benefits. This Term Sheet describes the principal terms and conditions with respect to the Activity. Based on this Term Sheet the Parties intend to enter into binding agreements. |
| **Shareholding** | Currently the shareholder structure of the Company is as follows:   |  |  |  | | --- | --- | --- | | **Shareholder** | **Shares** | **Shareholding** | |  |  |  | |  |  |  | | **In total** |  | **100.00 %** |   [All Founders are currently and will work in the future fulltime for the Company.] |
| **Company** | The Company was founded as a [details regarding legal form] in [city, country] (in the following also the **“Company”**). |
| **EIT Digital´s Participation** | EIT Digital is committed to support the Company and is willing to grant funds in the total maximum amount of up to [EUR xxx] (the actual amount of the granted funds, the “ **EIT Digital Grant**”). As a consideration for the EIT Digital Grant, EIT Digital shall participate via Options in the Company. Through the Options EIT Digital shall get the opportunity to partake in the future increase in the Company’s enterprise value. Each Option shall have a nominal amount equivalent to one equity-share (e.g.: If one share has a par value of EUR 1.00, each Option has as well a par value of EUR 1.00).[[1]](#footnote-1) Thus, in the Financial event, each Option shall be converted 1:1 into one equity-share. |
| **Valuation** | The price per Option corresponds to the pre-money valuation (the “**Option** **Price**”). The amount of subscribed Options depends on the EIT Digital Grant actually allocated by EIT Digital to the Company.   |  |  |  | | --- | --- | --- | | **Pre-Money Valuation** | **Purchase Price per Option** | **Number of Options per EUR 100k invested** | | EUR [●] | EUR [●] | [●] |   Without undue delay after the EIT Digital Grant has been provided by EIT Digital, the Company shall with declarative effect confirm vis à vis EIT Digital in written form the number of Options EIT Digital is entitled to. For the calculation of the number of Options, an agreed valuation method based on generally accepted financial and mathematical principles shall apply. |
| **Financial Events/**  **Exercise** | Each of the following events shall be a **“Financial Event”**:[[2]](#footnote-2)   * Sale of more than 50% of the shares in the Company; * Sale of more than 50% of the assets as well as the licensing of substantial IP rights of the Company; * IPO * Capital increase; and * Liquidation.   In the event of a merger, the Options of EIT Digital shall be converted into new Options or similar instruments on the level of the new entity. The conversion shall occur on the same economic conditions as agreed for the shareholders.  The Options can only be exercised by EIT Digital within 2 (two) weeks after the Company has informed EIT Digital of the occurrence of a Financial Event and only in the same ratio as the Shares held by the shareholders are commercially affected by the Financial Event by giving written notice to the Company (“**Exercise Notice**”) *(Example: If the current shareholders sell 80 % of their Shares, EIT Digital is entitled to exercise 80 % of its Options)*. |
| **Liquidation Preference** | If at the time of the Financial Event, the Company has issued in addition to common shares, preferred shares or if the shareholders of the Company have agreed contractually to treat certain shares as preferred shares or equip certain shares with preferred rights such as liquidation preferences, the following shall apply.  Upon the occurrence of a Financial Event, EIT Digital shall, with respect to its Options, be entitled to a first rank non-participating sales and liquidation preference equal to the amount of its payments under the EIT Digital Grant to the Company per Option that shall rank by complying with the “last in - first out principle” (i) senior to the common shares issued in the Company and (ii) junior to any higher Preferred Shares, if any.  EIT Digital shall be entitled to its liquidation preference regardless of any applicable escrow, holdback or other contingency provision. Thus, if upon an Financial Event the initial payment is enough to fully pay the liquidation preference of EIT Digital (once any senior ranking liquidation preference has been previously paid in full), then the liquidation preference of EIT Digital shall be fully paid.  For the avoidance of doubt: If no shareholder is entitled for a liquidation preference, EIT Digital shall also not be entitled for a liquidation preference. |
| **ESOP** | EIT Digital will bear the economic burden of any employee stock option plans (“**ESOP**”) on a pro rata basis and in relation to the increased share capital of the Company. However, EIT Digital shall bear the economic burden of ESOP only to a maximum corresponding to 15% of the fully-diluted share capital of the Company. |
| **Information Rights** | As long as EIT Digital holds Options in the Company, EIT Digital shall be granted customary access and information rights with respect to the Company’s business and ongoing development. The Company’s management shall provide EIT Digital with financial reports on a regular basis, including:   * Unaudited or (to the extent required by law) audited annual financial statements and annual reports at the latest at the end of February following the respective financial year; * Annual business plan for the following financial year showing monthly projected financials as well as the annual plan suggested by the Company, at the latest at the end of August of the preceding financial year; * Quarterly reporting of key performance indicators and financial analysis (BWA).   EIT Digital will not claim any position in the governing Board of the Company. |
| **Indicative Timeline** | Final agreements about the participation of EIT Digital shall be signed by [●].  First payout of the EIT Digital Grant shall be [●].  Last payout of the EIT Digital Grant shall be no later than … |
| **Confidentiality** | This Term Sheet is confidential and may not be disclosed to any party other than a party to this Term Sheet and its employees and legal advisors. |
| **Definitive Agreements** | EIT Digital´s legal counsel will provide the Company with the first draft of an Option Agreement in the English language. The definitive agreements shall be signed by the Founders and all other shareholders of the Company. |
| **Governing Law**  **Legal Relationship** | The definitive documentation relating to the participation of EIT Digital shall be governed by the laws of [the country the Company is incorporated in].  In addition to this Agreement, the relation between the Company and EIT Digital is governed by the following agreements:   * Framework Partnership Agreement (“FPA”): Agreement establishing the cooperation between the European Institute of Innovation and Technology and EIT Digital and the EIT Digital KIC Partners. * Specific Grant Agreement (“SGA”) between EIT and EIT Digital and the EIT Digital KIC Partners: * Internal Agreement Grant (“IAG) or Subgranting Agreement: Containing the rules for the financing of the Project |
| **Binding Effect** | The parties acknowledge and agree that, except for the obligations set forth in the sections entitled “Confidentiality”, “Governing Law” and this section, which are intended to be legally binding, this Term Sheet is intended for discussion purposes only and does not constitute an offer or commitment of any kind to provide or participate in any form of financing of the Company and does not create any legally binding obligations of either Party until the execution and delivery by the Parties of definitive binding agreements. |

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| *[Signature page follows]* |

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| Signature page | |
| Place, Date: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ | Place, Date: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |
| \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  **The Company** | \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  **Founder 1** |
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| **Founder 2** | **Founder 3** |
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| Place, Date: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |
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| **EIT Digital IVZW** |

1. [↑](#footnote-ref-1)
2. [↑](#footnote-ref-2)