



# Investing in Private Companies Syndicate Guide

**HBAN** Halo  
Business  
Angel  
Network

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*HBAN is committed to developing and improving its resources for business angels and entrepreneurs. Consequently HBAN welcomes any feedback that would enhance future versions of this Syndicate Guide. Contact details are available on HBAN's website: [www.hban.org](http://www.hban.org).*

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# Introduction

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# 1. Introduction

This guide supports business angel syndicates. The terms angel syndicate and angel group are widely used, sometimes interchangeably. In this booklet angel syndicate is used. Angel syndicates will often co-invest with other angel syndicates.

The guide provides guidance on structuring a syndicate as well as addressing common issues faced by syndicates and complements two other HBAN publications, *Raising Business Angel Investment Insights for Entrepreneurs* and *Investing in Private Companies Insights for Business Angel Investors*.

## Business angel syndicates

Business angel syndicates are groups of like-minded investors. They are high net worth individuals who provide smaller amounts of finance (typically in the range €50,000/£40,000 to €250,000/£200,000) at an earlier stage than many venture capital funds are able to invest. It is worth noting that in Ireland and Northern Ireland business angel syndicates are increasingly operating and co-investing in partnership with both seed venture capital funds and government agencies.

Syndicates are two or more private investors working together to share the risks and rewards of investing in private companies. Syndicates differ from individual business angel investors as syndicates are typically comprised of a 'fixed' group of people who regularly invest together over a period of time.

### The principal benefits of participating in an angel syndicate are:

1. **Diversified portfolio:** portfolio investing (i.e. investing in more than one company) is a lower risk approach to investment compared to the higher risk 'all eggs in one basket' approach of investing in just one or two companies;
2. **Pooling of economic resources:** pooling of funds provides the opportunity to invest in several companies and/or in larger deals;
3. **Pooling of skills, contacts and experience:** syndicate members will benefit from each other's skills, networks of contacts and experience. This all enhances the possible success and returns of investing; and
4. **Due diligence:** ability to undertake a greater level of due diligence.

## Status of this guide

This guide is for general information and guidance only. HBAN shall have no liability or any responsibility whatsoever for any direct, indirect, incidental, consequential or punitive damages, costs, losses or liabilities whatsoever arising out of your access to, use, inability to use, or any change in content of this guide.

The purpose of HBAN is to raise the profile of business angel investment as an asset class on the island of Ireland and to promote the creation of business angel syndicates. HBAN acts as a resource for both entrepreneurs and investors (singularly and as syndicates) to assist in the promotion of the early stage entrepreneurial community on the island of Ireland. HBAN works regionally in partnership with the Business Innovation Centres (BICs) in Dublin, Cork, Waterford and Galway and Halo NI.

HBAN is a joint initiative of Enterprise Ireland and InterTradelreland. HBAN seeks to introduce suitable investors to each other and to entrepreneurs. HBAN takes no part in any investment, nor does it provide information to entrepreneurs or investors in relation to particular investments. HBAN does not receive any fee, commission or payment from investors or entrepreneurs in respect of completed investments.

HBAN does not provide investment services under the European Communities (Markets in Financial Instruments) Regulations 2007 and is not an investment advisory firm pursuant to the Investment Intermediaries Act 1995 as amended.

*HBAN is committed to developing and improving its resources for business angels and entrepreneurs. HBAN welcomes any feedback that would enhance future versions of this Syndicate Guide. Contact details are available on HBAN's website: [www.hban.org](http://www.hban.org).*

*This syndicate guide was created by HBAN with the kind assistance of Bob McGowan-Smyth and Alan O'Driscoll.*

# Business Angel Landscape Overview and the Journey to Investment

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## 2. Business Angel Landscape Overview

### Business angel investors

Business angel investors are high net worth individuals who provide smaller amounts of finance (typically in the range €50,000/£40,000 to €250,000/£200,000) at an earlier stage than many venture capital funds are able to invest. They are increasingly investing alongside both seed venture capital funds and government agency funding on the island.

Angels usually contribute much more than pure cash - they often have industry knowledge and contacts that they pass on to entrepreneurs. Angels will often take non-executive board positions in the companies in which they invest.

The importance of business angels to the equity capital industry has grown significantly in recent years. In the United States business angels invest a similar quantum of money as the US venture capital ('VC') community (seed and growth capital) on an annual basis. They invest in many more companies than VCs since the average business angel investment is much lower than the average VC investment.

The growing role of business angels as catalysts in many start-up companies is now well recognised in Europe including on the island of Ireland. It is worth noting that much of the business angel community is 'ad-hoc' involving family, friends and private individuals investing directly in start-ups but not as part of any formal network.

The formalisation of business angels into Business Angel Networks ('BANs') and the creation of business angel syndicates are reflecting best practice internationally.

### Angel networks in Ireland and Northern Ireland

With the recent formation and growth of angel syndicates, equity from business angels is becoming more and more important to the equity capital industry in Ireland and Northern Ireland.

Angel investing on the Island has been both ad-hoc and formal.

There is little information on ad-hoc investing. International research has shown that the ad-hoc (or invisible) business angel marketplace is typically five to six times that of the formal business angel activity.

## HBAN syndicates

The following syndicates have been or are being established:

- All Island AgriTech Syndicate
- All Island Food Syndicate
- All Island MedTech Syndicate.
- Bloom Equity;
- Boole Investment Syndicate;
- FinTech Syndicate;
- Irrus Investments;
- South East Business Angel Network;
- WxNW (West by North West) Syndicate

Other syndicates are to be developed.

## Ecosystem

The current timing for angel investing in early stage companies is opportune due to a well developing ecosystem in Ireland and Northern Ireland.

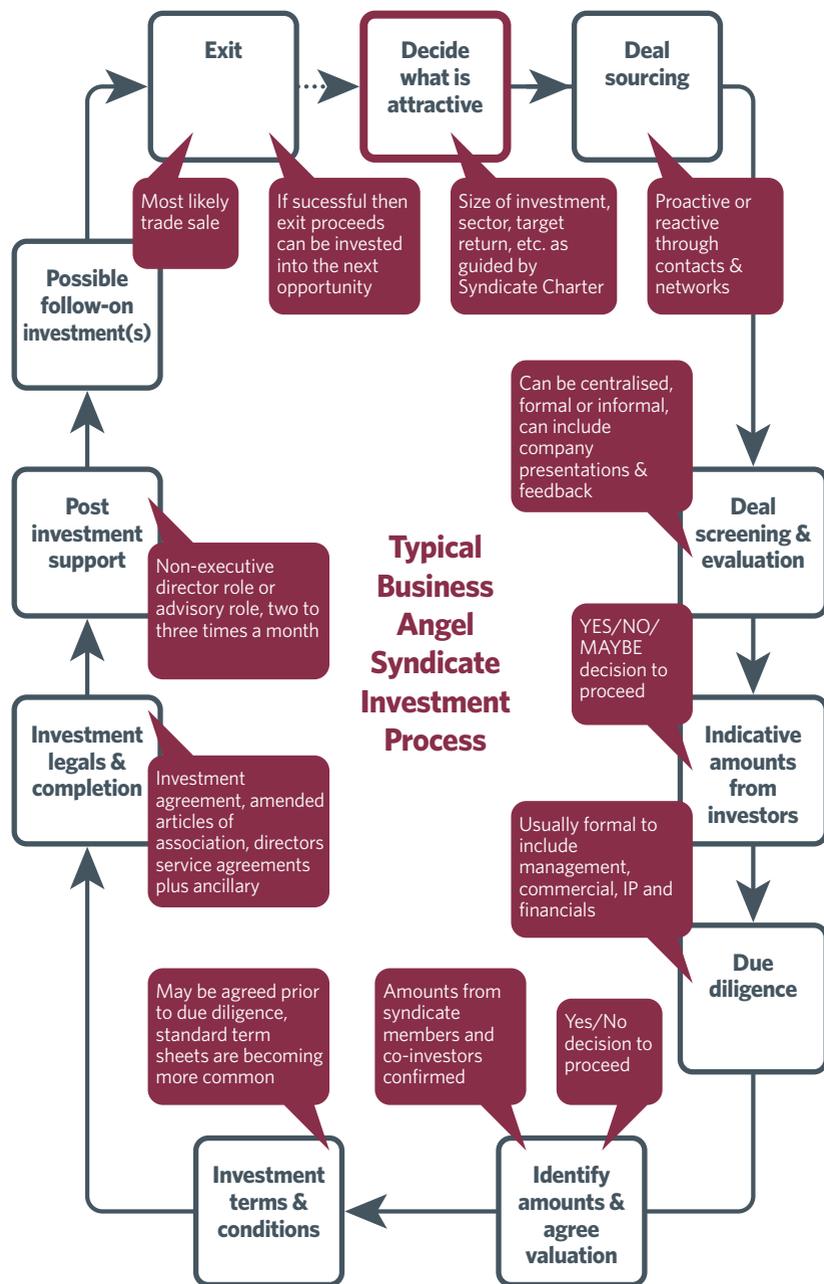
The ecosystem includes:

- Enterprise Ireland's equity funding High Performance Start-Ups initiative;
- Seed capital funds managed by:
  - ACT Venture Capital (AIB), Delta Partners (BOI), Dublin BIC (AIB), Enterprise Equity (AIB), Frontline Ventures, and Kernel Capital (BOI);
  - Techstart NI is the NI seed fund (Invest Northern Ireland), Clarendon manage the NI Co Fund (Invest NI) while the UK wide British Business Bank Angel Co-fund is also active in NI.
- Enterprise Ireland's €50k Competitive Start Fund;
- Various accelerator programmes; and
- Universities on the island producing world class intellectual property.

## Investment in 2015

In 2015 HBAN business angels, across the island invested €10.8 million into 50 companies. This direct angel investment leveraged a further €15.7M of additional public & private funds into these companies. Continued growth is expected in 2016 given the developing ecosystem on the island.

## The Journey to Investment



# Options for Syndicate Structures

### 3. Options for Syndicate Structures

It is important that the syndicate structure employed is appropriate to the size and complexity of a syndicate.

**Whilst other structures could be employed, the following two are useful options to consider:**

1. **Structure A** – a ‘light touch’ structure. This works irrespective of the number of members and will likely be used by many of the typical syndicates with 15 to 20 members.
2. **Structure B** – a formal structure using a company limited by guarantee. Due to current Irish<sup>1</sup> company law restrictions, this only works where there are seven or more syndicate members. This structure will typically be used where there is a very active core group that establishes the syndicate and is complemented by an outer ring of angel participants that are less active in company selection, due diligence and on-going company support.

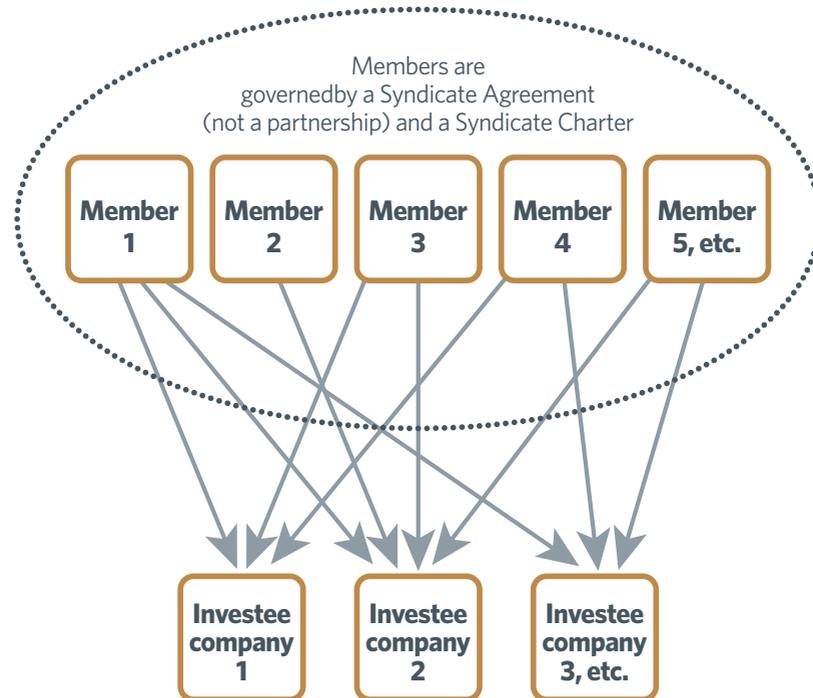
#### **Income tax and corporation tax**

Both of these structures are ‘transparent for tax’, i.e. all tax gains, tax incentives and tax losses arising from investing are assessed on the individual members. In either structure, there may be some corporation tax payable on the membership activities (i.e. membership fees less costs).

**More information on tax incentives for business angels and VAT can be found in section 10 of this guide.**

<sup>1</sup> This does not apply in Northern Ireland. See footnote 4.

## Structure A - 'light touch'



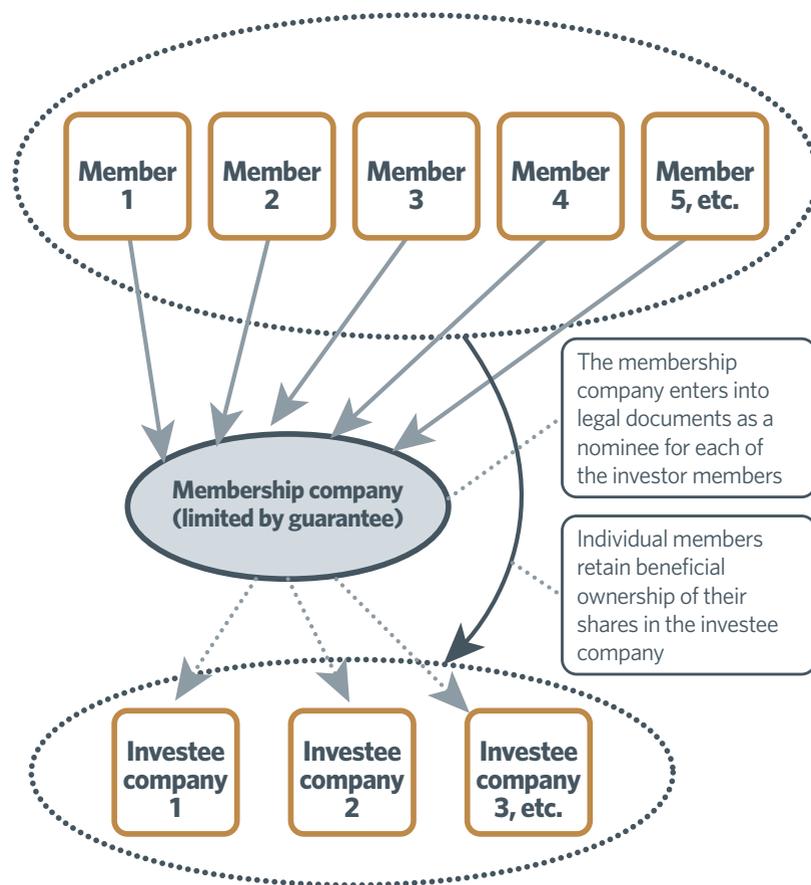
The syndicate does not enter into any legal documents as a 'syndicate'; only individual members enter into legal agreements

- This structure is appropriate for a syndicate irrespective of the number of members and will likely be used by many of the typical syndicates with 15 to 20 members.
- Costs are minimised as there is no corporate structure. However, since there is no corporate structure, there is no corporate identity and little protection for a syndicate 'brand' name.
- Syndicates under this structure can still have brand names and it is recommended that they do so to build an identity in the marketplace. In this case, one of the syndicate founders can register the trade name on behalf of the group; however the syndicate retains ownership of the trade name and any related design and logo.
- The members are governed by a Syndicate Agreement between the members for individual investments and by a Syndicate Charter (see section on Syndicate Operation and Charter for further details).
- The Syndicate Charter permits the opening of a bank account in the name of the syndicate to facilitate the collection of any membership fees and making any payments related to the operation of the syndicate.
- The Syndicate chairperson is an important role in the successful operation of a business angel Syndicate, particularly so in the early stages (during establishment). It is recommended that the Syndicate would rotate the chairperson from time to time.
- The Syndicate Agreement will govern the operation of the syndicate investing in a particular company and will provide for a certain member or members to represent the interests of the other investors in any given investment.
- Where members co-invest jointly and not separately as individuals or jointly enter into any other legal document, they risk being considered a partnership, which brings its own legal complexities. Members should enter into investment and legal agreements individually. Individual shareholder names appear on the public record<sup>2</sup>.
- A new syndicate could adopt this structure initially and then convert into the formal structure below, if so desired at a later stage, subject to the minimum seven members having been reached<sup>3</sup>.

<sup>2</sup> Companies Registration Office in Ireland; Companies House in Northern Ireland

<sup>3</sup> Note next footnote re the different position in Northern Ireland

## Structure B - formal



- This structure is appropriate where there are seven or more members<sup>4</sup> in the syndicate. This structure will typically be used where there is a very active core group that establishes the syndicate and is complemented by an outer ring of angel participants that are less active in company selection, due diligence and on-going company support.
- The formal or corporate structure can give more protection to the core or founding members, particularly where the intention is to grow the syndicate and where new members may not have the existing professional and personal relationships from which the initial members benefit.
- There are some costs (e.g. annual accounts preparation, corporation tax returns and company annual returns) as there is a corporate structure. However, there is a corporate identity and, consequently, an ability to create a syndicate 'brand' name using the membership company name.
- This can be more attractive for entrepreneurs since they typically prefer to deal with the investor group as a single entity rather than individually. However Structure A is perfectly workable and variations of same have been widely used.
- In Structure B, a company limited by guarantee is set up by the core group who generally also become the company's directors. A minimum of two directors is mandatory but a minimum of seven members is required.
- Since the membership company holds the shares in investee companies in trust on behalf of the members, individual shareholder names do not appear on the public record<sup>5</sup>. This can be attractive to private investors who wish to retain a 'low profile'. The investor retains the beneficial ownership of his/her shares held by the membership company since the membership company signs a Declaration of Trust and a signed, undated Stock Transfer form, which can transfer legal ownership of the shares to the investor at any time; these two documents are retained by the relevant individual investor.
- Where the membership company is also going to hold the shares as a nominee on behalf of the members, care needs to be taken to ensure that the membership company's objects allow it to perform this dual function. Legal advice may be required.
- Similarly to the *light-touch Structure A*, a Syndicate Agreement should be used to govern the operation of the syndicate members who are investing in a particular company and this agreement will also provide for a certain member or members to represent the interests of the other investors in any given investment.

<sup>4</sup> In Ireland, a company limited by guarantee is a public company and, therefore, must have a minimum of seven members. In Northern Ireland, a company limited by guarantee is a private company and there is a minimum requirement for just one member.

<sup>5</sup> Companies Registration Office in Ireland; Companies House in Northern Ireland

## A note on the use of a company limited by guarantee

The advantage of using a company limited by guarantee is that it enables the easier addition and resignation of members since there are no shares to transfer; which would be the case if a private company (limited by shares) was used as the corporate entity. The members' liability is limited to the nominal amount (usually €1/ £1) that they have guaranteed. There is no share capital.

It can be the case that some members lose interest and drop out of a syndicate and care needs to be taken that in such instances their interest can be called back. When a private company is used it will need to regain control/ownership of the share held by any lapsed member. Some companies ask its members (shareholders) to complete a stock transfer form on joining that can be used in such instances to ensure that a shareholder's share is transferred back to the company or to a new member.

If it was considered that retaining control of the shares would not be a significant problem then a private company limited by shares could be used as the membership company. This would have the advantage of removing the minimum seven members required when using a company limited by guarantee in Ireland.

## Membership Documentation

### Structure A – Light Touch

#### Documentation

- Membership Application Form (see section with membership application form example):**
  - Captures what experience and expertise prospective members may bring to the Angel Investment Syndicate;
  - Members agree that they shall comply with applicable money laundering regulations and any other applicable legislation;
  - Members confirm that they have a minimum of [e.g. €50,000 or €100,000]<sup>6</sup> available in liquid assets for potential investment, that they are sophisticated investors and that they understand the risks around investment; and
  - Members acknowledge that a decision to invest in a company is a personal decision taken by each member and that no responsibility for the consequences of that decision is accepted by the Angel Investment Syndicate.
- Membership Charter**

The charter summarises the basic rules that will govern the Angel Investment Syndicate and outlines the participation and responsibilities of membership.
- Syndicate Agreement**

This is an agreement between the Angel Investment Syndicate members in respect of each individual investment in a target company and which details the rules around appointment and duties of any syndicate representatives, what approvals are required from the members in terms of decisions made by any syndicate representatives, provisions governing meetings of syndicate members and other general matters.

<sup>6</sup> The Syndicate should consider setting a financial qualification for membership.

## Structure B – Formal

### *Application Documentation*

- Membership Application Form**  
**(see section with membership application form example):**
  - Captures what experience and expertise prospective members may bring to the Angel Investment Syndicate;
  - Members agree that they shall comply with applicable money laundering regulations and any other applicable legislation;
  - Members confirm that they have a minimum of [e.g. €50,000 or €100,000]<sup>7</sup> available in liquid assets for potential investment, that they are sophisticated investors and that they understand the risks around investment; and
  - Members acknowledge that a decision to invest in a company is a personal decision taken by each member and that no responsibility for the consequences of that decision is accepted by the Angel Investment Syndicate.
- Power of Attorney**

A general power of attorney in favour of the board of directors of the membership company to enable individual investments to be completed on behalf of each member (where that member has indicated that they wish to invest).

### *Investment Documentation*

- Nominee Authorisation and Indemnity**

This document authorises the membership company to hold the shares on behalf of each member and indemnifies it for acting on the member's instructions.
- Declaration of Trust**

This document provides that the membership company shall hold the shares in any investee company on trust for the member and shall act in accordance with the member's instructions.
- Know Your Customer (money laundering compliance) documentation**

The required documentation here varies depending on whether the member is an individual or corporate entity.
- Syndicate Agreement**

This is an agreement between the Angel Investment Syndicate members in respect of each individual investment in a target company and which details the rules around appointment and duties of any syndicate representatives, what approvals are required from the members in terms of decisions made by any syndicate representatives, provisions governing meetings of syndicate members and other general matters.

<sup>7</sup> The Syndicate should consider setting a financial qualification for membership.

# Syndicate Operation

## 4. Syndicate Operation

It is essential that a syndicate is well managed and all members are clear about their commitment and responsibilities. This is required to take advantage of the benefits and mitigate the challenges of investing in a syndicate.

**Irrespective of the chosen form for the syndicate (see the Options for Syndicate Structures section), the following is recommended:**

- a syndicate charter;
- a syndicate agreement; and
- a syndicate membership application form.

A sample of each is provided in separate sections of this guide.

### **Syndicate charter**

**A syndicate charter will address the following principal issues:**

- standard of conduct of members, informing syndicate reputation in the marketplace;
- confidentiality and conflicts of interest;
- participation and on-going responsibilities of members including actively participating in pre-investment due diligence and post-investment monitoring and support; and
- modus operandi including minimum amount that individual investors are expected to invest in any given deal in which a member participates.

For the Light Touch structure (see Options for Syndicate Structures), the Syndicate Charter can be used to open a bank account in the name of the syndicate to facilitate the collection of any membership fees and making any payments related to the operation of the syndicate.

# Sample Syndicate Charter

## Syndicate agreement

### A syndicate investment agreement will include the following:

- Appointment and duties of syndicate representatives as co-shareholders in relation to a particular investment;
- Provision for majority voting; and
- Outlines how new members are facilitated.

## Syndicate membership application form

### A syndicate membership form will include the following:

- Basic investor details and his/her investment and professional experience;
- Indicative amounts available for investment;
- Time available for involvement;
- Legal acknowledgements; and
- Agreement to be bound by the charter.

## Membership fees

### A syndicate may decide to charge a fee to its members.

This fee would cover the costs of the syndicate operation and not any costs in relation to making, managing or realising any one investment. These latter costs are dealt with separately. However, as a syndicate grows and becomes self-sustaining, a syndicate member or a third party could undertake deal sourcing, some due diligence and activities supporting the completing of investments; in this case, membership fees could contribute to such costs. Costs relating to making, managing or realising investments may also be funded via an agreed fee calculated as a percentage of the money invested.

### Examples of syndicate operation costs include:

- meeting costs (e.g. venue and catering);
- branding establishment and promotion costs including maintaining a website;
- office costs (e.g. part-time administrator, post, insurance); and
- governance (accountants and solicitors fees).

It is for each syndicate to decide on the level of membership fees charged.

Currently for those syndicates that charge fees, the annual membership fee ranges from €250/£350 to €2,000/£2,500 excluding VAT.

## 5. Sample Syndicate Charter

The following sample charter should be tailored to the individual circumstances of each syndicate. It is recommended, in the interests of transparency, that a syndicate would share this charter with potential investee companies. It may even consider making its charter available on its website.

### **Syndicate Charter [HBAN Syndicate Name] (the "Syndicate")**

This Charter summarises the basic rules that will govern how the Syndicate will conduct its business. Running a successful angel group requires a commitment to significant work by the members. It is critical to the success of the group that ALL members share this workload.

#### **Best Practice**

1. Members shall conduct their business in a professional manner and will not engage in practices, which would be damaging to the image of the business angels and/or the reputation of the Syndicate.
2. Members shall promote and maintain ethical standards of conduct and at all times deal fairly and honestly with all parties.

#### **Confidentiality and Conflicts of Interest**

3. Members undertake to take all reasonable precautions to keep the investee company's (including potential and declined investee companies) information private and confidential. Members will use investee company's information solely for the purpose of evaluating any investment by the Syndicate and not exploit it or otherwise utilise it in any way. If a member has a potential conflict of interest, they must declare same at the start of the meeting and decide whether to remove themselves from that part of the meeting or stay in the room.
4. Members undertake to return to the investee company on request, any written information or other materials.
5. The above undertakings do not apply to any information that is in the public domain or is already in the possession of the members or that subsequently becomes known to Members independently.
6. By signing this Syndicate Charter you confirm your agreement to these confidentiality clauses.

## Participation and On-going Responsibilities of Members

7. Syndicate meetings will normally be held monthly with the exception of the months of July and August each year.
8. Members are expected to commit to attend a minimum of 70% of the meetings and members must attend a minimum of six meetings in a calendar year.
9. Members agree to actively participate in the vetting process of prospective companies.
10. The Syndicate will have three sub-groups: Steering, Membership and Due Diligence. Members of the steering and membership sub-groups will be identified and will change from time to time. Due diligence sub-groups will be formed to investigate potential investee companies of interest to the Syndicate. An individual Member will partake in due diligence at least once per year.

## Modus Operandi

11. One member will be elected annually to act as Chair of the Syndicate in order to assist with the efficient operation of the syndicate, its meetings and overall activities. A member cannot serve more than two continuous terms as Chair. The Syndicate may also opt to elect a member to act as a Vice Chair to support the Chair. A member cannot serve more than two continuous terms as Vice Chair.
12. A quorum for holding a valid meeting of the Syndicate will be decided from time to time by a simple majority of the Members. In the event that no such quorum is present at any meeting, which was previously adjourned due to the absence of a quorum, then the quorum will be [five] members attending in person or by proxy.
13. The Syndicate will register its name as a trade mark and its website domain address shall also be registered to the Syndicate.
14. In the event, following a presentation by a potential investee company to the Syndicate, that the Syndicate wishes to further explore the possibility of an investment, then a sub-group will be established for this purpose and a representative will be nominated as the liaison person with the investee company. The liaison person will communicate in a reasonable timeframe with the investee company ensuring the actions and thus the reputation of the syndicate is highly professional at all times.
15. The decision to invest in a proposal and the structure of the deal will be the responsibility of the specific group of members investing in that deal.
16. Each individual investing member acknowledges that a decision to invest is a personal decision and that no responsibility for the consequences of that decision is accepted by the Syndicate or any other member of the Syndicate.

17. Minimum investment level for each investor is likely to be €/<sup>1</sup>£25k however the average investment level is expected to be €/<sup>1</sup>£50k per investor per deal and overall €/<sup>1</sup>£100k-€/<sup>1</sup>£250k per deal.
18. A due diligence sub-group will be established for each particular investment under consideration by the group. Members must give an indication to the Syndicate of the amount that they are likely to invest, subject to the results of the due diligence investigation, prior to the commencement of any due diligence by the Syndicate.
19. Most investments will qualify for Employment Investment and Incentive Scheme ('EIS') or Enterprise Investment Scheme ('EIS') tax relief (supporting evidence of eligibility should be sought from the investee company in advance).
20. [Members will decide on whether the identity of the Syndicate's members will be made publicly available on the Syndicate website in due course.][No member shall be obliged to have their identity revealed.]
21. The Syndicate is interested in opportunities across a broad range of sectors with a primary focus on early revenue opportunities and some high growth opportunities.
22. [Confirm annual membership fees which should be subject to review or confirm that the Syndicate may decide to charge an annual membership fee - if so specify the fee here.]
23. In the event of the Syndicate's termination, any shares held by the Syndicate as nominee (where applicable) in any investee companies will be transferred to the relevant individual member(s). The Syndicate shall ensure that such transfers are permissible under each investment agreement entered into by the nominee.
24. No member or group of members may use the name of the Syndicate or its logos, designs or documentation or any similar name or logo or design, for a separate or similar purpose to that of the Syndicate, unless this has been first approved in accordance with the Syndicate Agreement (as defined below).

<sup>1</sup> Delete the currency symbol as appropriate depending on whether the syndicate is based in Ireland or Northern Ireland

## Syndicate Agreement

25. The agreement between the Syndicate's members which details the rules around appointment and duties of any syndicate representatives, what approvals are required from the syndicate members in terms of any decisions made by the syndicate representatives, provisions governing meetings of the Syndicate's members and other general matters is known as the "Syndicate Agreement".
26. All members must sign the Syndicate Agreement as a condition of membership.
27. Once members have indicated that they wish to invest in a deal, a representative will be elected by the investing syndicate members authorising him or her to agree to all matters and to make all decisions on behalf of the investing members of the Syndicate in connection with a particular investment.
28. The Syndicate representative so appointed must seek the approval of the relevant % majority (as detailed in the Syndicate Agreement) of the investing members in respect of any matter, which requires their consent as a group, under the investment documentation for each particular investment.
29. Where an individual member wishes to leave the Syndicate, the Syndicate Agreement sets out the rules around disposing of the relevant securities and investments held by that member in respect of that member's particular investments.



## Declaration

30. I acknowledge that I am a sophisticated investor and that a decision to invest in a target company is a personal decision of mine and that no responsibility for the consequences of that decision is accepted by the Syndicate or any of its members or by any of its directors, employees, consultants or other members.
31. I acknowledge that I am not receiving investment advice or recommendations from the Syndicate and I waive all claims in relation to any information provided by the Syndicate or any of its members in connection with the investment.
32. I acknowledge that in making my own decision to invest in a target company, I have been afforded an opportunity to ask questions of the target company. I acknowledge that no warranty, representation or indemnity (express or implied) has been given to me, and no responsibility or liability is accepted, by any other Syndicate member or the Syndicate.
33. I acknowledge that as a member of the Syndicate, I will receive confidential information about other members of the Syndicate and target companies that other Syndicate members are looking to invest in or have invested in. I agree to keep such confidential information secret and not to disclose such confidential information to any third party who is not a member of the Syndicate without the prior written consent of all other members of the Syndicate or of the target company as appropriate.
34. I acknowledge that investment, whether in new or existing businesses, carries high risks as well as the possibility of high rewards. I acknowledge that it is consequently very speculative and I am/are aware that no established market exists for the trading of shares in private companies, and such shares are not easily realisable. I appreciate that there could be difficulty in selling such investments at a reasonable price and, in some circumstances, it may be difficult to sell them at any price. Accordingly I acknowledge that I have considered very carefully whether such investments are suitable in the light of my circumstances, commitments and financial resources, and I accept that engaging in any business angel investment activity may expose me to a significant risk of losing all of my investment.
35. Other than as disclosed above, I am not aware of any other fact or matter which might be damaging to the image or the reputation of the Syndicate or which might reasonably affect the willingness of the Syndicate to accept me as a member.

36. I confirm that where I am an individual I have not made or offered any arrangement or composition with my creditors and that no petition or receiving order in bankruptcy has been presented or made against me; or I confirm that where I am a signing on behalf of a company that the company is not in liquidation (whether compulsory or voluntary) nor has it entered into any agreement or arrangement with its creditors for the liquidation or sale of its assets by composition or otherwise.

37. I agree to be bound by the Syndicate's Charter.

.....  
Signature

.....  
Date

.....  
Print Signature

# Sample Syndicate Agreement

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## 6. Sample Syndicate Agreement

The following sample agreement is for guidance purposes only and should be tailored to the individual circumstances of each syndicate group. It does not constitute legal or professional advice. No liability is accepted by HBAN, Bob McGowan-Smyth or Alan O'Driscoll for any action taken or not taken in reliance on this sample syndicate agreement. Separate professional or legal advice should be obtained before taking or refraining from any action as a result of the contents of this publication.

### [SYNDICATE NAME] [-] INVESTMENT SYNDICATE<sup>1</sup>

**THIS AGREEMENT** is made on the ..... day of ..... 20[.], **BETWEEN EACH OF THE PARTIES WHOSE NAMES AND ADDRESSES ARE SET OUT IN SCHEDULE 1** (together the **"Syndicate Members"** and each a **"Syndicate Member"** which expression shall include their respective personal representatives and successors in title) and **THE PARTY WHOSE NAME AND ADDRESS IS SET OUT IN SCHEDULE 2.**

#### BACKGROUND:

- (A) The Syndicate Members have come together as a group of investors (the **"Syndicate"**) to make an investment [through a **nominee** company, [-] Limited (the **"Nominee"**) and] entirely at their own individual risk in [insert investee company] Limited (the **"Company"**), (the **"Investment"**).
- (B) The decision to enter into the Investment is a decision for each Syndicate Member who shall do so solely at their own risk.
- (C) Under the terms of this Agreement the Syndicate Members may appoint and authorise a representative to act on their behalf in connection with the Investment and pursuant to any **Investment Documentation**. For the purposes of this Agreement "Investment Documentation" shall mean any legal agreements entered into by the Syndicate Members [and/or the Nominee] in connection with the Investment including but not limited to any convertible promissory loan note, shareholders' agreement, subscription agreement, loan note instrument, warrant instrument, option deed, voting agreement or other document regulating the relationship between the Company, its shareholders and its financiers.
- (D) The parties have accordingly agreed to enter into this Agreement for the purposes of regulating the operation of the Syndicate in respect of the Investment and the relationship between (i) the Syndicate Members themselves; and (ii) between the Syndicate Members and the Representative (as defined in clause 1.1 below).

<sup>1</sup> The following sample agreement is for guidance purposes only and should be tailored to the individual circumstances of each syndicate group. It does not constitute legal or professional advice. No liability is accepted by HBAN for any action taken or not taken in reliance on this sample syndicate agreement. Separate professional or legal advice should be obtained before taking or refraining from any action as a result of the contents of this publication.

## NOW IT IS AGREED as follows:

### 1 APPOINTMENT AND DUTIES OF ANY SYNDICATE REPRESENTATIVE

- 1.1 The Syndicate Members agree to appoint [-] to act as the initial representative of the Syndicate (the "Representative") for the purposes of the Investment and that all correspondence or interaction with the Company shall be through the Representative.
- 1.2 The Syndicate Members may from time to time appoint, by notice in writing signed by the Syndicate Majority (as defined in clause 2.1 below), any Syndicate Member to replace the Representative then appointed.
- 1.3 The Representative shall not be required to seek the approval of the Syndicate Majority in respect of any matter requiring the consent of the Syndicate as set out in the Investment Documentation, unless such matter also requires to be approved by an ordinary or special resolution of the Company's shareholders ("**Shareholder Matters**").
- 1.4 Each Syndicate Member agrees that the Representative shall be entitled to exercise his/her discretion without liability in dealing with all other matters relating to the Investment which are not Shareholder Matters and/or which do not require the approval of the Syndicate Majority, however he/she may in his/her absolute discretion, seek the consent of the Syndicate Majority in respect of any such matters and the Syndicate Majority shall be subsequently obliged to ratify any actions taken by the Representative. Each Syndicate Member agrees that the Representative shall have full power and authority to take any action and/or give any consent on behalf of the Syndicate Members on all such matters but only in connection with the Investment and in accordance with this Agreement.
- 1.5 In the exercise of the authority and powers granted hereunder, the Representative shall use reasonable endeavours to consult in advance with the Syndicate Members in respect of all Shareholder Matters provided that any such matter, action or decision may subsequently be ratified by a Syndicate Majority notwithstanding any lack of such prior consultation.
- 1.6 Each Syndicate Member hereby agrees that any securities held by them in the Company as part of the Investment, including but not limited to convertible promissory notes, shares of any class, loan notes, warrants, options and profit participation notes ("**Securities**"), shall be voted in accordance with the wishes of the Syndicate Majority. Where a written resolution, waiver, consent or other approval of the holders of any Securities are required any such consent shall be signed by each Syndicate Member in such manner as the Syndicate Majority may direct.
- 1.7 Each Syndicate Member shall sign such power of attorney as the Representative shall require (see Appendix A or B as relevant) in respect of the Investment and shall ratify any actions taken by the Representative thereunder and hereby indemnifies the Representative in full in respect of any actions taken in accordance with this Agreement.

- 1.8 The Syndicate Members acknowledge and accept that the Representative, if acting as a director of the Company in accordance with the terms of the Investment Documentation or otherwise, will have an overriding fiduciary duty to the Company and will be subject to the relevant provisions of the Companies Acts 1963 - 2013 (as amended). Further it is acknowledged and agreed that the Representative shall be required, in acting as a director, to make decisions and shall be entitled to vote as he/she sees fit on all board matters which do not require approval of the Syndicate Majority.
- 1.9 The Syndicate Members agree and the Representative covenants that no Syndicate Member shall be bound to any warranty, indemnity or guarantee pursuant to a decision of the Syndicate Majority (as defined below) or pursuant to the powers conferred on the Representative in this Agreement and the power of attorney.

### 2. APPROVAL OF THE SYNDICATE MAJORITY

- 2.1 For the purposes of this Agreement a "**Syndicate Majority**" in relation to the Investment, shall mean such number of the Syndicate Members who have contributed or together have contributed not less than 51% (fifty one per cent) of the value of the total amount invested made pursuant to the Investment.
- 2.2 The Representative may obtain the approval of the Syndicate Majority informally by contacting each Syndicate Member individually by telephone or email, or formally, by convening a meeting of the Syndicate Members. Receipt of an email, sms, or a note of any telephone call in which the relevant Syndicate Member expressed their consent in respect of any matter pertaining to the Investment, shall be sufficient for all purposes and shall be deemed to be conclusive evidence of the relevant Syndicate Member's consent and the Representative shall be entitled to rely on the form of this consent without the need for further enquiry or approval of the relevant Syndicate Member.
- 2.3 In seeking the approval of the Syndicate Majority in respect of any action to be taken concerning the Syndicate and/or the Investment, the Representative shall use his/her reasonable endeavours to provide all material information necessary to enable the Syndicate Members to make an informed decision on the matter requiring approval and any failure to do so shall not invalidate any consent given pursuant to clause 2.2 above.
- 2.4 Where the Representative requires the approval of the Syndicate Majority, he/she shall be entitled to rely on and count any approval given by email or SMS text message from a Syndicate Member, and shall be entitled to assume that any approval emanating from an email address of a Syndicate Member or from the mobile phone number of the Syndicate Member is an approval (where expressed to be such) sent by such Syndicate Member.
- 2.5 A Syndicate Majority may be requested to ratify any decision or action of the Representative at any stage and shall not unreasonably withhold or delay any such ratification.

### 3. PROVISIONS GOVERNING MEETINGS OF THE SYNDICATE MEMBERS

- 3.1 The Representative may, at any time and from time to time, and shall upon the request in writing signed by any one or more of the Syndicate Members who contributed or together contributed not less than 10% (ten per cent) of the value of the total investment made pursuant to the Investment, convene a meeting of the Syndicate Members to be held at such place in Ireland as the Representative shall determine.
- 3.2 At least seven (7) clear days' notice of every meeting shall be given to the Syndicate Members. The notice shall specify the place, day and hour of meeting and the general nature of the business to be transacted.
- 3.3 The quorum at any meeting for the transaction of business shall be any 2 (two) or more Syndicate Members who together contributed not less than 10% (ten per cent) of the value of the total investment made pursuant to the Investment. No business shall be transacted at any meeting unless the requisite quorum is present at the time when the meeting proceeds to business.
- 3.4 The Representative shall preside as chairperson at a meeting of the Syndicate Members (the "Chair").
- 3.5 Every Syndicate Member who is present in person at a meeting of the Syndicate Members shall have 1 (one) vote per €1.00 (one euro) invested in the Investment or where the matter relates to the Syndicate as a whole, each Syndicate Member shall have one vote.
- 3.6 The Chair may with the consent of the Syndicate Members or the Syndicate Majority (as the case may be) at a meeting at which a quorum is present (and shall if so directed by the Syndicate Majority at the meeting) adjourn the meeting from time to time and from place to place but no business shall be transacted at any such adjourned meeting except business which might lawfully have been transacted at the meeting from which the adjournment took place.
- 3.7 Syndicate Members shall be entitled to appoint a proxy to attend meetings on their behalf, provided notice of the person's appointment as proxy is notified by email to the Representative at least 24 hours before the meeting.
- 3.8 Any body corporate being a Syndicate Member may, in writing under the hand of one of its directors or its secretary, authorise any person to act as its representative at any meeting of the Syndicate Members, and the person so authorised shall be entitled to exercise the same powers on behalf of the body corporate he represents as that body corporate could exercise if it were an individual Syndicate Member present in person at the meeting.
- 3.9 A resolution in writing signed by the required Syndicate Members or the Syndicate Majority (as the case may be) shall be valid and effectual as if it had been passed as a resolution at a meeting of the Syndicate Members duly convened and held. Such resolution in writing may consist of several documents in the like form each signed by or on behalf of one or more such persons.

- 3.10 The Representative shall ensure that minutes of all resolutions and proceedings at every meeting of the Syndicate Members shall be made and circulated to all Syndicate Members.
- 3.11 The Syndicate Members agree that the Investment shall in so far as is practicable be made and managed in accordance with the Charter and in such manner as the Syndicate Majority shall ultimately decide.
- 3.12 A Syndicate Majority may make such changes to the Charter or to this Agreement as is reasonably necessary from time to time to ensure the orderly and efficient operation of the Syndicate in the best interests of the Syndicate Members.

### 4. NEW SYNDICATE MEMBERS

- 4.1 The Syndicate Members each agree that no new member shall join the Syndicate without it being a condition of their membership that they sign this Agreement.
- 4.2 The addition of a new Syndicate Member's name to Schedule 1 and the entry into this Agreement by that person or corporate body shall be notified in writing to all Syndicate Members.

### 5. TERMINATION

- 5.1 This Agreement shall cease to have effect following the written agreement of 75% (seventy five per cent) of Syndicate Members to terminate same.
- 5.2 A Syndicate Member may leave the Syndicate upon giving 3 month's written notice of his/her intention to do so to the Syndicate Members. Where a Syndicate Member wishes to dispose of any Securities which he/she possesses as a result of the Investment, such disposal of Securities must be made in accordance with the terms of the Investment Documentation and the Company's articles of association.
- 5.3 Notwithstanding that a Syndicate Member may have left the Syndicate, he/she shall remain bound by the terms of this Agreement where he/she continues to hold the beneficial ownership of any Securities as a result of the Investment.
- 5.4 The termination of this Agreement howsoever arising shall be without prejudice to any obligations or rights that may have accrued hereunder to any of the parties hereto against any of the other parties hereto before such termination and the termination of this Agreement shall not affect the continuance in force after such termination of such provisions as are by their nature capable of enforcement against any party by any other party after such termination.

## 6. GENERAL PROVISIONS

- 6.1 Each Syndicate Member hereby agrees and confirms that they are sophisticated investors and that they carried out and relied solely upon their own judgement in relation to the Investment and neither the Representative, the other Syndicate Members or the Syndicate shall have any liability whatsoever in respect of the performance of, or any other aspect of, the Investment, and any due diligence materials produced by the Syndicate or shared with Syndicate Members shall be provided on a non-reliance basis and it shall be for each Syndicate Member to assess the Investment and to make their own decisions regarding the Investment. No warranties or representations shall be given, or be deemed to have been given, by the Representative, the Syndicate or any Syndicate Members by any Syndicate Members in respect of the Investment, and each Syndicate Member acknowledges that the Investment is subject to risk and there is no guarantee of any return on the Investment.
- 6.2 Each Syndicate Member acknowledges that they have taken own separate professional or legal advice before entering into the Investment.
- 6.3 Each Syndicate Member hereby agrees to disclose to the Syndicate any conflict of interest that that Syndicate Member or any of their related parties may have in respect of the Investment, as soon as the relevant Syndicate Member becomes aware of any such conflict of interest. Where any such conflict of interest arises the Syndicate Majority may recommend such remedy as it may reasonably require and the conflicted Syndicate Member agrees to be bound by any such recommendation.
- 6.4 This Agreement shall not be deemed to create any partnership between the parties hereto in relation to the Investment or otherwise.

- 6.5 Each Syndicate Member hereby agrees that they shall not use the name of the Syndicate or its logos, designs or documentation or any similar name or logo or design, for a separate or similar purpose to that of the Syndicate, unless this has first been approved by the Syndicate Majority in accordance with this Agreement. This obligation shall continue to be in force after the cessation of membership by any Syndicate Member and/or the termination of this Agreement.
- 6.6 No Syndicate Member shall hold themselves out as or on behalf of the Syndicate or seek to bind the Syndicate in any way, whether as an agent of the Syndicate or otherwise, unless this has first been approved by the Syndicate Majority in accordance with this Agreement.
- 6.7 The parties have participated jointly in the negotiation and drafting of this Agreement. If any ambiguity or question of intent or interpretation arises this Agreement shall be construed as if drafted jointly by the parties and no presumption or burden of proof shall arise favouring or disfavouring any party by virtue of the authorship of any provisions of this Agreement.
- 6.8 The rights of any party shall not be prejudiced or restricted by any indulgence or forbearance extended to any other party and no waiver by any party in respect of any breach shall operate as a waiver in respect of any subsequent breach. This Agreement shall, except as otherwise expressly provided herein, not be varied or cancelled, unless such variation or cancellation shall be expressly agreed in writing by each party.
- 6.9 This Agreement may be executed in any number of counterparts, and by the different parties to this Agreement on separate counterparts, each of which when executed and delivered shall constitute an original and all such counterparts together constituting but one and the same instrument.
- 6.10 Syndicate Members may not assign or novate this Agreement.
- 6.11 Subject to Clause 6.12 any notice or other communication whether required or permitted to be given under this Agreement shall be in writing and shall either be delivered personally or sent by pre-paid post (airmail if overseas) or facsimile transmission or email.

6.12 A notice shall be deemed to have been served as follows:

- (i) if personally delivered at the time of delivery against receipt of the addressee;
- (ii) if posted, at the expiration of 48 hours (or in the case of airmail four (4) days) after the envelope containing the same was posted;
- (iii) if sent by facsimile, at the time of transmission subject to the correct code or facsimile being received on the transmission report and receipt by the addressee of the complete text in legible form; and
- (iv) if sent by email, at the time of sending providing that the sender obtains an email confirmation that the recipient has received the email.

but if a notice is given or served at a business premises other than during usual business hours on a business day, it will be deemed to be given or served at 9.00am on the next following business day.

6.13 Each of the provisions of this Agreement are separate and severable and enforceable accordingly and if at any time any provision is adjudged by any arbitrator, court or regulatory authority or agency of competent jurisdiction to be illegal, void or unenforceable in whole or in part such provision shall be deemed to be deleted from this Agreement and the validity, legality and enforceability of the remaining provisions hereof shall not in any way be affected or impaired thereby.

6.14 No notice, announcement or disclosure shall be given in relation to any of the terms of this Agreement without the prior written agreement of the Syndicate Majority.

6.15 This Agreement and all documents to be entered into in connection herewith shall in all respects be governed by and construed in accordance with the laws of Ireland and the parties hereto hereby submit to the exclusive jurisdiction of the Courts of Ireland to settle any dispute which may arise out of or in connection with this Agreement and/or such document.

**IN WITNESS WHEREOF** this deed was executed on the day and year first herein written.

## SCHEDULE 1

### SYNDICATE MEMBERS

Name	Address	Email	Mobile tel no.
[.]	[.]	[.]	[.]
[.]	[.]	[.]	[.]
[.]	[.]	[.]	[.]
[.]	[.]	[.]	[.]
[.]	[.]	[.]	[.]

## SCHEDULE 2

### THE REPRESENTATIVE

Name	Address	Email	Mobile tel no.
[.]	[.]	[.]	[.]

#### SIGNED AND DELIVERED

as a deed by [.]  
in the presence of:

.....

Signature

.....

Witness (Signature)

.....

Print Name

.....

Address

.....

Witness Occupation

#### SIGNED AND DELIVERED

as a deed by [.]  
in the presence of:

.....

Signature

.....

Witness (Signature)

.....

Print Name

.....

Address

.....

Witness Occupation

**SIGNED AND DELIVERED**

as a deed by [-]  
in the presence of:

.....  
Signature

.....  
Witness (Signature)

.....  
Print Name

.....  
Address

.....  
Witness Occupation

**GIVEN** under the common seal  
of [-]  
and delivered as a deed

.....  
Signature - Director

.....  
Print Name

.....  
Signature - Director/Secretary

.....  
Print Name

**SIGNED AND DELIVERED**

as a deed by [-]  
in the presence of:

.....  
Signature

.....  
Witness (Signature)

.....  
Print Name

.....  
Address

.....  
Witness Occupation

**APPENDIX A**

**[-] INVESTMENT SYNDICATE  
(the "Syndicate")**

**POWER OF ATTORNEY**

I, ..... of .....  
...intending to become an investor in [-] Limited (the "**Company**")  
by making an investment of € ..... (..... euro), (the "**Investment**")  
**DO HEREBY IRREVOCABLY AND UNCONDITIONALLY APPOINT each of:**

- [-] of [-]; and
- [-] of [-]; and
- [-] of [-],

acting separately to be my attorney (each of them separately being herein after referred to as my "Attorney") with full power and authority in my Attorney's absolute and unfettered discretion in my name and on my behalf any and all of the following acts matters or things in any part of the world as my act and deed:

1. to consider, negotiate, vary, agree, modify, endorse, make, sign, seal, execute and deliver any form, document, deed, letter, instrument or certificate of any nature including but not limited to any share application form, resolution, board minute, disclosure letter, articles of association, non-disclosure or other agreement any heads of agreement, investment agreement, subscription and shareholders' agreement relating to the Investment in the Company, option agreement in connection with the Investment, in each case on such terms as my Attorney shall determine in his absolute and unfettered discretion (the "**Investment Documentation**"), including, for the avoidance of doubt but without limiting the generality of the foregoing, any document providing for warranties (including as to title) and/or indemnities to be given by me, the granting of any power of attorney whatsoever to any other person(s) (including any body corporate or corporation) within the Investment Documentation and to do anything ancillary thereto that may be required as my Attorney shall determine in his absolute and unfettered discretion and/or may be necessary as my Attorney shall determine in his absolute and unfettered discretion in order to give effect to the Investment;
2. to acknowledge and accept in writing the terms of any business plan or accounts (or anything ancillary thereto) in relation to the Investment or any Investment Documentation;
3. to give all consents, approvals and waivers of all rights (including any form of pre-emption) required for or in connection with the Investment on such terms as my Attorney shall consider appropriate at my Attorney's absolute and unfettered discretion in order to give effect to the Investment;

4. to receive, accept or waive any notice in respect of my holding of any such shares, stocks, debentures or other holdings or securities on such terms my Attorney shall in his absolute and unfettered discretion consider appropriate, and to attend, vote, call for a poll and otherwise exercise rights attaching thereto, including giving proxies for any means or purposes of voting in the Company at my Attorney's absolute and unfettered discretion in order to give effect to the Investment;
5. to attend and vote at all meetings (including but not limited to extraordinary general meetings, annual general meetings and investors meetings), agree, grant and execute, (retrospectively, if appropriate), any consents, variations, agreements, waivers, resolutions, written resolutions, forms of proxy, consents to short notice of any meetings, requisitions, notices, waiver of claims or waiver of pre-emption rights that may be required as my Attorney shall determine in his absolute and unfettered discretion and in the absence of a decision of the Syndicate Majority (as defined in the syndicate agreement, in respect of the Investment and to which I am a party) or any written instructions to the contrary in accordance with the terms of the syndicate agreement, in respect of the Investment and to which I am a party, as may otherwise be necessary or required as my Attorney shall determine in his absolute and unfettered discretion in order to give effect to the Investment under the terms of any Investment Documentation and/or of the articles of association of the Company from time to time;
6. **GENERALLY** to do any and all other acts and matters whatsoever which my Attorney thinks are necessary, proper and/or expedient to give effect to the Investment and all arrangements relating to or in connection with the Investment on such terms and in such manner as my Attorney shall consider appropriate, at his absolute and unfettered discretion PROVIDED ALWAYS that the powers hereby conferred on my Attorney shall not be revoked or be deemed to be revoked by my exercising any of the powers or doing any of the acts or things which my Attorney is hereby empowered to do;
7. to appoint in writing a substitute or substitutes (jointly or severally) to act as an Attorney under this deed (with the same powers and authority as that my Attorney, including, without limitation, the power and authority conferred by this paragraph 7 to appoint a substitute) and delegate to an agent the exercise of any other power conferred by this deed and to act concurrently with such agent. My Attorney may at any time revoke any such appointment in writing without giving any reason; and

**PROVIDED ALWAYS** that the powers hereby conferred on my Attorney shall not entitle the Attorney to bind me to any warranty, indemnity or guarantee.

And **I HEREBY DECLARE for myself and for my successors and assigns:**

1. I hereby ratify, allow and confirm (and undertake to ratify, allow and confirm) all or whatsoever my Attorney shall do or purport to do or cause to be done in my name or on my behalf pursuant to this Power of Attorney including without limitation all acts, deeds, documents, agreements and things done or executed or purported to be done or executed in my name or on my behalf pursuant to this Power of Attorney.



2. This Power of Attorney shall be conclusive and binding upon me and no person, body corporate or corporation having dealings with my Attorney under this Power of Attorney shall be under any obligation to make any inquiries as to whether or not this Power of Attorney has been revoked and all acts hereunder shall be valid and binding on me unless express notice of its revocation shall have been received by such person, body corporate or corporation.
3. I unconditionally undertake to indemnify and keep indemnified my Attorney and his successors against all actions, proceedings, claims, costs, expenses and liabilities of whatsoever nature arising from the exercise in good faith of any of the powers conferred on my Attorney by this Power of Attorney.
4. My Attorney, making or doing any payment or act, in good faith, in pursuance of this Power of Attorney shall not be liable in respect of the payment or act by reason that before the payment or act I was insolvent or had revoked this power if the fact of such insolvency or revocation was not at the time of that payment or act known to my Attorney.
5. The particular powers enumerated above shall be given the widest interpretation.

This Power of Attorney shall be governed and construed in accordance with the laws of Ireland and I hereby submit to the exclusive jurisdiction of the Irish Courts.

**IN WITNESS WHEREOF THIS POWER OF ATTORNEY HAS BEEN EXECUTED AS A DEED ON THIS ..... DAY OF ..... 20[-]:**

**SIGNED AND DELIVERED AS A DEED**

by the said

.....  
in the presence of: Signature of

.....  
Witness Signature:

.....  
Witness Name:

.....  
Address:

.....  
Occupation:



## APPENDIX B

### [·] INVESTMENT SYNDICATE (the "Syndicate")

#### CORPORATE POWER OF ATTORNEY

We, ..... of .....  
..intending to become an investor in [·] Limited (the "Company")

by making an investment of € ..... (..... euro), (the "Investment")

**DO HEREBY IRREVOCABLY AND UNCONDITIONALLY APPOINT each of:**

[ ] of [ ]; and

[ ] of [ ]; and

[ ] of [ ],

acting separately to be our attorney (each of them separately being herein after referred to as our "Attorney") with full power and authority in our Attorney's absolute and unfettered discretion in our name and on our behalf any and all of the following acts matters or things in any part of the world as our act and deed:

1. to consider, negotiate, vary, agree, modify, endorse, make, sign, seal, execute and deliver any form, document, deed, letter, instrument or certificate of any nature including but not limited to any share application form, resolution, board minute, disclosure letter, articles of association, non-disclosure or other agreement any heads of agreement, investment agreement, subscription and shareholders' agreement relating to the Investment in the Company, option agreement in connection with the Investment, in each case on such terms as our Attorney shall determine in his absolute and unfettered discretion (the "Investment Documentation"), including, for the avoidance of doubt but without limiting the generality of the foregoing, any document providing for warranties (including as to title) and/or indemnities to be given by me, the granting of any power of attorney whatsoever to any other person(s) (including any body corporate or corporation) within the Investment Documentation and to do anything ancillary thereto that may be required as our Attorney shall determine in his absolute and unfettered discretion and/or may be necessary as our Attorney shall determine in his absolute and unfettered discretion in order to give effect to the Investment;
2. to acknowledge and accept in writing the terms of any business plan or accounts (or anything ancillary thereto) in relation to the Investment or any Investment Documentation;
3. to give all consents, approvals and waivers of all rights (including any form of pre-emption) required for or in connection with the Investment on such terms as our Attorney shall consider appropriate at our Attorney's absolute and unfettered discretion in order to give effect to the Investment;

4. to receive, accept or waive any notice in respect of our holding of any such shares, stocks, debentures or other holdings or securities on such terms our Attorney shall in his absolute and unfettered discretion consider appropriate, and to attend, vote, call for a poll and otherwise exercise rights attaching thereto, including giving proxies for any means or purposes of voting in the Company at our Attorney's absolute and unfettered discretion in order to give effect to the Investment;
5. to attend and vote at all meetings (including but not limited to extraordinary general meetings, annual general meetings and investors meetings), agree, grant and execute, (retrospectively, if appropriate), any consents, variations, agreements, waivers, resolutions, written resolutions, forms of proxy, consents to short notice of any meetings, requisitions, notices, waiver of claims or waiver of pre-emption rights that may be required as our Attorney shall determine in his absolute and unfettered discretion and in the absence of a decision of the Syndicate Majority (as defined in the syndicate agreement, in respect of the Investment and to which we are a party) or any written instructions to the contrary in accordance with the terms of the syndicate agreement, in respect of the Investment and to which we are a party, as may otherwise be necessary or required as our Attorney shall determine in his absolute and unfettered discretion in order to give effect to the Investment under the terms of any Investment Documentation and/or of the articles of association of the Company from time to time;
6. **GENERALLY** to do any and all other acts and matters whatsoever which our Attorney thinks are necessary, proper and/or expedient to give effect to the Investment and all arrangements relating to or in connection with the Investment on such terms and in such manner as our Attorney shall consider appropriate, at his absolute and unfettered discretion **PROVIDED ALWAYS** that the powers hereby conferred on our Attorney shall not be revoked or be deemed to be revoked by our exercising any of the powers or doing any of the acts or things which our Attorney is hereby empowered to do;
7. to appoint in writing a substitute or substitutes (jointly or severally) to act as an Attorney under this deed (with the same powers and authority as that our Attorney, including, without limitation, the power and authority conferred by this paragraph 7 to appoint a substitute) and delegate to an agent the exercise of any other power conferred by this deed and to act concurrently with such agent. Our Attorney may at any time revoke any such appointment in writing without giving any reason; and

**PROVIDED ALWAYS** that the powers hereby conferred on our Attorney shall not entitle the Attorney to bind us to any warranty, indemnity or guarantee.

And **We HEREBY DECLARE for ourselves and for our successors and assigns:**

1. We hereby ratify, allow and confirm (and undertake to ratify, allow and confirm) all or whatsoever our Attorney shall do or purport to do or cause to be done in our name or on our behalf pursuant to this Power of Attorney including without limitation all acts, deeds, documents, agreements and things done or executed or purported to be done or executed in our name or on our behalf pursuant to this Power of Attorney.



# 7. Lead Investor Guide

## Suggested Procedure Post a Syndicate Meeting

Within two weeks of the pitch the lead angel makes initial contact with the promoter to set up a follow-on meeting. This meeting can be attended alone or with other members of the sub-group

## Prior to that meeting the lead angel may request the following from the promoter

- Business Plan
- Financials - usually 3 year plan
- Any other material that the investor feels prudent - market research, feedback from trials, client testimonials etc...

## Initial DD Meeting with Promoters

Follow-on meeting with the promoter or promoters for initial due diligence. Due diligence (DD) is a process that verifies and confirms statements and views about a business and its prospects, thereby reducing the risks of an investment.

- At this meeting the lead angel has an in-depth discussion with the promoter to get an better understanding of the market opportunity
- Determine that the company actually has a secret sauce, be it in IP, process, first to market or a real competitive advantage that is not easily replicated.
- Ascertain the skill set of the management team - are there any obvious gaps?
- Establish what relationship, if any, the company has with Enterprise Ireland: HPSU or CSF, have they gone to committee?
- Understand where they are in their lifecycle - pre-revenue, early growth etc...

## Report back to sub-group with findings

The lead angel reports back his/her initial DD to the sub-group and gives his/her recommendations; if the expression of interest to invest still remains then the group carries out a more detailed Due Diligence. If there is no interest to follow-on at this stage feedback is given to the promoter as to why.

## Sharing Due Diligence

The due diligence process can be shared amongst syndicate members. Members with the most appropriate skills, experience and knowledge can undertake one or more areas of due diligence.

Where there are other investors involved in the round (other HBAN Syndicates, VCs or Seed Capital Funds) it is important to make contact with them at an early stage. It gives the opportunity to pool knowledge, agree a valuation/terms and share the workload and the cost of completing due diligence. Legal costs may also be reduced if a common solicitor is used. Such an approach is encouraged, especially between business angel syndicates and where possible with Seed VCs.

If sufficient members are interested in investing following initial due diligence, a Term Sheet should be drawn up and agreed with the Promoters (and, if relevant, with the other investors). The Term sheet should cover valuation, amount of investment and the main terms of the shareholder agreement. While not legally binding on either side, it is important to have a Term Sheet agreed before incurring significant legal or accountancy costs as it outlines the basis on which the Investors would be willing to invest and the Promoters would be willing to accept an investment, subject always to a satisfactory outcome from the full due diligence process.

## Management due diligence

- Management is a key area to undertake due diligence. As an investor, you will be working closely with the management team for up to several years so that it is essential that you are as comfortable as possible with management.
- Spending as much time as possible with management will help you form a view about the team and their capability to execute the business plan successfully.
- Assessment of capability – Identify their relevant skills through management interviews & career review
- Identification of gaps and future plan
- Taking up references from as wide a circle as possible is ideal, e.g. from previous employers, customers (past, present and potential), suppliers, funders and anyone that may have a business relationship with members of the management team.
- Exit due diligence
- Understanding the potential exit opportunity is the second key area. The most likely exit is a trade sale to another player in the market. This could be a customer, supplier or other partner. Potential Suitors? Timeframe?
- Assessing the likelihood that the potential company could be a target for a takeover can be challenging, particularly with a young start-up company perhaps entering a new and growing market. Nevertheless, it would be worth spending some time considering this issue since an exit route is the key to successful investing.
- The assessment may include ‘what does the company need to look like?’ in order to be purchased. This could include required future levels of turnover, employment, technical know-how, intellectual property protection and profitability – some or all of these elements may make a company an attractive takeover target.
- An intellectual property based sale can be attractive since significant commercial scale is usually not required for such a sale.

## Revenue potential due diligence - Sales - "It's all about sales"

### Commercial:

- Company's strategy for delivering identified revenue enhancement and/or cost savings
- Technical merits of product/service offering
- Ability to influence the market
- Customers / Sectors / Geographic Markets
- Market Research
- Existing Customers - Strengths of customer and supplier relationships
- Competition - Who / Where / How / Differentiation
- Market Potential - Top Down vs. Bottom Up
- Pricing Structure / Margins
- Sales Strategy - sales force, call centre, web based
- Growth Strategy - New products, new geographic markets & new verticals?
- Branding

### Operational

- Company Structure
- Current Staff / Future Staff
- How will funds be used

## Product / Service Review - "It's the product"

- Overview
- Technology
- Demo
- Unique Selling Point (USP)
- Intellectual Property (IP) / Licensing

### Financial DD

- Current Financial model, projected P&L & cash flow
- Debt
- Funding Plan - Business Angel Syndicates, individual business Angels/ promoters /EI / VC's / Banks / Employment & Investment Incentive Scheme (EIS) approval
- Shareholding Structure
- Major Cost Items
- Previous Investment
- Historic financial performance
- Tax: all taxes (corporation tax, VAT, employment taxes, rates, stamp duty, import duties, etc.) including deferred tax provided in balance sheet

### Environmental

- Environmental risk of a company's site(s)
- Highlight any non-compliance with environmental regulations or company's own policy
- Risk management and insurance
- Assessment of any present, future and past exposures

## Legal

- Legal compliance with statutory obligations
- Ownership of company's IP including patents
- Shares properly issued
- Assessment of any shares 'promised' to current or former promoters and/or employees

## How much is appropriate?

Not all of this will be applicable to a start-up or young company but they should be at least considered.

**Further information on due diligence and a sample term sheet can be found in Section 9 of this guide.**

# Sample Syndicate Membership Application

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## 8. Sample Syndicate Membership Application

### HBAN Investor Group (the "Syndicate")

#### APPLICATION FORM FOR MEMBERSHIP to the HBAN [NAME##] INVESTOR GROUP

#### PROCEDURE FOR APPLICATION

Complete in full the details requested in the boxes at **Section A** and then sign at **Section B** to confirm your acceptance of the Terms and Conditions Outlined.

*You are strongly advised to consult a person authorised under the relevant authority<sup>1</sup> who specialises in advising on investments of this type and obtain appropriate due diligence, taxation and legal advice.*

#### SECTION A:

##### Personal details:

Full Name: \_\_\_\_\_

Home Address: \_\_\_\_\_  
\_\_\_\_\_

Home Tel: \_\_\_\_\_

Office Address: \_\_\_\_\_  
\_\_\_\_\_

Office Tel: \_\_\_\_\_

Mobile: \_\_\_\_\_

Email: \_\_\_\_\_

Existing  
Directorships: \_\_\_\_\_  
\_\_\_\_\_

<sup>1</sup> Investment Intermediaries Act 1995 in Ireland; the Financial Services Authority in Northern Ireland

**Investment Experience (please tick):**

Investment Type	Current investor	Prior investment
Quoted companies: main list (e.g. FTSE or equivalent)		
Unit trusts/exchange-traded funds		
Quoted companies: junior list (e.g. AIM or equivalent)		
Unquoted/private companies/Business Angel		
Member of a Business Angel Syndicate		
Unregulated collective investment schemes*		
Other BES/EII/EIS funds		

\* e.g. hedge funds and/or private equity funds

**Your Professional Experience**

**Please tell us a little about your professional background (please tick):**

I am	Working		Retired	
My working experience is/had been in:				
Entrepreneurship				
Financial services (including investment)				
Professional (e.g. law or accountancy)				
Industry/trade				
Other (please specify)				
I am or have been a company director or partner in a firm	Yes		No	

List previous directorships

**Approximate Amounts Available for Investments (subject to suitable investments):**

Per Annum	Per Deal

**Availability for Involvement (please tick):**

As non-executive chairperson		Active investor	
As non-executive director		Passive investor	

**Sectors:**

That you are interested:	
That you wish to avoid:	

**Briefly what do you think you can and will bring to the Syndicate:**

**Briefly outline any fact or matter relating to you which should be disclosed to the Syndicate or which might reasonably affect the willingness of the Syndicate to accept you as a member:**

## SECTION B:

### Declaration

- I acknowledge that I am a sophisticated investor, confirm that I have a minimum of [€100,000/£100,000]<sup>2</sup> available in liquid assets for potential investment and that a decision to invest in a target company is a personal decision of mine and that no responsibility for the consequences of that decision is accepted by the Syndicate or any of its members or by any of its directors, employees, consultants or other members.
- I acknowledge that I am not receiving investment advice or recommendations from the Syndicate and I waive all claims in relation to any information provided by the Syndicate or any of its members in connection with the investment.
- I acknowledge that in making my own decision to invest in a target company, I have been afforded an opportunity to ask questions of the target company. I acknowledge that no warranty, representation or indemnity (express or implied) has been given to me, and no responsibility or liability is accepted, by any other Syndicate member or the Syndicate.
- I agree that I will comply with applicable money laundering regulations and any other applicable legislation.
- I acknowledge that as a member of the Syndicate, I will receive confidential information about other members of the Syndicate and target companies that other Syndicate members are looking to invest in or have invested in. I agree to keep such confidential information secret and not to disclose such confidential information to any third party who is not a member of the Syndicate without the prior written consent of all other members of the Syndicate or of the target company as appropriate.
- I acknowledge that investment, whether in new or existing businesses, carries high risks as well as the possibility of high rewards. I acknowledge that it is consequently very speculative and I am/are aware that no established market exists for the trading of shares in private companies, and such shares are not easily realisable. I appreciate that there could be difficulty in selling such investments at a reasonable price and, in some circumstances, it may be difficult to sell them at any price. Accordingly I acknowledge that I have considered very carefully whether such investments are suitable in the light of my circumstances, commitments and financial resources, and I accept that engaging in any business angel investment activity may expose me to a significant risk of losing all of my investment.

<sup>2</sup> The Syndicate should consider setting a financial qualification for membership.

- Other than as disclosed above, I am not aware of any other fact or matter which might be damaging to the image or the reputation of the Syndicate or which might reasonably affect the willingness of the Syndicate to accept me as a member.
- I confirm that where I am an individual I have not made or offered any arrangement or composition with my creditors and that no petition or receiving order in bankruptcy has been presented or made against me; OR I confirm that where I am a signing on behalf of a company that the company is not in liquidation (whether compulsory or voluntary) nor has it entered into any agreement or arrangement with its creditors for the liquidation or sale of its assets by composition or otherwise.
- I agree to be bound by the Syndicate's Charter.

**I confirm that all of the details in Section A are correct and that I accept the Investor Group's Terms and Conditions in Section B above:**

.....  
Signature:

.....  
Full Name (Print):

.....  
Date:

In the presence of the following independent witness:

.....  
Signature:

.....  
Full Name (Print):

.....  
Occupation:

.....  
Address:

.....  
Date:

# Sample Term Sheet & Investor Due Diligence

# 9. Sample Term Sheet & Investor Due Diligence

## Terms of investment

The principal terms and conditions of an equity investment are usually stated in a term sheet; see Appendix A for a sample HBAN term sheet.

## Due diligence

Due diligence is a process that verifies and confirms statements and views about a business and its prospects.

## Rationale for undertaking due diligence

Studies into business angel investing have underlined the advantage to undertaking due diligence prior to making an investment. Consequently, you should undertake due diligence on the company before deciding to invest.

Due diligence potentially reduces the risks of an investment.

Every deal has risks attached to it so that you need to understand what risks to accept and which demand more detailed investigation.

## A due diligence programme should help to answer the following questions:

- what is critical to the investment decision?
- which sources of value need to be underpinned?
- which risks must be mitigated?

## Sharing due diligence

The due diligence process can be shared amongst syndicate members. Members with the most appropriate skills, experience and knowledge can undertake one or more areas of due diligence (save always that a member will not be warranting or representing the accuracy of his/her due diligence findings to another member).

## Key areas

The top three main criteria used by venture capital investors (and therefore broadly applicable for business angel investors) in assessing a potential investment are:

1. management;
2. exit; and
3. revenue potential.

Therefore, a due diligence programme should focus on addressing these key criteria.

## Management due diligence

Management is a key area to undertake due diligence. As an investor, you will be working closely with the management team for up to several years therefore it is essential that you are as comfortable as possible with the management team.

Spending as much time as possible with management will help you form a view about the team and their capability to execute the business plan successfully.

Taking up references from as wide a circle as possible is ideal, e.g. from previous employers, customers (past, present and potential), suppliers, funders and anyone that may have a business relationship with members of the management team.

## Exit due diligence

Understanding the potential exit opportunity is the second key area. The most likely exit is a trade sale to another player in the market. This could be a customer, supplier or other partner.

Assessing the likelihood that the potential company could be a target for a takeover can be challenging, particularly with a young start-up company perhaps entering a new and growing market. Nevertheless, it would be worth spending some time considering this issue since an exit route is the key to successful investing.

The assessment may include 'what does the company need to look like?' in order to be purchased. This could include required future levels of turnover, employment, technical know-how, intellectual property protection and profitability – some or all of these elements may make a company an attractive takeover target.

An intellectual property based sale can be attractive since significant commercial scale is usually not required.

## Revenue potential due diligence

See the table below under 'commercial and operational'.

## Due diligence areas

Due diligence falls into the following main areas:

Area	Issues
<b>Commercial and operational</b>	<ul style="list-style-type: none"><li>• Company's strategy for delivering identified revenue enhancement and/or cost savings</li><li>• Technical merits of product/service offering</li><li>• Strengths of customer and supplier relationships</li><li>• Competitive positioning</li><li>• Market outlook</li><li>• Ability to influence the market</li><li>• Possible synergies</li><li>• Whether appropriate licences and consents are in place for that company to operate its business properly</li><li>• Whether the company has any history of supplying defective goods or sub-standard services</li><li>• Whether the company is bound to any unusual or particularly onerous contracts</li><li>• Whether key personnel are bound by employment/service contracts (with appropriate non-compete and non-poaching restrictive covenants on leaving the company)</li><li>• Whether the company is involved in any significant disputes with employees</li><li>• Whether the company has full title to the premises it operates from (if it owns such premises) or whether an appropriate lease(s) is/are in place providing security of tenure</li></ul>
<b>Management</b>	<ul style="list-style-type: none"><li>• Assessment of capability – management interviews</li><li>• Identification of gaps and future plan</li><li>• Take up references from previous employers, customers, suppliers and funders</li></ul>

Area	Issues
<b>Financial including tax and pensions</b>	<ul style="list-style-type: none"> <li>Historic financial performance</li> <li>Current financial position</li> <li>Whether any debt finance and security is already in place (e.g. in favour of a bank)</li> <li>Financial model and projections</li> <li>Tax: all taxes (corporation tax, VAT, employment taxes, rates, stamp duty, import duties, etc.) including deferred tax provided in balance sheet</li> <li>Pensions: adequate provision in balance sheet</li> <li>IT status and future requirements</li> </ul>
<b>Environmental</b>	<ul style="list-style-type: none"> <li>Environmental risk of a company's site(s)</li> <li>Highlight any non-compliance with environmental regulations or company's own policy</li> <li>Assessment of any 'contaminated land'</li> </ul>
<b>Risk management and insurance</b>	<ul style="list-style-type: none"> <li>Assessment of any present, future and past exposures</li> </ul>
<b>Legal</b>	<ul style="list-style-type: none"> <li>Legal compliance with statutory obligations</li> <li>Ownership of company's IP including patents</li> <li>Shares properly issued</li> <li>Assessment of any shares 'promised' to current or former promoters and/or employees</li> <li>Whether the company is involved in any disputes/litigation which could potentially damage its brand/financial position</li> <li>Whether all of its shares and key assets are unencumbered</li> </ul>

### How much is appropriate?

Not all of this will be applicable to a start-up or young company but they should be at least considered.

### Sample commercial and legal due diligence questionnaire

A sample commercial and legal due diligence questionnaire is in Appendix B.

## Appendix A

### Sample Term Sheet (no values)

*This sample term sheet and accompanying guidance notes are for guidance only and neither HBAN nor Alan O'Driscoll of Flynn O'Driscoll (who has prepared this sample term sheet for HBAN) shall have any responsibility or liability for actions taken based on the information contained in this document or any loss or damage arising out of use of this document.*

*Flynn O'Driscoll (www.fod.ie) is a business law firm focused on achieving practical business solutions for its corporate and private clients, with a particular focus on the angel, start up and venture capital sectors.*

*This sample term sheet is prepared on the assumption that the investment will be a straightforward equity investment for the same class of share as the promoters, and it does not contain any provisions dealing with investment by way of convertible loan notes or subscription for different classes of shares with enhanced/differing rights.*

### DRAFT - SUBJECT TO CONTRACT

#### TERM SHEET ([NAME] Limited "the Company")

*Proposed investments in the Company by [Investor1] [Company] Limited [Name] of [address] [The lead investor(s)], [Investor2] & [Investor3], (each an "Investor" and together the "Investors")<sup>1</sup>. [The lead investor(s) shall be authorised to represent the interest of the investors collectively in relation to the Company.]*

### 1. Details of Proposed Investments

#### Investment Amounts:

€[NUMBER] to be invested by [NAME], €[NUMBER] to be invested by [NAME], €[NUMBER] to be invested by [NAME] and €[NUMBER] to be invested by [NAME].

#### Investment Instrument:

[The investment by [NAME] will be by way of subscription for [NUMBER] [ordinary] shares of €[NUMBER] each in the capital of the Company ("Shares"), subscribed for at a premium of €[NUMBER] per Share.]

<sup>1</sup> It is common for angel syndicates to use a nominee company for the investment which would hold the legal ownership of the investment shares with the beneficial ownership and interest in the shares at all times held by the individual investors.

### Valuation / Ownership:

The pre-money valuation (per the Company's own valuation) is €[NUMBER]. The post-money valuation is therefore €[NUMBER][, excluding the intended ESOP].

The investment of €[NUMBER] will correspond to [NUMBER]% (excluding interest) ownership of the Company[, allowing for the intended 10% ESOP]).

Please see the attached Appendix containing a proposed capitalisation table for further detail.

### [Additional Investment:

A further investment of up to €[NUMBER] in aggregate, will be considered by each of the Investors at their discretion, at the agreed pre money valuation of €[NUMBER] (or such lower valuation at which the Company may be raising capital at that time), but subject to the Company making satisfactory progress and in particular achieving the following milestones within the 12 month period from completion of the investment:

*[Milestones to be inserted].*

Some or all of the above milestones may be waived by the Investors in their sole discretion.

The Company shall not be required to accept any such additional investment where no funding is required by the Company to achieve its agreed business targets. However should further funding be required by the Company at any time up until the [two] year anniversary of completion of the investment, the first €[NUMBER] of such funding (or part thereof) may be provided by some or all of the Investors in their absolute discretion. This further investment shall split between the Investors pro rata by the amount of their investment or as otherwise agreed by the Investors. Where there is a funding requirement for in aggregate in excess of €[NUMBER] and the investors have invested in aggregate €[NUMBER] any such additional amount may be raised by the Company at the highest possible valuation achievable in the market.

### Investment Pre-Conditions:

- Investors to be satisfied with personal references.
- Completion by the Investors of satisfactory financial due diligence (general examination of the Company's audited accounts and management accounts).
- Completion by the Investors of satisfactory legal due diligence (compliance audit of taxation, company law and other relevant legal matters).
- Satisfactory bank facilities to be confirmed.
- Management emoluments and employments to be agreed.
- Employment and consultancy contracts are in place for [NAMES] (the "Promoters"), and are on market terms that are satisfactory to an Investor Majority and the Promoters.
- Keyman insurance in the sum of €[NUMBER] (payable to the Company) to be put in place in respect of the relevant Promoters, in each case on terms satisfactory to the Investors.
- The Investors to be satisfied that (i) the Company has in place acceptable proprietary information and invention assignment agreements with all relevant employees, as well as acceptable post-termination restrictive covenants (non-compete and non-solicitation agreements): and (ii) that none of the Promoters are subject to any non-compete restrictions.
- The Company to adopt a business plan in an agreed form in advance of completion.
- The existing shareholders of the Company waiving any and all pre-emption rights which any of them may have in relation to the subscription for and the allotment/issue of the Shares.
- The Investors to be satisfied that the Company owns or is licensed to use all intellectual property intended to be exploited by the Company in the proposed business.
- Investment Committee approval of each Investor.

### Investment Documents:

The investments will be made on foot of a Share Subscription Agreement between the Investors, the Company and its existing shareholders a new constitution of the Company.

A non-exhaustive and non-binding indication of some of the matters to be provided for in these documents is set out in the remaining provisions of this Term Sheet.

## 2. Rights attaching to the Shares

### Pari Passu:

The Shares shall rank pari passu with one another in all respects.

### Voting:

The holders of the Shares will be entitled to receive notice of and attend and vote at general meetings of the Company. One Share shall carry one vote.

### Dividends:

The holders of the Shares shall be entitled to receive any dividends declared pro rata in relation to the number of Shares held.

### Redemption:

The Shares shall not be redeemable.

### Conversion:

The Shares shall not be convertible.

### Return of Capital:

On a liquidation, winding up or dissolution of the Company, the Investors shall be entitled to receive an amount equal to the amount paid up on such Shares. If, after such distributions, the Company still has assets remaining, the holders of Shares will receive the proceeds of such assets pro rata to the number of Shares held.

## 3. Investor Protections and Other Terms

### Use of Proceeds:

The Company shall use the monies subscribed by the Investors solely for the purposes of the Company's business as outlined in the revised Business Plan and other financial budgets approved from time to time by the Board.

### Warranties:

#### The Investors shall be afforded the following warranty protection:

- Full joint and several warranties from the Company and the Company's shareholders in relation to its share capital structure, business plan, liabilities, capacity, title to premises etc.
- Personal liability of promoters to be capped at [two times] annual remuneration.
- General warranties survive until the [second] anniversary of Completion.
- Warranties in relation to capacity and title are unlimited; taxation warranties survive until the fifth anniversary of completion of the investment.

### Board Matters:

Subject to the Investors together continuing to hold Shares which would equate to at least 5% of the Company's issued voting share capital, the Investors shall each have the right to nominate one person to act as director of the Company (the "Investor Directors"), but should they indicate an intention not to do so they shall instead each be entitled to appoint an observer to the board.

[The Company will appoint an additional director with strong industry contacts three months from investment completion.]

The number of directors shall not exceed [NUMBER].

There shall be at least [NUMBER] board meetings per year. The quorum for board meetings shall be [NUMBER], which must include the Investor Director (for so long as there is an Investor Director). The chairperson [shall/shall not] have a casting vote.

### [Investors' Fees:

A monitoring fee of €[NUMBER] (plus VAT) per annum shall in aggregate be payable to [NAMES] [(split pro rata by the amount of their investment).]

[A management fee of [NUMBER]% of the sum invested by [NAME] (plus VAT where applicable) per annum shall be payable to [NAME].]

The first year's fees (which will be in respect of the period from completion to 31 December) are payable on completion of the investment. Subsequent years' fees are payable in advance on 1 January of the year to which they relate.]

### Conduct of Business:

#### The Company shall enter into the following covenants regarding the conduct of its business:

- The Company shall carry on its business in an effective and business-like manner in accordance with the revised adopted Business Plan and to its commercial advantage.
- Any action undertaken by the Company will be done in the ordinary course of business and in contemplation of the direct benefit of the Company.
- If any intellectual property right is established as a result of the work carried out by or for the Company, the intellectual property shall be owned by the Company and the Company shall not alienate, assign, part with the possession or otherwise dispose of the intellectual property without the prior written consent of the Investors.

### Investor Consent Matters:

The Share Subscription Agreement will set out a list of actions/matters which the Company shall not undertake without the prior written consent of a majority in value of the Investors subscribed in respect of the Shares ("Investor Majority"). The list will include (but will not be limited to) the matters listed in the Schedule to this Term Sheet.

### Investor Information Rights:

The Company shall provide the Investors with audited accounts annually within 90 days of year-end and monthly management accounts within 15 days of month-end, plus such other financial information as the Investors may from time to time request.

### Restrictive Covenants:

The Promoters shall be required to enter into customary non-compete and similar restrictive covenants for the benefit of the Company and the Investors. Such covenants will enter into force on completion of the investment and continue for two years after the date on which the relevant Promoter ceases to be a shareholder in the Company. Where reasonable Promoter's existing interests shall be carved out and no Promoter shall be precluded from seeking alternative employment in their chosen fields provided it is not in direct competition with the business of the Company.

### Down Round Provisions:

The parties agree that where the issue price for any shares in the Company issued after the issue of the Investor shares, is lower than the price at which the Investor shares are issued, being €[NUMBER] per share, ("Down Round") then the Company shall issue to each Investor for cash at par or subject to compliance with the Companies Acts by way of bonus shares, such number of additional ordinary shares as is required to maintain the percentage which that Investor's shares represented to the total issued equity share capital of the Company, immediately prior to the issue of shares constituting the Down Round.

### [Exit Preference:

**In the event of a: (i) sale; (ii) listing; or (iii) exclusive license or other disposal of substantially all of the equity or assets of the company, the Investors shall be entitled to receive the higher of:**

- a. the amount of €[·] being the amount invested by the investors plus any declared but unpaid dividends; or
- b. the investors' pro rata share (based on their proportionate ownership of shares) of such assets or proceeds.]

## 4. Share Capital and Related Matters

### Share Transfers:

The following shall apply to any proposed share transfers:

- Promoter lock-in: none of the Promoters may transfer any shares without the prior written consent of an Investor Majority.
- Offer-round: on any proposed transfer of shares by a shareholder, the proposing transferor will be required to observe a standard offer-round procedure. This will not apply to intra-group or inter-portfolio transfers by an Investor.
- Tag-along: a shareholder (other than with Investor Majority consent) who receives an offer for any of his shares may not accept such offer unless he procures from the intending purchaser an offer on the same terms for the corresponding proportion of the shares held by each Investor.
- Drag-along: if an offer is received for control of the Company, and the holders of not less than [75]% of the issued share capital of the Company (including the Investors) should wish to accept the offer, such holders may require all other holders of shares in the Company to sell to the intending purchaser on the same terms.
- Breach of Agreement: a material breach by a shareholder of the Investment Agreement may result in mandatory share transfer.

### Share Issues:

Standard pre-emption rights in favour of existing shareholders will apply on any allotment of new shares (or convertible securities) by the Company.

### [Creation of ESOP Pool:

An Employee Share Option Plan pool, representing [10]% of the Company's share capital, will be created for the allocation of options and/or shares to management and employees.]

### [Vesting - Promoters' Shares<sup>2</sup>:

The shares held by the Promoters shall be subject to a [2/3] year quarterly reverse vesting schedule (i.e. such that shares vest quarterly over [8/12] quarters from the completion of the investment).

- Any Promoter who ceases to be a fulltime employee of or consultant to the Company at any time during the [three]-year vesting period must transfer all of his then unvested shares back to the Company (or the other shareholders, as the board shall direct).
- If the Promoter is a good leaver (i.e. his departure is due to death, disability, or unfair dismissal), he will receive fair value for those of his shares which he is required to transfer.
- If the Promoter is a bad leaver (i.e. his departure is due to any reason other than death or disability), he will receive nominal value (or fair value if this is lower) for those of his shares which he is required to transfer.]

## 5. [EIS Relief

The Company will provide confirmation that the investment in the Company will qualify for EIS relief.]

<sup>2</sup> Reverse vesting may not always be appropriate particularly where the investee company is no longer a start-up or early stage company or where it has previously taken investment.

## 6. Exit

In the event of a sale of the Company the Investors shall not be required to give any warranties or indemnities in connection with such sale other than in respect of title to the shares being sold by each Investor and individually/ severally their ability and capacity to enter into any documents relating to any such sale.

## 7. General

### Non Binding:

This Term Sheet creates no liabilities or obligations, except for the obligations set forth below in the paragraphs entitled "Confidentiality", "Exclusivity" [and "Break Fee"]. No party shall be otherwise bound unless and until definitive agreements are executed.

### Confidentiality:

The proposed investments outlined above are of the utmost confidentiality. Accordingly, neither the Company nor its directors or employees shall make any disclosure regarding the terms of this Term Sheet or the conduct or status of the negotiations in relation to this proposal unless it has first obtained written consent of the Investors (save as required by law or regulatory authorities). This paragraph is legally binding.

### Exclusivity:

By signing this Term Sheet, the Company undertakes that it shall not (either directly or indirectly) solicit offers or otherwise negotiate terms with any other investor or potential investor in the Company, or entertain any enquiries or proposals relating to such an investment, or make available any information for the purpose of such an investment for a period commencing on the date of signing hereof and expiring 30 days thereafter or such later date as the parties may agree by mutual consent. This paragraph is legally binding.

**[Break Fee:**

On signing this Term Sheet, the Company will forward €[NUMBER] to the [INVESTOR NAME]'s appointed lawyers. If the Company declines to execute the transactions contemplated by this Term Sheet within [NUMBER] days of the date of signing this Term Sheet (or such longer period as the Investors (acting reasonably) may allow), these funds will be retained to cover legal and other costs. This paragraph is legally binding.]

**Costs:**

The Investors' professional fees shall be [borne by the Company and paid at Completion]. Each Investor shall endeavour to ensure that the professional fees payable to its advisors do not exceed €[NUMBER] (plus VAT and disbursements).

**Expiry:**

The non-binding indicative investment proposals set out in this Term Sheet shall expire at midnight on [DATE] if this Term Sheet has not by that time been signed on behalf of the Company by a duly authorised officer.

.....

Signed:

For and on behalf of  
[Insert Name of Syndicate/ Investors or the Nominee Company]

.....

Date:

.....

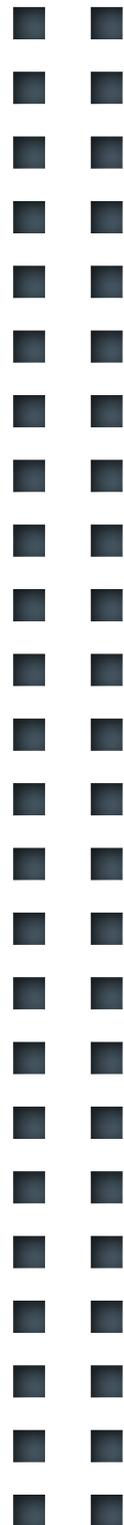
Signed:

For and on behalf of  
[Insert Name of Investee Company]

.....

Date:

The above terms are agreed and accepted.



**SCHEDULE**

**Indicative (Non-Exhaustive) List of Matters requiring Investor Consent**

**The Company shall not (and shall procure that no Subsidiary shall) without the consent in writing of an Investor Majority:**

1. except for the issue of validly created option shares pursuant to the Employee Share Option Plan, create or issue or agree to create or issue any share or loan capital or give or agree to give any option in respect of any share or loan capital, or purchase or redeem its own shares;
2. consolidate, sub-divide or alter any of the rights attaching to any of its issued shares or reduce its share capital or repay any amount standing to the credit of any share premium account or capital redemption reserve fund or capitalise any reserves or redeem or buy back any shares or otherwise reorganise its share capital in any way or create any new class of shares;
3. alter its Memorandum or Articles of Association or the Company's Constitution in any way;
4. register any transfer of shares other than in accordance with the Investment Agreement and the Articles;
5. enter into any contract or transaction whereby its business would be controlled otherwise than by the board of directors;
6. enter into any scheme of arrangement with its creditors or take steps to effect a members' voluntary winding-up;
7. permit Borrowings (as defined in the Investment Agreement) to exceed €50,000;
8. create, agree to create or suffer to exist any charge mortgage lien or other encumbrance on or over the whole or any part of its present or future undertaking or assets (including, without limitation, Intellectual Property);
9. make, give, enter into or incur a guarantee, indemnity, undertaking other material commitment on capital account or unusual liability outside the ordinary course of business;
10. establish a retirement, death, disability, benefit scheme or any share option, profit sharing or other employee incentive scheme;
11. dispose of any shares or otherwise reduce the percentage shareholding held by it in any companies nor whether by one transaction or by a number of transactions (whether related or not and whether at one time or over a period of time) sell, transfer, licence or otherwise dispose of the whole or any substantial or material part of its assets (including fixed assets) or undertaking;



12. dispose of or factor any of its book debts otherwise than to another of the Companies, other than in the ordinary course of business;
13. save in respect of transactions between any of the Company's Subsidiaries make any loan or advance in excess of €5,000 or permit the aggregate of all loans and advances made by it and all other companies to exceed at any time €10,000;
14. change its auditors or its financial year end or alter the basis of the accounting principles upon which its accounts have been consistently prepared for all prior years;
15. appoint its auditors to provide any non-audit services;
16. pass any resolution of its members in general meeting the effect of which would be to alter in any material way the nature of such company and/or its business as envisaged by this Agreement;
17. promote or otherwise acquire any Subsidiary;
18. acquire any proprietary or participating interest in any other business;
19. enter into any partnership or joint venture other than in the ordinary course of business;
20. pay or agree to pay any royalty or similar payment;
21. save as otherwise expressly provided herein, approve or pay any fees, pensions or emoluments to any director or former director of any of the Companies save such amounts as shall have been approved by the Board which shall be paid to persons by reason of their being or having been employees of the Companies;
22. employ any person at an annual basic salary of in excess of €50,000 with the exception of the CEO whose annual salary will not exceed €100,000;
23. appoint or remove any chairperson, director or other senior executive;
24. delegate any powers under a power of attorney;
25. save as respects transactions between the Company and its Subsidiaries enter into any contract or transaction (written or unwritten) except in the ordinary course of its business and upon an arm's length and commercial basis;
26. declare or pay any dividends or other distributions in respect of any of its issued shares;
27. obtain a listing of the Company on any stock exchange;

28. transfer, assign, licence or otherwise dispose of any Intellectual Property rights of the Company and its Subsidiaries to any third party or accept a licence of Intellectual Property rights from any third party other than in the ordinary course of business; or
29. make any other major decision which would materially affect the Companies (or any of them).

## Appendix

### Capital Structure before and After Completion

#### Part A: Capital Structure before Closing

Shareholder	Class of share	No. of shares	Issue Price	Shareholding
Founder 1			€•	•%
Founder 2			€•	•%
Founder 2			€•	•%

#### Part B: Capital Structure After Closing

Shareholder	Class of share	No. of shares	Issue Price	Shareholding
Founder 1			€•	•%
Founder 2			€•	•%
Founder 3			€•	•%
Investor 1			€•	•%
Investor 2			€•	•%
Investor 3			€•	•%
ESOP			€•	•%

*This sample term sheet and accompanying guidance notes are for guidance only and neither HBAN nor Flynn O'Driscoll (www.fod.ie) (who have prepared this sample term sheet for HBAN) shall have any responsibility or liability for actions taken based on the information contained in this document or any loss or damage arising out of use of this document.*

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# Appendix B

## Sample Commercial and Legal Due Diligence Questionnaire

*This sample due diligence questionnaire is designed for larger venture capital deals and, therefore, may be considered a superset of what an angel investor would seek.*

*It is recommended, on a case by case basis, that you request only information that logically makes sense in the circumstances and that is appropriate to the stage of the development of the company.*

### STANDARD LEGAL AND COMMERCIAL DUE DILIGENCE QUESTIONNAIRE

#### PROPOSED INVESTMENT IN INVESTECO LIMITED

Please supply the following information in respect of [NAME] Limited and each of its subsidiaries (each such company being referred to in this questionnaire as "the Company"). We suggest that you retain photocopies of the documents you send us, so that the two sets of copy documents can in due course be incorporated (where appropriate) in the Disclosure Letter<sup>3</sup>.

#### Company Details

1. Please supply details of:-
  - a. the Company's registered number;
  - b. its registered office;
  - c. the full names and addresses of its directors; and
  - d. its accounting reference date;
2. Please supply details of any shareholdings which the Company has in any other companies.

<sup>3</sup> This letter informs investors of any fact or matter which contradicts any warranty and therefore qualifies the warranty accordingly. It is designed to both protect promoters and also to flush out information concerning the investee company.



#### Shareholders

3. Please confirm that none of the Shareholders or directors has an interest in any company or business which competes with the Company's business.
4. Please supply details of:-
  - a. any loan by or to the Company,
  - b. any guarantee given by the Company, and
  - c. any other contract involving the Company, in which any of the Shareholders or Directors or managers of the Company or any persons connected to them has a personal interest.
5. Are all of the issued shares fully paid up? If not, please provide details.
6. Are there any agreements, arrangements or informal understandings between the Company, the Directors its shareholders or any person connected with them relating to the management of the Company or its affairs? If so, please give details.

#### Plant and Equipment

7. Is the Company's plant and equipment register up to date? Please supply a copy or confirm that it is available for inspection.

#### Property

8. Please supply details of all freehold and leasehold property in which the Company has an interest (including any licences to occupy), together with copies of all relevant title deeds and documents and (where relevant) authority to inspect the register.
9. Please supply copies of any valuations of such property.
10. Please confirm whether all necessary planning and other consents have been obtained in respect of such property and its current use and supply copies of all consents.
11. Please supply details of any leases, tenancies or licences granted by the Company in respect of such property and copies of the relevant agreements.
12. Please supply details of any leasehold property in which the Company has had an interest in the past.



## Intellectual Property

13. Please identify details of all trademarks, trade names, service marks, patents, registered designs, design rights, copyright, knowhow and other intellectual property owned or used by the Company in connection with its business.
14. Please supply copies of all Registration Certificates, specifications and all other documents evidencing such intellectual property. Please also supply copies of all agreements relating to the licensing or use of such intellectual property (both to and by the Company).
15. Please provide any patent infringement analysis carried out by the company or any third parties, including search reports from the relevant Patent Offices.
16. Please provide details of any intellectual property infringement claims made either by the Company or against the Company.

## Employees

17. Please supply full details of the Company's employees, and of all terms and conditions relating to their employment, including: a list of all employees, giving their names, job titles, ages, dates of commencement of employment, notice periods, salaries and other benefits (including any commission or bonus arrangements, fringe benefits, share incentive and similar arrangements).
18. Please identify employees who are spouses or co-habitees, parents, grandparents, children or grandchildren (including step and adopted) or otherwise related to the directors of the Company.
19. Are there any outstanding claims against the Company from any past or present employee or officer?

## Insurance

20. Please supply details of the Company's insurance arrangements (including a schedule stating the insurers, the risks covered, the sums insured and the premiums).

## Financing

21. Please supply details of the Company's financing arrangements, including copies of any loan agreements or facility letters (with details of agreed overdraft limits).
22. Please supply copies of any mortgages, charges or other security documentation affecting the Company, and a copy of its register of charges.
23. Please supply details of any government or other grants to the Company, including any terms under which they may be repayable.
24. Please supply details of any factoring or similar arrangements relating to the debts of the Company.
25. Has the Company exceeded its agreed banking facilities within the last 12 months?
26. Has the Company borrowed or raised any money or taken any financial facility beyond its overdraft facility as at its last financial year end or has it agreed to do so?

## Contracts and General Business Matters

27. Please supply details, including copy documents, relating to any of the following:-
  - a. long-term arrangements (i.e. which may last for more than six months) relating to supplies by the Company;
  - b. long-term arrangements relating to purchases by the Company;
  - c. agency, distributorship, franchising or similar arrangements relating to the Company.
28. Please supply details (including copies) of any other contracts relating to the Company which are of particular significance or of an unusual nature.
29. Please supply details of any quotations or tenders by the Company including:
  - a. the total current order book; and
  - b. the total current sales pipeline with a percentage chance of closing each opportunity.
30. Please supply a list, with contact details, of the Company's major customers (i.e. more than 5% of turnover) and their related turnover and major suppliers (i.e. more than 5% of goods or services supplied). If applicable then please also supply contact details of customers currently trialling your product/service.

31. Please supply copies of all licences or consents necessary to carry on the business of the Company (e.g. Consumer Credit Act licences).
32. Please supply details of:-
  - a. any arrangements for the exclusive supply of goods or services to or by the Company; and
  - b. any contracts or practices of the Company which are or may be within the ambit of the Restrictive Trade Practices Act or any other legislation relating to competition.
33. Are there any outstanding judgements or court orders outstanding against the Company?
34. Please provide details of any arrangements that involve (or may involve) obligations or long term liabilities which may impose an undue burden on the Company or which by reason of its nature duration or magnitude may impose an undue burden on the Company.
35. Please provide details of any agreement which is liable to be terminated by another party or under which the rights of any person are liable to arise or be affected as a result of any change of control management or shareholders of the Company.
36. Has any event occurred or are you aware of any event which may occur which would constitute a default under any agreement or arrangement and which would have a material adverse effect on the business or prospects of the Company?

#### **Environmental and Health & Safety**

37. Please supply details of any licences or authorisations which the Company has in respect of environmental matters.
38. In respect of any health and safety matter affecting the Company, details of, and copies of all documents relating to:
  - a. any notification or complaints to any regulatory authority;
  - b. any investigations, enforcement action or legal proceedings threatened or taken by, or any current discussions with, any regulatory authority; and
  - c. any complaints or legal proceedings threatened or taken by any employee (including both current and former employees and contractors).



#### **Disputes**

39. Please supply details in relation to the Company of any of the following which are current, or which are known to be possible:-
  - a. litigation or arbitration proceedings (whether as plaintiff or defendant);
  - b. prosecution; and
  - c. investigation by a governmental body.
40. Please supply details of any complaints by, or disputes with, the Company's customers, suppliers, employees or otherwise which have occurred since the last accounts date or (if longer) during the last six months.
41. Please supply details of any known failure by the Company to comply with any relevant statutory requirements.
42. To the best of your knowledge has any event occurred which would be likely to give rise to any industrial or trade dispute?

#### **Recent Events**

43. Please supply details of any of the following which have occurred in relation to the Company since the date of the last accounts:-
  - a. any acquisition or disposal of fixed assets;
  - b. any proposal relating to capital expenditure;
  - c. the declaration or payment of any dividend or other distribution; and
  - d. the loss, or anticipated loss, of any major customer or major supplier or any significant change in the terms on which a major customer or major supplier does business with the Company.



## Accounts and Tax

44. Have the Audited Accounts for the last financial year been prepared on a basis consistent with the accounts for each of the preceding years including the valuation of stock and work in progress?
45. Have the Audited Accounts for the last financial year been affected by any extraordinary exceptional or non-recurring items or by any other circumstance which make the profit or losses for the period of the accounts unusually high or low?
46. Is the trading position of the company fully and fairly represented by the latest management accounts?
47. Have such management accounts (a copy to be attached to your reply) been prepared on the basis of the accounting policies disclosed in the last Audited Accounts?
48. Has the Company carried on its business profitability, in the ordinary and usual course and without interruption or alteration in the nature scope or manner of its business?
49. If the Company has stock and work in progress then has any obsolete or redundant stock been written off and is the stock and work in progress valued at the lower of cost and net realisable value?
50. Has the Company paid all amounts to its creditors as and when they fall due?
51. Are there currently any outstanding amounts owed by the Company to its creditors which are overdue for payment?
52. Please supply details of who is responsible for tax compliance and tax planning for the Company and details of external advisers used.
53. Please provide confirmation that tax payments have been paid on time and appropriately accounted (i.e. ROS printouts).
54. If relevant, please supply copies of recent tax audit reports and announcement of tax audits as well as details regarding ongoing tax audits (list of current findings).

*This sample due diligence questionnaire is for guidance only and neither HBAN nor Flynn O'Driscoll ([www.fod.ie](http://www.fod.ie)) (who have prepared this sample due diligence questionnaire for HBAN) shall have any responsibility or liability for actions taken based on the information contained in this document or any loss or damage arising out of use of this document.*

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# Tax Incentives for Business Angels & VAT

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## 10. Tax Incentives for Business Angels & VAT

Unlike many countries around the world, both Ireland and Northern Ireland have tax incentives for individuals making investments in private companies. It usually falls to the company to ensure that appropriate approvals are sought, granted and the necessary certificates are issued to investors.

### Summary of the principal schemes (as at October 2015)

	Ireland	Northern Ireland
<b>Scheme name</b>	Employment and Investment Incentive ('EII')	Enterprise Investment Scheme ('EIS') and Seed EIS ('SEIS')
<b>Max investment(s) attracting relief in any one tax year</b>	€150,000	£1 million (£100k SEIS)
<b>Min investment attracting relief</b>	€250	None (£500 before 6 April 2012)
<b>Relief available on</b>	New ordinary shares only	New ordinary shares only but may carry very limited preferential dividend rights
<b>Maximum shareholding by any one investor</b>	30%	30%
<b>Maximum investment by all investors in one company</b>	€15 million subject to €5 million in any one year	£5 million in total in any 12 month period
<b>Initial income tax relief rate</b>	30%	30% (50% for SEIS)
<b>Minimum shareholding period</b>	Four years	Three years
<b>Further income tax relief if employment created after three years</b>	10%	None

<b>Investor requirements</b>	<ul style="list-style-type: none"> <li>Resident in State for tax year</li> <li>Not connected to the company</li> </ul>	<ul style="list-style-type: none"> <li>Individuals tax resident in UK</li> <li>Not connected with the company</li> </ul>
<b>Company requirements</b>	<ul style="list-style-type: none"> <li>Micro or SME incorporated in the State or European Economic Area State</li> <li>Complies with EU General Block Exemption Rules (unlisted SME, less than 7 years trading, with some limited exceptions)</li> <li>Resident in State or other EEA State and carrying on business in the State</li> <li>Most trading activities are allowed but there are exclusions</li> <li>Qualifies for tax clearance cert</li> </ul>	<ul style="list-style-type: none"> <li>UK resident private company or company listed on AIM or PLUS Markets</li> <li>Gross assets less than £15 million prior to share issue and less than 250 employees (lower for SEIS)</li> <li>Most trades qualify but some do not</li> </ul>
<b>Capital gains tax ('CGT') and loss relief</b>	Gains taxed but capital losses not allowable for CGT purposes	Gains are free of CGT and any losses (less income tax relief given) is an allowable loss for income tax

Note: this is a brief summary of the tax incentives and provided for guidance only. The above schemes and rates are subject to change. There are detailed provisions (available from each Revenue's website) that should be considered before investing under these schemes. Specific tax advice should be sought in all instances.

## Seed Enterprise Investment Scheme ('SEIS')

In Northern Ireland, there is also tax relief available under SEIS. It is designed to help small, early stage companies raise funds from the issuing new ordinary shares. It complements EIS summarised above and the same rules generally apply.

Income tax relief is given at 50% on a maximum annual investment of £100,000. The Company must have fewer than 25 employees and no more than £200,000 in gross assets. The Company may not receive more than £150,000 under SEIS.

Capital gains can be rolled into investments such that it is theoretically possible for investors to only be risking approximately 20 pence in the Pound.

## EIS and SEIS across the border

UK investors can take advantage of EIS and SEIS when investing in any other EU country in some circumstances. In essence the company in which investment is being placed must have a presence in the UK. Professional advice is particularly important for investments of this type.

## Overview of the SURE Scheme (ROI)

This new Start Up Relief for Entrepreneurs (SURE) replaces Seed Capital relief. It could be relevant to an employee, an unemployed person or a person made redundant recently who has mainly paid tax under PAYE and is interested in starting their own business. They may be entitled to avail of a refund of up to 41% tax paid in previous years if they invest their own funds by way of shares in a qualifying new company and satisfy other conditions. The minimum investment is €250 and the maximum is €100,000 p.a.

## Further detailed information

**Legislation relating to such tax incentives changes from time to time and further detailed information can be found by searching one of the following two websites:**

- If you are tax resident in Ireland: [www.revenue.ie](http://www.revenue.ie); or
- If you are tax resident in Northern Ireland: [www.hmrc.gov.uk](http://www.hmrc.gov.uk).

## Value Added Tax ('VAT')

VAT may be payable on any syndicate membership fees. VAT is likely to be payable on third party due diligence fees as well as legal fees in respect of an individual investment. Any such VAT charged in either circumstance is unlikely to be recoverable by individual syndicate investors.

Separate tax advice should be sought about specific circumstances.

## Stay connected with us for more useful business angel resources:



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