

INVESTEES TERMS

These terms apply to any engagement between Crowdsphere Limited trading as Crowdsphere ("**Crowdsphere**") a registered company with the Company No. 5021681, licenced and regulated, by the Financial Markets Authority (the "**FMA**") under the Financial Markets Conduct Act 1993 (the "**Act**") and any investee company (the "**Investee**") seeking to use Crowdsphere in accessing and arranging share subscriptions with potential investors (the "**Investors**") through the Crowdsphere website (the "**Website**").

By accepting these Investee Terms, an agreement will be created between Crowdsphere and the Investee.

These Investee Terms are in force from 4 November 2014.

1. Investee's obligations

1.1 The investee shall:-

1.1.1 Complete an application form to participate in Crowdsphere funding in terms satisfactory to Crowdsphere, such form to include the following prescribed information in all cases:-

- Investee company name;
- Investee company number;
- Registered office and trading addresses of Investee;
- A complete list of all Investee officers (directors, secretary and accountant/auditor);
- A complete list of all Investee shareholders (legal and beneficial owners);
- Details of the share classes and ownership of the Investee;
- Details of any pre-existing shareholder agreement or ancillary documents;
- Such further information and/or documents as Crowdsphere may require in order to effect regulatory compliant anti-money laundering identification and other checks; and
- A target for the fundraising to be sought by the Investee through its association with Crowdsphere;

1.1.2 Prepare all Crowdsphere required information in such form as Crowdsphere may require to facilitate the establishment of an Investee specific sub-site within the Website (referred to as the Investee's "Pitch"). Such information shall include:-

- A description of the Investee's investment proposition;
- Investee business plan, including 3 year financial forecasts as appropriate;
- Latest Investee accounts and/or other financial information as appropriate;
- An outline of any existing or proposed arrangements relating to the Investee's share capital or rights therein that may impact the investment proposition and details of any obligations of the Investee dependent upon realisation of the Investee's shares or similar exit;

- Details of the equity offered, the types of shares available, the minimum and/or maximum investment required or specific investment requirements for each type of share, and an indication of the number of shares per \$1 of investment;
 - A summary of the provisions of the Investee's Constitution and/or shareholders' agreement currently in place;
 - The disclaimer provided by Crowdsphere;
 - The risk warning provided by Crowdsphere; and
 - Such other information as Crowdsphere may reasonably require from time to time;
- 1.1.3 Pay, without deduction, deferment or set off, to Crowdsphere any and all fees, including legal fees, and charges as separately notified to the Investee by Crowdsphere immediately the same become due for payment, as referred to in clause 3. Crowdsphere shall provide details of its fees on its Website from time to time. The Investee agrees that Crowdsphere shall, where possible, liaise with the third party money transfer organisation to deduct both Crowdsphere's fees and the third party's fees (if any) from the funding raised from Crowdsphere investors, prior to the Investee receiving the net funding amounts raised and the Investee acknowledges that no monies raised through Crowdsphere shall belong to the Investee and the Investee shall have no interest therein until the shares in the Investee have been issued to the Investor and the net funding amounts are received by the Investee. If a capital raising is unsuccessful certain Crowdsphere and money transfer organisation fees may still be payable. No investor monies may be used to pay such fees;
- 1.1.4 Adopt a Constitution in such form as Crowdsphere may from time to time suggest or such other terms of which have been disclosed to Investors and are acceptable to Crowdsphere, to enable the requisite shares to be offered to members of Crowdsphere who apply to become shareholders of the Investee;
- 1.1.5 Pass, sign and/or adopt any documentation in such form as Crowdsphere may from time to time require to facilitate the issuing of shares to members of Crowdsphere who apply to become shareholders of the Investee;
- 1.1.6 Inform its current shareholders of the proposed transaction in accordance with its current Constitution and/or shareholders' agreement, and ensure that any necessary consents to the Pitch and the proposed transaction are obtained in advance including pre-emption waivers;
- 1.1.7 Enter into an arrangement with a third party under that third party's standard terms and conditions to provide for the transfer of monies from Investors to the Investee;
- 1.1.8 Consider with its board of directors engaging appropriate independent professional advisors to advise the Investee on raising investment via the Crowdsphere platform. Such engagement shall be a matter for each Investee. Crowdsphere shall have no obligation to ensure the Investee receives professional advice nor liability to the Investee or their Investors for any loss if such advice is not taken;
- 1.1.9 Until expiry of the Offer Period (as defined below) not directly or indirectly, in connection with any securities to be made available to members of Crowdsphere

through the Website, permit any offer of such securities to persons outside Crowdsphere's membership or permit the communication of any invitation or inducement to engage in investment activity to any such person and the Investee shall indemnify and hold Crowdsphere harmless from any loss, liability, cost or expense resulting from the same;

- 1.1.10 Agree to the use by Crowdsphere of all Investee trade names, trademarks, logos and other intellectual property of or licensed to the Investee as reasonably necessary and/or desirable for the purposes of facilitating the offer of securities to be issued by the Investee through the Pitch to members of Crowdsphere or for the general purposes of the promotion of Crowdsphere or the Website, and indemnify and hold Crowdsphere harmless from any loss, liability, cost or expense resulting from Crowdsphere's use of the same; and
- 1.1.11 Arrange for those persons who place an order and apply to become shareholders of the Investee, in cooperation with the Investee's shareholders, to be issued with shares in the Investee on the terms of the Constitution referred to in clause 1.1.4 subject to receipt of the Subscription Price (as defined below) by the Investee upon completion of such arrangements.

2. Crowdsphere's obligations

- 2.1 Crowdsphere shall:
 - 2.1.1 Make the Website available to the Investee for the purposes of the Pitch and the raising of funds for which the pitch is intended;
 - 2.1.2 Endeavour to elicit applications from its registered Investors for subscriptions for shares in the Investee by means of the Pitch and the Website by communicating the Pitch as a financial promotion to its registered investors;
 - 2.1.3 On completion of the fundraising through the Pitch send a 7 working day confirmation email to the Investors seeking confirmation of their orders to invest and co-ordinate the same; and
 - 2.1.4 Liaise with the Investee and any relevant third parties with a view to ensuring the transfer of funds from investors to the investee on completion of a successful pitch or return of funds in full to investors in the event of an unsuccessful pitch.
- 2.2 Crowdsphere may recommend the use of a specific professional advisor to the Investee, and in such circumstances the Investee acknowledges that Crowdsphere shall have no liability in relation to or involvement in the engagement of such advisor by the Investee, and such relationship will be governed by the terms of engagement between the advisor and the Investee. Crowdsphere has no responsibility to ensure the Investee takes professional advice nor liability to the Investee for loss if such advice is not taken.

3. Remuneration and fees

- 3.1 Crowdsphere shall charge a one-off fee of \$2,500 plus GST upon activation of a Pitch on the Crowdsphere platform, In respect of the support provided by Crowdsphere, including assistance with pitch materials and administrative services such as the completion of the issue of shares in an Investee following the successful fundraising of a Pitch.
- 3.2 Crowdsphere shall charge a commission of 6% plus GST on all monies raised by an Investee through a Pitch or in consequence (whether directly or indirectly) of publication of a Pitch on the Website.
- 3.3 Crowdsphere may charge a one-off fee of \$250 plus GST in respect of corporate services support provided by Crowdsphere, including assistance with preparation of corporate resolutions and other documents following the successful fundraising of a Pitch
- 3.4 The Investee acknowledges that ancillary charges or fees, including legal fees, may be payable by the Investees to third parties in connection with the Investee's involvement with Crowdsphere and any potential investment through Crowdsphere, and acknowledges that such charges or fees are not the subject of these terms.
- 3.5 The Investee agrees to pay any and all charges and fees levied by any third party money transfer provider regardless of whether the pitch is successful or not, as engaged in accordance with clause 1.1.7, and agrees to indemnify and hold Crowdsphere harmless from any loss, liability, cost or expense resulting from any non-payment by the Investee of such amounts. The Investee will not use any Investee funds to pay such fees while such fees are held in trust by the third party money transfer provider on behalf of the Investors or from Investor funds to be returned to the Investors in the event of the pitch being unsuccessful.
- 3.6 The third party money transfer provider fees may remain payable by the Investee if there is a failure by one or more Investors to transfer the Subscription Price to the Investee and if the level of investment received by the Investee is less than 90% of the desired target level of investment as set out in its Pitch. The Investee agrees that Investor monies are not able to be used for payment of such fees and that Investor monies will be returned to the Investors in full without deduction by the Investee.
- 3.7 Crowdsphere reserves the right to change its fees as set out in this Clause 3 or impose a fee or charge for other services to the Investee in the future, and will do so by providing one months' advance written notice by email of the proposed charges or fees and any variation of the same, to the Investee whereupon the Investee may, by notice, terminate this agreement forthwith, if it so wishes, and any current Investee pitches will be withdrawn.

4. Investment process

- 4.1 Investors shall be entitled to place irrevocable orders to subscribe for shares in the Investee through the Pitch for a period (the "Offer Period") ending on the earlier of:
 - 4.1.1 the Investee reaching its target level of Investment as set out in its Pitch;
 - 4.1.2 the end of a period of 60 days (beginning with the date on which the Pitch becomes live on the Website); or [60 days in Investor document]
 - 4.1.3 the date upon which the Investee terminates its Pitch other than in accordance with this agreement.
- 4.2 If the Pitch is successful, when the Investor places an order to subscribe for shares in an Investee, the Investor shall enter into an agreement with the Investee, or a third party on behalf of the Investee, to transfer the subscription price of the relevant shares (the "Subscription Price") to the Investee. Shares in the Investee will be issued to the Investor by the Investee and the Subscription Price will be transferred to the account of the Investee following the end of the Offer Period. If the Pitch is not successful, the agreement between the Investor and the Investee for the transfer of the Subscription Price shall not be actioned.
- 4.3 If a Pitch is successful, the Investee will instruct Crowdsphere to circulate a copy of the Investee's proposed Constitution to each Investor by email, and to request that each Investor inform Crowdsphere by email within 7 working days if they no longer wish to proceed with the Investment. In accordance with Crowdsphere's Investor terms if Crowdsphere receives no response from the Investor within the 7 working day period, the Investor order will become an irrevocable firm order.
- 4.4 If the Pitch is unsuccessful or the order not completed for any reason, the Investor's order will not be transferred to another Pitch or Investee, and no substitute service will be provided.
- 4.5 If the Investee does not ultimately attain the stated desired target level of investment as set out in its Pitch, through withdrawals after the expiry of the Offer Period, or failure by Investors to transfer the Subscription Price to the Investee, neither the Investee nor Crowdsphere is required to inform the Investors of this failure, and the Investors may still be required to purchase the shares they ordered, provided that the level of investment received by the Investee is at least 90% of the desired target level of investment as set out in its Pitch. If the Investee ultimately attains less than 90% of the desired target level of investment as set out in its Pitch, the Investee shall cancel the investment made by the Investors and return the Subscription Price to the Investors, and shall liaise with Crowdsphere throughout. The Investee consents to Crowdsphere releasing such information as is reasonably necessary, to the Investors and to communicate with them to allow the immediate return of the Subscription Price without deduction.

4.6 Crowdsphere may assist the Investee with corporate administration matters relating to the investment process, to prepare the Investee to raise investment via the Crowdsphere platform. Crowdsphere will charge a fee for these corporate services, as set out in Clause 4. The Investee acknowledges that Crowdsphere is not licensed or insured to provide advice to investee companies and such assistance should not be considered as legal, financial or tax advice of any kind. If the Investee requires detailed advice and opinions on legal, financial or tax matters relating to their company and Pitch, it should contact an independent professional firm as appropriate. Crowdsphere can provide details of such firms on request but will not be responsible to the Investee for any advice received through any such firm.

5. Investments / pitches

5.1 The Investee acknowledges that it does not rely upon any advice, representations or requirements of Crowdsphere in relation to the Pitch, and acknowledges that it is solely responsible for the Pitch complying with all applicable laws and regulations. The Investee further acknowledges that Crowdsphere is an independent organisation, and does not act as agent or representative of the Investee or any Investor. The Investee acknowledges that it must seek independent advice should it have any legal, financial, regulatory or other concerns about the Pitch.

5.2 The Investee agrees to adhere to all reasonable requirements in relation to the investment process laid down by Crowdsphere from time to time in respect of regulatory and/or legal compliance in relation to the investment process and the Pitch, and shall provide all such information and documentation that Crowdsphere requires from time to time to ensure such compliance.

5.3 The Investee must ensure that information contained within the Pitch that contains an indication of past performance satisfies the following conditions:

5.3.1 the indication is not the most prominent feature of the communication;

5.3.2 the information includes appropriate performance information which covers the lesser of the period from establishment or the preceding five years and in every case (where possible) that performance information must be based on and show complete 12-month periods;

5.3.3 the reference period and the source of information are clearly stated; and

5.3.4 the information contains a prominent warning that the figures refer to the past and that past performance is not a reliable indicator of future results.

5.4 The Investee must ensure that information contained within the Pitch that contain an indication of future performance satisfies the following conditions

5.4.1 it is not based on and does not refer to simulated past performance;

5.4.2 it is based on reasonable assumptions supported by objective data; and

- 5.4.3 it contains a prominent warning that such forecasts are not a reliable indicator of future performance.
- 5.5 The Investee shall ensure that all materials that it posts on the Pitch, including in the forums, are legal, decent, honest and not defamatory or unjustifiably denigrating of any person and that the same are accurate, complete, not misleading and otherwise clear and fair. The Pitch should contain adequate risk warnings concerning the investment for the Investor, and should not include any emphasis of any benefits to the Investor without a fair and prominent indication of the relevant risks. The Investee acknowledges that the Pitch will be reviewed by Crowdsphere members generally and that, whilst Crowdsphere shall endeavour to impose duties of confidentiality on such persons, materials posted on the Pitch will, to some extent, be in the public domain and the Investee should assume that information included in its Pitch will not necessarily be kept confidential. The Investee agrees that it alone shall bear all responsibility for the content of the Pitch and shall indemnify and hold Crowdsphere harmless from any loss, liability, cost or expense resulting directly or indirectly from the same. In addition, the Investee shall ensure that the Pitch contains all information that would be relevant to a potential investor of the Investee, to the extent reasonably practicable, that the Pitch is regularly monitored and kept up to date, and shall ensure that any relevant updates are adequately communicated to current and prospective Investors either through the forum, the Pitch, the 7 working day confirmation email or otherwise.

6. Regulation and Liability

- 6.1 The Investee, as a member of Crowdsphere, acknowledges and accepts that the Website includes a forum which is intended as a service to Investees to put them in contact with Investors, and that Crowdsphere's investigation of the Investees and the content of their Pitches has been very limited, and accordingly that Crowdsphere makes no warranties or representations and assumes no liability in respect of the Investees or the content of their Pitches.
- 6.2 The Investee warrants and represents to Crowdsphere that it shall comply with any terms and conditions associated with the use of the forums on the Website, and acknowledges that Crowdsphere will in its absolute discretion have the power to determine whether any posts breach this clause 6.2.
- 6.3 The Investee is responsible for its Constitution and any disclosure to investors of differences from the Crowdsphere suggested Constitution. Crowdsphere has no liability for and does not guarantee successful investment in the Investee Company as a result of a Pitch on the Crowdsphere website. Crowdsphere has no responsibility for Investors who do not proceed with investment following receipt of the seven working day email to Investors.
- 6.4 The Investee acknowledges that the approval of the Pitch as a financial promotion by Crowdsphere, or the proposed investment in an Investee by any officer or employee of Crowdsphere or its affiliates is not an indication of approval of the Pitch

generally, and the Investee confirms that it shall take no inference from or make any reference to the same.

7. Termination

- 7.1 Subject to clause 7.3, the agreement constituted by these terms between Crowdsphere and the Investee shall terminate and cease to be effective forthwith upon the earlier of:-
- 7.1.1 the Investee serving 7 days written notice on Crowdsphere at Crowdsphere's registered office confirming such termination; or
 - 7.1.2 the Investee achieving the raising of committed funds from members of Crowdsphere to the target level provided to Crowdsphere by the Investee and the issue in consequence of shares to Crowdsphere members and the conclusion of all other arrangements relating to the relevant investment as provided herein.
- 7.2 Crowdsphere may terminate this agreement at any time in the event that:
- 7.2.1 the Investee breaches these Investee terms;
 - 7.2.2 Crowdsphere suspects that the officers of the Investee have been involved in any criminal activities
 - 7.2.3 the investee becomes insolvent; or
 - 7.2.4 on the service of 7 working days' written notice to the Investee
- 7.3 If an Investee has an outstanding or incomplete order for investment from Investors which has not been resolved in accordance with clause 4, the Investee may only terminate this Agreement if it has firstly served written notice by email on Crowdsphere and secondly, has withdrawn its Pitch from the Website, and if a 7 working day confirmation email has been issued, instructed Crowdsphere to communicate a cancellation to all potential Investors.
- 7.4 Once a Pitch reaches its target level of investment in accordance with clause 4.1.1 and following the expiry of the 7 working day confirmation email to the investor during which time the Investor has not withdrawn its order the subscribe for shares, a formal contract has been created between the Investee and the Investor for the issue of shares direct on such terms as were offered to the relevant Investors by the Investee in the Pitch, the Investee is bound to complete the share issue, and Crowdsphere shall have no further obligations or involvement in the investment or the Investee.
- 7.5 The following terms shall be continuing notwithstanding termination of this Agreement: clauses 1.1.3, 1.1.10, 2.2, 3, 5.5, 6, 8, 11, 12 and this clause 7.5.

8. Complaints and queries

- 8.1 Should an Investee have any complaints or queries about the services provided by Crowdsphere or this agreement, they should contact Crowdsphere on 04 974 9269.
- 8.2 Complaints may also be addressed directly to the Financial Services Complaints Limited on 0800 347 257 or by email to info@fscl.org.nz.
- 8.3 Communications with, to or from Crowdsphere shall be in the English language.

9. Waiver

- 9.1 No failure or delay by a party to exercise any right or remedy provided under this agreement or by law shall constitute a waiver of that or any other right or remedy, nor shall it preclude or restrict the further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy shall preclude or restrict the further exercise of that or any other right or remedy.

10. No Partnership or Agency

- 10.1 Nothing in this agreement is intended to, or shall be deemed to, establish any partnership or joint venture between any of the parties, constitute any party the agent of another party, nor authorise any party to make or enter into any commitments for or on behalf of any other party.

11. Assignment and Variation

- 11.1 An Investee's membership in Crowdsphere is non-transferable, and the provisions of this agreement shall not be assigned, transferred, mortgaged, charged or otherwise encumbered without the written consent of Crowdsphere.
- 11.2 No variation of this agreement shall be effective unless it is in writing and signed by the parties (or their authorised representatives).

12. Notices

- 12.1 Any notice or other communication required to be given to a party under or in connection with this contract shall be in writing and shall be delivered by hand to its registered office (if a company) or (in any other case) its principal place of business or residential address, or sent by email to the email address notified to the other party in accordance with this agreement and followed by post. The email address for the service of notices on Crowdsphere is support@crowdsphere.co.nz.
- 12.2 Any notice or communication shall be deemed to have been received if delivered by hand, on signature of a delivery receipt or at the time the notice is left at the proper address, or if sent by email, at 9.00 am on the next working day after transmission.

13. Governing law and jurisdiction

- 13.1 This agreement and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with the law of New Zealand.
- 13.2 The parties irrevocably agree that the courts of New Zealand shall have non-exclusive jurisdiction to settle any dispute or claim that arises out of or in connection with this agreement or its subject matter or formation (including non-contractual disputes or claims).

PLEASE CONFIRM YOUR ACCEPTANCE OF THESE TERMS BY SIGNING BELOW. If you do not understand any of the terms set out in this agreement or have any queries, please obtain independent advice before proceeding.

Signed *Date*

DIRECTOR, DULY AUTHORISED FOR AND ON BEHALF OF THE BOARD OF THE INVESTEE COMPANY