Dear [ ],

Scottish Enterprise Funding Award
Early Stage Growth Challenge Fund

Thank you for your application to the Early Stage Growth Challenge Fund for funding (the “Application”). On behalf of Scottish Enterprise, I am delighted to offer the Recipient (as defined below) the Funding (as defined below).

Details of Funding

<table>
<thead>
<tr>
<th>the “Recipient” or “You”</th>
<th>Company name:</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Registered number:</td>
</tr>
<tr>
<td></td>
<td>Registered address:</td>
</tr>
</tbody>
</table>

| Amount of Funding | We offer you a grant of £[insert amount] (the “Grant”) and a convertible loan of £[insert amount] (the “Loan”). The Grant and Loan together are referred to as the “Funding”. |
|-------------------| For the avoidance of doubt, if the Grant is nil (£0.00), any conditions of the Early Stage Growth Challenge Fund Standard Terms (as defined below) relating exclusively to the Grant shall not apply. |

| the “Agreement” | The Application, this Offer Letter, the Early Stage Growth Challenge Fund Standard Terms (each as defined below) and the confirmation by one of the directors of the Recipient (as set out at the end of this Offer Letter). |

| the “Loan Purpose” | You will use the Loan towards costs in relation to your ongoing business in line with the cashflows and any other information submitted in the Application and supporting documents. |
| **the “Grant Purpose”** | You will use the Grant for eligible costs (being salary costs, overheads, materials, consultants and subcontractors, fees for trials and testing, technical manuals, intellectual property costs, market assessment, training costs, travel costs and expenses, accountancy fees, equipment costs, equipment expenditure and leased equipment in relation to research & development activities as outlined in your business plan and supporting information) as set out in the Application guidance and for no other costs whatsoever. |
| **the “Business Location”** | [insert address]. |
| **Costs that Funding cannot be used for** | See Condition 2 (Funding Purpose) of the Early Stage Growth Challenge Fund Standard Terms (as defined below). |
| **State Aid** | The Funding is awarded through the COVID-19 Temporary Framework for UK authorities (SA.56841), and under section 3.1 of the European Commission Temporary Framework for state aid measures to support the economy in the current COVID-19 outbreak (adopted on 19 March 2020 and subsequently amended) (the “Temporary Framework”).

The maximum amount of aid that a company may receive under section 3.1 of the Temporary Framework is €800,000 (€120,000 per undertaking active in the fishery and aquaculture sector or €100,000 per undertaking active in the primary production of agricultural products). The Funding will be relevant if you wish to apply, or have applied, for any other aid through the Temporary Framework. You must retain this letter for four years after the conclusion of the UK’s transition from the EU and produce it on any request from the UK public authorities or the European Commission.

If you are active in the processing and marketing of agricultural products, you must not pass the Funding (in whole or in part) to primary producers.

We are obliged to make information about the Funding publicly available on the EU Competition database website and by your acceptance you consent to this. |
| **Standard Terms** | The Funding is subject to the terms and conditions set out in this letter (the “Offer Letter”) and the early stage growth challenge fund standard terms as set out in the schedule to this Offer Letter (the “Early Stage Growth Challenge Fund Standard Terms”). Any terms with a specific meaning in the Early Stage Growth Challenge Fund Standard Terms means the same in this Offer Letter. |
| **Payment of the Funding** | By accepting the terms of this Offer Letter, you irrevocably request drawdown of the Funding and, subject to the Early Stage Growth Challenge Fund Standard Terms, Scottish Enterprise will pay the Funding to the bank account notified in the Application within five (5) Business Days of the later of (a) receipt by Scottish Enterprise of your countersignature of this Offer Letter and (b) satisfaction in full of the Conditions Precedent (if any) (as defined below) (to the satisfaction of Scottish Enterprise). |
### Loan Interest

The Loan shall be interest free during the 12 month period following the date of drawdown. Thereafter, the rate of interest payable on the Loan is 8% per annum. All accrued interest on the Loan shall be either (i) paid by the Recipient on the Loan Repayment Date (as defined below); or (ii) capitalised and added to the principal amount of the Loan and converted into Conversion Shares on the date the principal amount of the Loan is converted into Conversion Shares in accordance with the Early Stage Growth Challenge Fund Standard Terms.

### “Loan Repayment Date”

The Loan (together with accrued interest) will be repaid in full in one amount on the third anniversary of the date of drawdown of the Loan unless otherwise converted into Conversion Shares prior to or at the Loan Repayment Date in accordance with the Early Stage Growth Challenge Fund Standard Terms.

### “Conditions Precedent” and satisfaction of them

[List CPs]

[If no CPs – state “None”]

If these Conditions Precedent are not satisfied in full (to the satisfaction of Scottish Enterprise) within thirty (30) days of your countersignature of this Offer Letter (or such other period as may be agreed by Scottish Enterprise in writing), this Offer Letter will automatically terminate and lapse and be of no further effect.

### Service Addressees for Notices

<table>
<thead>
<tr>
<th>Scottish Enterprise:</th>
</tr>
</thead>
<tbody>
<tr>
<td>For the attention of: Kerry Sharp</td>
</tr>
<tr>
<td>Email address: <a href="earlystagegrowthchallengefund@scotent.co.uk">email</a></td>
</tr>
<tr>
<td>Postal address: Atrium Court, 50 Waterloo Street, Glasgow, G2 6HQ</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Recipient:</th>
</tr>
</thead>
<tbody>
<tr>
<td>For the attention of: [name/title]</td>
</tr>
<tr>
<td>Email address:</td>
</tr>
<tr>
<td>Postal address:</td>
</tr>
</tbody>
</table>

### Contact us

If you have any questions, please get in touch with us as follows-

#### Scottish Enterprise Contact Details

For the attention of: Kerry Sharp

Email address: [email](earlystagegrowthchallengefund@scotent.co.uk)

The Agreement constitutes the whole terms upon which the Funding is provided to you. Any definitions or specific terms in this Offer Letter shall have the same meaning as in the Early Stage Growth Challenge Fund Standard Terms and the Application and vice versa.

In the event of any conflict between any provision of this Offer Letter and the terms of the Application or the Early Stage Growth Challenge Fund Standard Terms, the provisions of this Offer Letter shall prevail.

This Offer Letter may be executed in counterparts. Where executed in counterparts:

(a) the Agreement shall not take effect until all of the counterparts have been delivered; and
(b) delivery will take place on the date of last execution by the Recipient and Scottish Enterprise of this Offer Letter as evidenced by the dates set out in the signature blocks to this Offer Letter.

Where not executed in counterparts, the Agreement shall take effect on the date of last execution by the Recipient and Scottish Enterprise of this Offer Letter as evidenced by the dates set out in the signature blocks to this Offer Letter.

**How to accept**

If you wish to accept this offer of Funding, please let us know by returning a signed PDF to earlystagegrowthchallengefund@scotent.co.uk within 10 Business Days of the date of this Offer Letter. If we don’t receive your acceptance by then, this Offer Letter will automatically expire and will be of no further effect.

Yours sincerely,

[            ]
Scottish Enterprise

________________________________________________________________________

**Acceptance**

[Recipient name] accepts the offer of Funding on the terms of the Agreement.

Signed_________________________ (director)

By ____________________________ (print name)

At _____________________________ (place)

On _____________________________ (date of signature)

**Director’s Confirmation**

I, the undersigned, confirm that I am a director of the Recipient and that the acceptance of, and entry into, the Agreement has been approved by a resolution of the board of directors of the Recipient properly passed and the Recipient has taken all necessary corporate actions to authorise its entry into and performance and delivery of the Agreement.

Signed..............................................................................................................

Full Name ...........................................................................................................

Date ......................................................................................................................
SCHEDULE TO OFFER LETTER
SCOTTISH ENTERPRISE EARLY STAGE GROWTH CHALLENGE FUND STANDARD TERMS AND CONDITIONS

These standard terms and conditions apply to the Funding agreed to by Scottish Enterprise under a duly executed Offer Letter with the Recipient, each as referred to below, in the Application and the Offer Letter.

1. DEFINITIONS AND INTERPRETATION

1.1 Definitions

In these Terms:

“Agreement” means collectively the Offer Letter (including, without limitation, the director confirmation by a director of the Recipient, as set out at the end of the Offer Letter), the Application and these Terms.

“Application” is as defined in the Offer Letter.

“Articles” means the articles of association of the Recipient, as amended or superseded in accordance with these Terms.

“Board” means the board of directors of either (i) the Recipient; or (ii) any subsidiary of the Recipient (as applicable) from time to time.

“Business Day” means any day (other than a Saturday or Sunday) when commercial banks are open for ordinary banking business in Glasgow.

“Business Location” is as described in the Offer Letter.

“Confidential Information” means any information disclosed by one party to the other under or pursuant to the Agreement, whether verbally or written (including in electronic format) which is designated as confidential or which should be reasonably regarded as confidential, including the Agreement and the terms contained therein.

“Conditions Precedent” is as defined in the Offer Letter.

“Controller” has the meaning given to such term in the Data Protection Law.

“Conversion Date” means in the case of a conversion under:

(1) Condition 12.2 or Condition 12.3, simultaneously with the completion of the relevant Conversion Event or, in the case of a Deemed Conversion Notice, on such date as SE shall specify; or

(2) Condition 12.5, on the date specified in the Conversion Request or, where Fair Value has been determined in accordance with Condition 14, the date specified in Condition 14.4 or 14.7 (as applicable).

“Conversion Event” means a Sale, a Listing, or any Relevant Fund Raising, whichever is the earlier.

“Conversion Event Notice” shall have the meaning set out in Condition 12.1.1.

“Conversion Notice” shall have the meaning set out in Condition 12.2.

“Conversion Price” means:

(1) a price per Share equal to the amount which is 15% less than the price paid per Share on a Sale (other than an Asset Sale), Listing or Relevant Fund Raising prior to the Loan Repayment Date; or

(2) on an Asset Sale or on a conversion pursuant to a Conversion Request: (i) a price per Share which is 15% less than the lowest price paid per Share pursuant to any Relevant Fund Raising during the term of the Loan; or (ii) in the event that there has been no Relevant Fund Raising at the date of the Asset Sale or Conversion Request (as appropriate), a price per Share which is 15% less than the Fair Value determined in accordance with Condition 14.

“Conversion Request” means a notice in writing from SE to the Recipient that SE wishes to convert all or any part of the Loan (and all accrued interest thereon) into Shares at the Conversion Price and specifying the proposed date upon which SE wishes such conversion to take place.

“Conversion Shares” means, as determined by SE in its absolute discretion, either: (a) in the case of a Conversion Event following upon a Relevant Fund Raising at SE’s option either (i) the class of shares issued under that Relevant Fund Raising or (ii) Senior Shares or (b) on any other Conversion Event or following service of a Conversion Request or a Deemed Conversion Notice either (i) Senior Shares, or (ii) Ordinary Shares. If SE fails to specify the class of shares as above then ordinary shares shall be issued.

“Data Protection Law” means any law relating to data protection and the processing of personal data from time to time under the Agreement including;

(1) the Data Protection Act 2018;

(2) the GDPR;

(3) the Privacy and Electronic Communications (EC Directive) Regulations 2003 (as may be amended by the proposed Regulation on Privacy and Electronic Communications); and

(4) any legislation that, in respect of the United Kingdom, replaces, or enacts into United Kingdom domestic law, the GDPR, the proposed Regulation on Privacy and Electronic Communications or any other law relating to data protection, the processing of personal data and privacy as a consequence of the United Kingdom leaving the European Union.

“Directors” means the board of directors for the time being of the Recipient.

“Early Repayment Event” means each of the events set out in Conditions 16.6.1 (Sale or Listing) to 16.6.9 16.6.11 (Grant) (inclusive).

“Equity Securities” has the meaning given in section 560 of the Companies Act 2006.

“Fair Value” shall have the meaning set out in Condition 14.

“Finance Documents” means the Agreement and any other document required by SE in connection with making the Loan available, either as identified in the Application and/or the Offer Letter or as otherwise requested by SE in writing.

“Funding” means the funding referred to in the Offer Letter.


“Grant” means the grant referred to in the Offer Letter.

“Grant Purpose” is as defined in the Offer Letter.

“Independent Expert” shall have the meaning set out in Condition 14.9.

“IPR” means patents, inventions, trademarks, service marks, logos, get-up, trade names, goodwill, internet domain names, rights in designs, copyright and related rights (including rights in computer software), moral rights, topography rights, database rights, rights in know-how, trade secrets and other intellectual property rights, in each case whether registered or unregistered and including renewals, extensions, applications for registration, rights to apply and rights of action in relation to the foregoing, and all rights or forms of protection having equivalent or similar effect anywhere in the world.

“Listing” means a successful application being made in relation to all or any of the share capital of the Recipient for admission to listing to the Financial Conduct Authority.
and admission to trading on the Official List, the AIM market operated by London Stock Exchange plc, NASDAQ Europe or NASDAQ or a successful application being made to any other recognised investment exchange or overseas investment exchange (as such expressions are defined in the Financial Services and Markets Act 2000);

“Loan” means the loan as defined in the Offer Letter.

“Loan Purpose” is as defined in the Offer Letter.

“Loan Repayment Date” is as defined in the Offer Letter.

“Offer Letter” means the signed Offer Letter between the Recipient and SE as appended to these Terms.

“Ordinary Shares” means the ordinary shares in the capital of the Recipient.

“Party” or “Parties” means SE and you.

“Permitted Disposals” means any disposal:
(1) made on market standard arm’s length terms in the ordinary course of trade;
(2) of worn, damaged or defective assets which have been replaced; and
(3) of assets that have become obsolete and are no longer required in order to carry out the business of the Recipient or, if applicable, a member of the Recipient’s Group, as it is being carried out at the date of the Agreement for cash.

“Permitted Security” means:
(1) any lien arising by operation of law and in the ordinary course of trading; and
(2) any other Security granted by the Recipient in respect of financial indebtedness incurred by the Recipient on arm’s length terms, but excluding any Security granted by the Recipient in support of loans made by any shareholder or director of the Recipient (unless SE has given the Recipient its prior written consent).

“Personal Data” means the personal data being processed by either the Recipient or SE pursuant to the terms of the Agreement.

“Process” has the meaning given to such term in the Data Protection Law.

“Published Privacy Notice” means SE’s published privacy notice from time to time, which privacy notice can be found at https://www.scottish-enterprise.com/help/privacy-notice/your-rights.

“Recipient” or “you” means the recipient under the Agreement, as identified in the Offer Letter. Where more than one entity is described in the Offer Letter, “you” includes all such entities. Each of those entities shall be liable on a joint and several basis for the matters set out in the Agreement. “Recipient” and “you” shall include your parent company for the purposes of Conditions 16.6.4, 16.6.6, 16.6.7 and 18.3.

“Recipient’s Group” means the Recipient and any subsidiary undertaking or parent undertaking from time to time of the Recipient, and any subsidiary undertaking of a parent undertaking of the Recipient.

“Regulatory Body” or “Bodies” means all national and supranational government and regulatory authorities including, without limitation, the Scottish Government, UK Government, European Commission, Auditor General, Accounts Commission and the European Court of Auditors.

“Relevant Fund Raising” means any subscription for Shares after the date hereof by third party investors other than SE on a bona fide, arm’s length basis, or any other event in respect of which the Recipient and SE agree in writing at the time constitutes a “Relevant Fund Raising” (excluding any Conversion Shares issued pursuant to the conversion of the Loan or the exercise of any options or warrants in the share capital of the Recipient).

“Sale” means the sale of: (a) any part of the share capital of the Recipient to any person resulting in that person together with any person acting in concert (within the meaning given in the City Code on Takeovers and Mergers as in force from time to time) holding more than 50 per cent of the share capital of the Recipient, or (b) the business of, or all or substantially all of the assets of, the Recipient (an “Asset Sale”);

“Senior Shares” the most senior class of shares in the capital of the Recipient in respect of capital and dividends from time to time.

“SE Signatory” means an authorised signatory of SE.

“Scottish Enterprise Group” means Scottish Enterprise, any subsidiary for the time being of Scottish Enterprise and any company, corporation or other body of persons which shall have acquired the whole or substantially the whole of the undertaking of Scottish Enterprise or any subsidiary of such company, corporation or body and any other body to which the statutory functions of Scottish Enterprise have been delegated or a Scottish Enterprise Successor and the expression “Scottish Enterprise Group” shall be construed accordingly.

“Scottish Enterprise Successor” means any party succeeding in whole or in part to the interest of Scottish Enterprise.

“Security” means a mortgage, charge, standard security, pledge, lien, assignment in security or other agreement having a similar effect.

“Shares” means the shares in the capital of the Recipient.

“Sterling” and “£” means the lawful currency for the time being of the United Kingdom.

“Subsidiary” means an entity controlled, directly or indirectly, by the Recipient or by a Subsidiary of the Recipient.

“Taxes” means any tax, levy, impost, duty or other charge or withholding of a similar nature (including any penalty or interest payable in connection with any failure to pay or any delay in paying any of the same).

“Terms” means these early stage growth challenge fund standard terms and conditions.

“We”, “us”, “our” and “SE” means Scottish Enterprise of Atrium Court, 50 Waterloo Street, Glasgow, G2 6HQ established under the Enterprise and New Towns (Scotland) Act 1990, and its successors, assignees and transferees from time to time.

1.2 Interpretation

1.2.1 Any reference to “writing” or “written” means any method of reproducing words in a legible and non-transitory form (excluding, for the avoidance of doubt, email).

1.2.2 References to a “company” include any company, corporation or other body corporate wherever and however incorporated or established.

1.2.3 References to a “person” include any company, partnership, joint venture, firm, association, trust and any governmental or regulatory authority.

1.2.4 The headings in these Terms are inserted for convenience only and do not affect the construction of the Agreement.

1.2.5 Unless the context otherwise requires, words in the singular include the plural and vice versa and a reference to any gender includes all other genders.

1.2.6 References to Conditions are to the conditions set out in these Terms.

1.2.7 References to any statute or statutory provision include a reference to that statute or statutory provision as amended, consolidated or replaced from time to time (whether before or after the date of the Agreement) and include any subordinate legislation made under the relevant statute or statutory provision.
1.3 **Conflict of Terms**
These Terms are subject to the terms set out in the Offer Letter and, in the event of any conflict between any provision of the Offer Letter, the Application and these Terms, the provisions of the Offer Letter shall prevail. If there is conflict between any provisions of the Application and these Terms (on which the Offer Letter is silent), these Terms shall take precedence.

2. **FUNDING PURPOSE**
You will not use the Funding to:
2.1 pay any personal costs or any costs unrelated to the Recipient;
2.2 repay any financial indebtedness (including, but not limited to, bank borrowings, venture debt funding and any director, shareholder or other related party loans) other than in the ordinary course of business;
2.3 make any dividends, other distributions or transfer of funds to shareholders or associated companies, make any bonus or other discretionary payment, whether via an advisory or bonus fee, to any employee, consultant, contractor or director of the Recipient other than in accordance with any of its contractual obligations in effect prior to the date of the Application and in the ordinary course of business;
2.4 to pay for acquisitions other than assets in the normal course of business; or
2.5 to pay advisory fees, placement fees or bonuses to any corporate finance entity, investment bank or similar service in connection with the Funding.

**THE GRANT**

3. **CONDITIONS AND PURPOSE**
3.1 You must comply with any conditions set out in the Offer Letter where they are to be satisfied before the Grant is paid.
3.2 By accepting the Offer Letter, you confirm to us that you will use the Grant only in relation to the Grant Purpose, in accordance with the Application and this Agreement.

4. **PAYMENT**
The Grant will only be made available if on the date of acceptance by the Recipient of the terms of the Offer Letter and on the proposed date of payment of the Grant: no Early Repayment Event is continuing or would result from the Grant being made available; and
4.1 the representations and warranties set out in Conditions 17.1 to 17.9 (inclusive) and the information provided by you in the Application are true and accurate; and we shall have no obligation to make any payment of Grant, and we may withhold payment of, or reclaim (together with interest), all or any part of the Grant if an Early Repayment Event has occurred or any event has occurred which, with the giving of notice or lapse of time or other condition, may constitute an Early Repayment Event.
4.2 No payment of Grant will include any element of VAT unless agreed by us.

**THE LOAN**

5. **CONDITIONS**
You must comply with any conditions (including Conditions Precedent) set out in the Offer Letter where they are to be satisfied before the Loan is paid. By accepting the Offer Letter you confirm to us that you will use the Loan only for the Loan Purpose, in accordance with the Application and the Agreement.

6. **PAYMENT OF LOAN**
Subject to the terms of the Agreement, SE will make the Loan available in one amount to the Recipient in accordance with the Offer Letter.

7. **CONDITIONS OF DRAWDOWN**
7.1 **Conditions precedent**
The availability of the Loan is subject to receipt by SE (in form and substance satisfactory to SE) of any information, documents or evidence specified in the Offer Letter as a Condition Precedent.
7.2 **Conditions to availability**
The Loan will only be made available if on the date of acceptance by the Recipient of the terms of the Offer Letter and on the proposed date of payment of the Loan:
7.2.1 no Early Repayment Event is continuing or would result from the Loan being made available; and
7.2.2 the representations and warranties set out in Conditions 17.1 to 17.9 (inclusive) and the information provided by you in the Application are true and accurate; and we shall have no obligation to make any payment of Loan, and we may withhold payment of, or reclaim (together with interest), all or any part of the Loan if an Early Repayment Event has occurred or any event has occurred which, with the giving of notice or lapse of time or other condition, may constitute an Early Repayment Event.

8. **INTEREST AND FEES**
8.1 **Rate of Interest**
During the period commencing on and from the date of drawdown up to (and including) the first anniversary of the date of drawdown of the Loan, no interest will accrue on the Loan. Thereafter, interest will accrue on the Loan at the fixed rate specified in the Offer Letter.
8.2 **Payment of Interest**
Accrued interest will be paid on the Loan Repayment Date.
8.3 **Default Interest**
If any amount is not paid when due and payable under the Agreement, SE may by notice to the Recipient charge a default interest rate of 5% per annum above the rate payable pursuant to Condition 8.1 (Rate of Interest) on the unpaid amount until it is paid. Such default interest will be payable on demand by SE.

9. **REPAYMENT**
9.1 The Loan will be repaid by the Recipient in one amount on the Loan Repayment Date.
9.2 Any repayment under the Agreement shall be made together with accrued interest on the amount repaid.
9.3 The Recipient may not re-borrow any part of the Loan which is repaid.

10. **VOLUNTARY PREPAYMENT**
10.1 The Recipient may, if (a) it gives SE not less than five (5) Business Days’ prior notice (or such shorter period as SE may agree) and (b) SE give their prior written consent
to such prepayment, prepay the whole (but not part) of the Loan but subject to Condition 11.

10.2 Any notice of prepayment given by the Recipient under this Condition shall be irrevocable.

11. TERMS OF PREPAYMENTS

11.1 Any prepayment under the Agreement shall be made together with accrued interest on the amount prepaid and without any premium or other penalty.

11.2 The Recipient may not re-borrow any part of the Loan which is prepaid.

11.3 In the event that the Recipient voluntarily prepa"y the Loan and, within six (6) months of the date of prepayment, there is a subsequent Sale or Listing such that the amount that SE was repaid is less than the amount that it would have been entitled had the Loan converted into Conversion Shares pursuant to such Sale or Listing (as applicable), then the Recipient shall pay to SE an amount equal to such shortfall.

12. CONVERSION

12.1 If and when a Conversion Event is proposed, the Recipient shall give SE not less than thirty (30) Business Days' prior written notice (a "Conversion Event Notice") of the proposed Conversion Event specifying (to the best of its knowledge) the terms and prospective date of the Conversion Event.

12.2 Upon receipt by SE of a Conversion Event Notice, SE may, in order to convert the Loan (or any part of the Loan) (and all accrued interest thereon) at the Conversion Price, serve a notice upon the Recipient (a "Conversion Notice"), including a statement setting out the amount of the Loan (and all accrued interest thereon) to be converted into Shares.

12.3 In the event that the Recipient has failed to issue a Conversion Event Notice, SE may serve a notice upon the Recipient (a "Deemed Conversion Notice") including a statement setting out the amount of the Loan (and all accrued interest thereon) to be converted into Shares.

12.4 A Conversion Notice served as a result of the receipt by SE of a Conversion Event Notice and a Deemed Conversion Notice shall be conditional upon the occurrence of the Conversion Event (save to the extent it has already occurred in the case of a Deemed Conversion Notice) and SE shall have the right to withdraw any Conversion Notice or Deemed Conversion Notice at any time prior to the unconditional completion of the Conversion Event. The Shares arising on conversion shall be issued in accordance with Condition 13.

12.5 SE may at any time issue a notice in writing to the Recipient that it wishes to convert all or any part of the Loan into Shares and specifying the proposed date upon which SE wishes such conversion to take place (a "Conversion Request"). The conversion of the Loan pursuant to a Conversion Request shall take place in accordance with Condition 13.

12.6 For the avoidance of doubt, in the event that SE elects to convert any part of the Loan only in accordance with this Condition 12 or does not elect to convert any of the Loan at any time, then SE shall be entitled to convert all or any part of the amount remaining outstanding on the Loan (and all accrued interest thereon) at any time or times subsequent following such conversion pursuant to Conditions 12.1 to 12.5.

13. PROCEDURES ON CONVERSION

13.1 On the Conversion Date, the Directors shall convert the Loan or the relevant part of the Loan (as applicable) (and/or all accrued interest thereon) into such number of new fully paid Conversion Shares at such Conversion Price (as applicable), and in accordance with the following provisions of Conditions 13.2 to 13.6 (and, if relevant, Condition 14).

13.2 Shares arising on conversion of the Loan or the relevant part of the Loan (and/or all accrued interest thereon) shall be issued and allotted by the Recipient on the Conversion Date.

13.3 The Shares arising on conversion of the Loan or the relevant part of the Loan (and/or all accrued interest thereon) shall be credited as fully paid and rank pari passu with relevant Shares of the same class in issue on the Conversion Date and shall carry the right to receive all dividends and other distributions declared after the Conversion Date.

13.4 The entitlement of SE to a fraction of a Share shall be rounded up to the nearest whole number of Shares which result from the conversion of the Loan or the relevant part of the Loan (and/or all accrued interest thereon).

13.5 The Recipient will undertake to act in good faith and in consultation with SE to ensure that Shares arising on the conversion of the Loan or the relevant part of the Loan (and/or all accrued interest thereon) whether pursuant to a Relevant Fund Raising (or any previous Relevant Fund Raising during the term of the Loan) or otherwise shall have, at a minimum, and in addition to the right to appoint an observer pursuant to Condition 15, the same rights and protections as the Shares issued to investors in connection with such Relevant Fund Raising or otherwise.

13.6 The Recipient undertakes that, while any of the Loan remains outstanding, it shall (pending either the repayment of the Loan (and/or all accrued interest thereon) or the issue of the Shares on conversion, each in accordance with the provisions of these Terms):

13.6.1 not alter the Articles in any way which would adversely affect the rights of SE without the prior written consent of SE; and

13.6.2 not proceed with a Relevant Fund Raising, Sale or Listing without first obtaining sufficient authority to issue equity share capital in the Recipient to satisfy in full, (without the need for the passing of any further resolutions of its shareholders), the outstanding rights of conversion for the time being attaching to the Loan (and/or all accrued interest thereon) pursuant to Condition 12, and without first having to offer the same to any existing shareholders of the Recipient or any other person.

14. VALUATION OF SHARES

14.1 "Fair Value" shall be:

14.1.1 such price as is agreed, within ten (10) Business Days of the date of the Conversion Request (or Conversion Notice or Deemed Conversion Notice (as applicable)), as being the fair value per Conversion Share by SE and the Recipient; or

14.1.2 failing agreement as to the Fair Value under Condition 14.1.1, the price per Conversion Share which an Independent Expert reasonably believes should be taken into account.

(a) if the Recipient is then carrying on business as a going concern, on the assumption that it will continue to do so;
(b) valuing the total number of Shares in issue and dividing by the total number of Shares in issue (taking account of any preferential share rights); and
(c) reflecting any other factors which the Independent Expert reasonably believes should be taken into account.
14.2 The Independent Expert shall act as an expert and not as an arbiter and its determination shall be final and binding on the parties (in the absence of fraud or manifest error).

14.3 The Independent Expert shall be requested to determine the Fair Value and to provide a certificate of such Fair Value to the Directors and to SE within twenty (20) Business Days of the appointment of the Independent Expert.

14.4 Where Fair Value has been determined in accordance with Condition 14.1.1, the amount of the Loan to be converted pursuant to the Conversion Notice or the Conversion Request (as applicable), shall automatically convert into fully paid Conversion Shares at the Conversion Price on either (a) the proposed date for conversion specified in the Conversion Request (or Conversion Notice (as applicable)), or (b) if such proposed date has passed, on the date falling five (5) Business Days after the determination of Fair Value.

14.5 Where Fair Value has been determined in accordance with Condition 14.1.2, SE shall within fourteen (14) Business Days of the receipt of the certificate of Fair Value give notice to the Recipient as to whether or not SE wishes to proceed with the proposed conversion and the amount of the Loan to be converted (the “Confirmation Notice”).

14.6 If the Confirmation Notice specifies that SE does not wish to proceed with the conversion, or if SE fails to give a Confirmation Notice, the Conversion Request (or Conversion Notice (as applicable)) shall be deemed to have lapsed, subject always to SE’s right to serve a further Conversion Request.

14.7 If the Confirmation Notice specifies that SE wishes to proceed with the conversion of the amount of the Loan to be converted pursuant to the Conversion Request (or Conversion Notice (as applicable)), the conversion shall take place on the date falling five (5) Business Days after the service of the Confirmation Notice (or as otherwise agreed between SE and the Recipient).

14.8 The Recipient undertakes to co-operate fully with any Independent Expert and to provide the Independent Expert with such assistance and access to all accounting records or other relevant documents of the Recipient as the Independent Expert may require in order to form its opinion as to Fair Value. For the avoidance of doubt, any failure to comply with the foregoing shall be deemed to be a breach of the Agreement by the Recipient.

14.9 The “Independent Expert” shall be:

14.9.1 an independent firm of chartered accountants agreed by SE and the Recipient; or

14.9.2 in default of such agreement (or other failure to make an appointment or agree the terms of such appointment) within ten (10) Business Days following the expiry of the ten (10) Business Day period referred to in Condition 14.1.1, a firm of independent chartered accountants to be nominated on the application of SE by the President for the time being of the Institute of Chartered Accountants of Scotland.

14.10 The costs of the Independent Expert shall be borne by the Recipient unless, following determination of Fair Value by the Independent Expert: (a) SE decides not to proceed with the conversion, and (b) provided that the Recipient has, in the opinion of SE (acting reasonably), at all times complied with its obligations pursuant to Condition 14.8, in which case, SE shall pay the reasonable costs of the Independent Expert.

15. OBSERVER AND TRANSFER RIGHTS

SE shall, upon conversion of the Loan or any part of the Loan (and all accrued interest thereon) into Conversion Shares, have the right:

15.1 (at no cost to the Recipient) exercisable by notice in writing to the Recipient to require the appointment of an observer, who shall be entitled to receive notice of and all papers relating to all Board meetings and any meetings of committees appointed by the Board (including minutes of any such meetings) at the same time as these are sent to the Board or the committee (as applicable), attend all meetings of the Board or the committee (as applicable) and shall have the right to speak and be heard but not to vote at any such meetings; and

15.2 to transfer its shareholding in the Recipient to any other members or members of the Scottish Enterprise Group from time to time.

16. GENERAL TERMS APPLICABLE TO FUNDING

16.1 You must tell us as soon as any Early Repayment Event occurs, or as soon as you become aware that any of them are likely to happen.

16.2 On and at any time after the occurrence of any Early Repayment Event which is continuing, SE may, by written notice to the Recipient:

16.2.1 require a meeting with the Recipient within five (5) Business Days to discuss how the Early Repayment Event may be remedied or resolved (and the Recipient shall co-operate in good faith with any such request); and/or

16.2.2 vary or withhold payment of the Grant; and/or

16.2.3 declare that all sums previously paid by way of Grant are immediately due and payable, whereupon they shall become immediately due and payable; and/or

16.2.4 vary or withhold payment of the Loan; and/or

16.2.5 declare that all or part of the Loan, together with accrued interest, be immediately due and payable, whereupon they shall become immediately due and payable; and/or

16.2.6 declare that all or part of the Loan be payable on demand, whereupon they shall immediately become payable on demand by SE; and/or

16.2.7 exercise any or all of its rights, remedies, powers or discretion under the Agreement or available at law.

16.3 In relation to the Grant, our right to take the steps set out in Condition 16.2 will continue for ten (10) years from the last date of payment of any instalment of the Grant, irrespective of whether the Agreement has already terminated.

16.4 You agree that, save in the event of manifest error, a certificate signed by an SE Signatory shall be sufficient to ascertain conclusively and fix all sums due, resting and owing by you to SE (including any amount of Grant made over to you and repayable to SE by virtue of the provisions contained in the Agreement).

16.5 If SE notifies the Recipient that all or part of the Funding is immediately due and payable pursuant to Condition 16.2, then (unless SE in its absolute discretion determines otherwise) such sums which are subsequently repaid to SE by the Recipient shall be deemed to be applied in the
following order: (a) first, to the repayment of the Loan, and (b) second, to the repayment of the Grant.

16.6 An Early Repayment Event means any of the following events described in Conditions 16.6.1 (Sale or Listing) to 16.6.10 (Grant) inclusive:

16.6.1 Sale or Listing
The occurrence of a Sale or Listing.

16.6.2 Non-Payment
The Recipient does not pay on the due date any amount payable pursuant to the Agreement, unless its failure to pay is caused by administrative or technical error and payment is made within seven (7) days of its due date.

16.6.3 Breach of the Agreement
The Recipient does not comply with any provision of the Agreement unless such non-compliance is capable of remedy and is remedied by the Recipient within seven (7) days.

16.6.4 Misrepresentation
Any representation or statement made by the Recipient in the Finance Documents or any document delivered by or on behalf of the Recipient under or in connection with any Finance Document is or proves to have been incorrect or misleading, in each case in any material respect when made.

16.6.5 Cross default
Any indebtedness of the Recipient (or, if applicable, any member of the Recipient’s Group) is not paid when due, or any event of default (howsoever described) occurs in relation to any such indebtedness.

16.6.6 Insolvency
The Recipient: (i) is unable or admits inability to pay its debts as they fall due, (ii) is deemed to, or is declared to, be unable to pay its debts under applicable law, (iii) suspends or threatens to suspend making payments on any of its debts, or (iv) by reason of actual or anticipated financial difficulties, commences negotiations with one or more of its creditors (excluding SE) with a view to rescheduling any of its indebtedness.

16.6.7 Insolvency proceedings etc
Any proceeding or step is taken in relation to:
(a) the suspension of payments, a moratorium of any indebtedness, winding-up, examination, dissolution, administration or reorganisation (by way of voluntary arrangement, scheme of arrangement or otherwise) of the Recipient other than a solvent liquidation or reorganisation of the Recipient with the prior written approval of SE;
(b) a composition, compromise, assignment or arrangement with any creditor of the Recipient;
(c) the appointment of a liquidator, receiver, examiner, administrative receiver, administrator, compulsory manager or other similar officer in respect of the Recipient or any of its assets;
(d) the enforcement of any security interest over any assets of the Recipient, excluding anything clearly frivolous or vexatious which is discharged, stayed or dismissed within fourteen (14) days of commencement.

16.6.8 Disrepute caused by act/omission of Recipient etc
The Recipient or, if applicable, any member of the Recipient’s Group does, or omits to do, anything which may, in SE’s opinion (acting reasonably) bring SE, the Scottish Government or the Scottish Ministers into disrepute.

16.6.9 Operations in Scotland
The Recipient ceases or substantially reduces the scale of its operations at the Business Location as described in the Offer Letter or any of its other business premises in Scotland.

16.6.10 State aid
We are required to withhold payment of, or reclaim all or any part of the Funding, to the extent necessary to ensure that the Funding, either on its own or when taken together with other financial assistance given or likely to be given in respect of the Loan Purpose and/or the Grant Purpose, is within the rules on state aid laid down by any Regulatory Body from time to time.

In relation to the Grant only, if:
(a) we are required by any Regulatory Body to withhold payment of, or reclaim all or any part of the Grant;
(b) you receive funding in connection with the Grant Purpose, either in cash or in kind, from any public sector body (excluding SE);
(c) you wholly or substantially cease to, carry on business or to own or use any of the assets which are required for the Grant Purpose;
(d) the nature of the Grant Purpose changes such that it is no longer eligible for support under the relevant state aid scheme;
(e) you confirm to us in writing that you no longer wish to proceed with the Grant Purpose.

17. RECIPIENT REPRESENTATIONS
The Recipient, by accepting the Offer Letter, makes the representations and warranties set out in Conditions 17.1 to 17.9 (inclusive) to SE on the date of the Agreement.

17.1 Loan and Grant
17.1.1 The Recipient satisfies SE’s eligibility criteria.
17.1.2 The Loan is required for the Loan Purpose and the Grant is required for the Grant Purpose.

17.2 Status
17.2.1 It is a limited company, duly incorporated and validly existing under the law of its original jurisdiction of incorporation or formation and is not subject to any insolvency process.
17.2.2 It has the power to own its assets and carry on its business as it is being conducted and has taken all necessary action to authorise the Finance Documents.
17.2.3 It has the power and capacity to enter into, perform and deliver, and has taken all necessary action to authorise its entry into, performance and delivery of, the Agreement and the transactions contemplated by the Agreement.

17.3 No Misleading Information
The information, in written or electronic format, supplied by, or on behalf of it, to SE in connection with the Agreement was, at the time it was supplied or at the date it was stated to be given (as the case may be):
17.3.1 if it was factual information, complete, true and accurate in all material respects; and
17.3.2 if it was a financial projection or forecast, prepared on the basis of recent historical information and on the basis of reasonable assumptions and was fair and made on reasonable grounds at the time at which it was prepared; and
17.3.3 if it was an opinion or intention, made after careful consideration and was fair and made on reasonable grounds; and
17.3.4 not misleading in any material respect, nor rendered misleading by a failure to disclose other information, except to the extent that prior to the date of the Agreement it was amended, superseded or updated by more recent information supplied by, or on behalf of, the Recipient to SE, save that such amended, superseded or updated information is itself warranted in accordance with Conditions 17.3.1 to 17.3.4.

17.4 No Proceedings
There is no actual or threatened litigation, dispute resolution, proceeding or process (or any circumstances which could result in any such action being taken or process commenced), or any breach of any agreement, affecting it or, if applicable, any of the Recipient’s Group, which could have a material adverse effect on the Recipient.

17.5 Share Capital
None of the issued share capital of the Recipient is subject to any option, mortgage, charge or right of pre-emption other than statutory rights of pre-emption pursuant to Sections 561 and 562 of the Companies Act 2006 or those contained in its articles of association.

17.6 IPR
You confirm to us that (a) you own or have the right to use any and all rights in and to any IPR required to enable you to carry out the Grant Purpose and the Loan Purpose (as applicable), and (b) you will own or have the right to use all IPR generated by you or by any third party (including subcontractors or consultants) engaged to work relative to the Grant Purpose and the Loan Purpose (as applicable).

17.7 Insolvency
No corporate action, legal proceeding or other procedure or step is described in Condition 16.6.7 (Insolvency Proceedings) below has been taken, or to the knowledge of the Recipient, threatened, and none of the circumstances described in Condition 16.6.6 (Insolvency) below applies to the Recipient.

17.8 Compliance with Laws
Since incorporation, the Recipient has conducted its business and has dealt with its assets in all material respects in accordance with all applicable legal requirements, including but not limited to Data Protection Law, all relevant tax, social security, environmental and health and safety legislation, and has received no notices alleging any breach.

17.9 Security, Borrowing and Facilities
No Security exists over any of the present or future assets of the Recipient other than Permitted Security. The Recipient does not have any financial indebtedness outstanding other than: the Recipient’s bank overdraft facilities and all borrowings of the Recipient (including limits) are set out in the Application and the Recipient is not in breach of any of their terms and none of such facilities or terms of borrowing will be terminated as a result of the entry into of the Agreement.

18. UNDERTAKINGS
18.1 Information
The Recipient shall, for so long as the Loan remains outstanding or SE holds Shares in the capital of the Recipient following conversion of the Loan into Conversion Shares (as applicable):

18.1.1 supply to SE by electronic mail its monthly management accounts within 28 days of the end of each calendar month, or, if it does not produce monthly management accounts, its quarterly management accounts within 28 days of the end of each financial quarter of the Recipient. Notifications under this Condition and Conditions 18.1.2 to 18.1.3 and 18.2 shall be made by electronic mail to earlystagegrowthchallengefund@scotent.co.uk or to such other address as SE shall specify from time to time;

18.1.2 supply to SE by electronic mail, as soon as practicable (and in any event within 90 days after the close of each financial period), the audited accounts of the Recipient for that year or, in the absence of audited accounts, full (unabbreviated) unaudited accounts which meet such accounting standards as companies of the same size and nature as the Recipient are required to meet;

18.1.3 supply to SE by electronic mail such information as SE may require from time to time about the Grant Purpose, the Loan Purpose, the business, assets, finances, operations and prospects of the Recipient and, if applicable, each member of the Recipient’s Group for SE’s purposes including evaluating the annual report referred to below; and notify SE of threatened litigation, any offers likely to lead to Sale or Listing or any relocation of Recipient’s operations.

18.2 Annual Report
The Recipient shall, within thirty (30) days (or such later period as SE may specify) following each anniversary of the date of the Grant or Loan (or such other period as SE may specify) (“Annual Report Period”), supply to SE by electronic mail an annual report, in a form specified by SE from time to time, prepared by a firm of accountants and delivered by the Recipient to SE, which sets out the purposes for which the Funding has been applied by the Recipient in the Annual Report Period. For the avoidance of doubt, if the Grant or Loan is used in an Annual Report Period, there shall be no obligation on the Recipient to supply a report to SE in respect of such period. The Recipient shall, for as long as SE is entitled to receive an annual report in accordance with this Condition 18.2, supply to SE by electronic mail such information as SE may require from time to time about the Grant Purpose, the Loan Purpose, the business, assets, finances, operations and prospects of the Recipient and, if applicable, each member of the Recipient’s Group for SE’s purposes of evaluating the annual report.

18.3 Access
If the Recipient does not comply with its obligations under Condition 18.1 or 18.2 above, or if an Early Repayment Event has occurred or if any information supplied by the Recipient or on its behalf is fraudulent, or materially misleading or inaccurate in any material respect, the Recipient shall give us and our auditors and representatives access to your business premises and to all records and books of account relating to the Grant Purpose and/or the Loan Purpose (as applicable) during normal business hours on two (2) days written notice and you will give all reasonable assistance to anyone exercising this right of access.

18.4 Business review meeting or call
The Recipient shall, if requested by SE, attend a business review meeting or a call with SE on reasonable prior notice. SE shall not require more than one (1) business review in any six (6) month period unless an Early Repayment Event is continuing, or SE considers that that an Early Repayment Event may occur.

18.5 “Know your customer” checks
The Recipient shall promptly upon the request of SE supply, or procure the supply of, such further documentation and other evidence as is requested by SE in order for SE to carry out and be satisfied it has complied with all necessary “Know your customer” or other similar checks under all applicable laws and regulations pursuant
18.6 Business Undertakings

The Recipient shall (and, if applicable, will ensure that the Recipient’s Group shall):

18.6.1 observe, perform and comply with the terms of the Agreement and ensure all necessary consents, authorities and approvals are and remain in place to ensure this;

18.6.2 carry out the Grant Purpose and/or the Loan Purpose (as applicable) in compliance with the Agreement, the law, and the information submitted by you and approved by us, and ensure that any party acting on your behalf does the same;

18.6.3 only use (a) the Grant for the purposes of the Grant Purpose and in accordance with the Agreement, and (b) the Loan for the Loan Purpose and in accordance with the Agreement and, in each case, in such a manner as (a) not to detract from or damage the image and reputation of SE and/or Scottish Government and/or (b) not to unreasonably impede, prevent or increase the cost to us of discharging our obligations, duties, and statutory functions;

18.6.4 act in good faith towards SE, do all things necessary to give effect to the Loan and not take any action that would have a detrimental impact on the value of the Loan, or equity shareholding;

18.6.5 (a) insure its business and assets against the same risks as a similar business in a similar location would normally insure, (b) maintain in force all consents and licences required, and comply with all laws and regulations applicable to it, and its business and assets, (c) maintain in force all consents and licences required to enable it to carry out the Grant Purpose and/or the Loan Purpose (as applicable) and to comply with its obligations under the Agreement, and (d) promptly pay all invoices which are due and payable;

18.6.6 ensure that consultants, contractors and/or suppliers engaged in the Grant Purpose and/or the Loan Purpose (as applicable) are paid on time;

18.6.7 pay and discharge all Taxes imposed upon it or its assets which are due and payable (or within applicable grace periods permitted by law);

18.6.8 not (a) create or allow to exist any security interest over any of its assets, other than Permitted Security and/or (b) dispose of any of its assets, other than Permitted Disposals and/or (c) make any material change in the nature of its business and/or (d) incur financial indebtedness, other than (i) financial indebtedness incurred prior to the date of the Agreement (the details of which were provided in the Application), (ii) financial indebtedness incurred in accordance with its obligations under the Agreement, and (d) promptly pay all invoices which are due and payable;

18.6.9 not make any payment, repayment, redemption, discharge (by way of set-off, counterclaim or otherwise), interest payments or other distribution or the like (whether in cash or in kind) in respect of any loan to the Recipient (or, if applicable, any of the Recipient’s Group) from any company related to the Recipient, or any director or shareholder of the Recipient (from time to time), unless (a) such financial indebtedness was incurred prior to the date of the Agreement (the details of which were provided in the Application) and the payment is made in accordance with its contractual obligations relative to that financial indebtedness in effect prior to the date of the Application, or (b) SE has given the Recipient its prior written consent;

18.6.10 not make or pay any dividend, charge, fee or other distribution (in cash or in kind) on or in respect of its share capital without the prior written consent of SE;

18.6.11 maintain sufficient authority to allow Conversion Shares to be allotted on conversion in any of the circumstances outlined in Condition 12;

18.6.12 respond to SE’s reasonable information requests to and understanding of how this public support is helping your business and benefitting Scotland’s economy and in information that allows us to conduct formal reviews and independent evaluations to develop our products and services and share results on economic impact in aggregated form; and

18.6.13 maintain well-ordered, complete and up-to-date records in connection with (a) the Grant Purpose including in relation to funding for the duration of the Grant Purpose and until 31 December 2030 or 10 years after completion of the Grant Purpose, whichever is later and (b) the Loan Purpose including in relation to funding for the duration of the Loan Purpose and until 31 December 2030 or 10 years after repayment of the Loan, whichever is later.

18.7 Publicity

The Recipient shall (and, if applicable, will ensure that any of the Recipient’s Group shall) refrain from issuing any press release or making any announcement or statement regarding the Funding without our prior written consent. We may publish details of the Grant and/or the Loan, including information set out in the Offer Letter, on our website.

MISCELLANEOUS

19. COSTS AND EXPENSES

19.1 The Recipient and SE will each bear their own costs and expenses in the preparation and execution of the original Finance Documents.

19.2 After the date of the Agreement, if the Recipient requests an amendment, waiver or consent in relation to any Finance Document or any other document referred to therein or otherwise connected or related thereto, the Recipient shall promptly on demand pay SE the amount of all third-party costs and expenses (including legal fees (subject to any pre-agreed caps)) properly incurred by it in responding to, evaluating, negotiating or complying with that request or requirement.

19.3 The Recipient shall promptly on demand pay SE the amount of any cost, loss, damage or liability incurred by SE as a result of enforcing or preserving any of SE’s rights under the Finance Documents.

20. PAYMENTS

20.1 All payments to be made by the Recipient to SE under the Agreement shall be made in Sterling in immediately available, freely transferable funds to such account and in such manner as SE may specify to the Recipient for this purpose in the Offer Letter.

20.2 All payments to be made by the Recipient under the Finance Documents shall be calculated and be made
20.3 If any payment is required to be made by any Party on a
day which is not a Business Day, that payment shall
instead be made on the next Business Day in that calendar
month (if there is one) or the preceding Business Day (if
there is not).
20.4 Interest will accrue on a daily basis and be calculated on
the basis of a year of 365 days and for the actual number
of days elapsed. Interest shall continue to accrue on sums
due following decree or judgement as well as before it,
and at the same rate.

21. SET-OFF
21.1 SE may without notice to the Recipient set off any sum or
sums owed by SE to the Recipient in or towards satisfaction of any of the liabilities of the Recipient to SE
on any other account or in any other respect.
21.2 The provisions of this Condition 21 shall be in addition to
and without prejudice to such rights of set-off, combination, consolidation, lien and other rights whatsoever conferred on SE by law.

22. CONFIDENTIALITY
22.1 Subject to Condition 22.2, the Parties agree not to:
   22.1.1 use Confidential Information for any purpose other than in connection with the Agreement; and
   22.1.2 disclose Confidential Information to any third party (which does not include their respective employees, officers, contractors, agents, representatives or public partners) without obtaining the written consent of the other Party.
22.2 Conditions 22.1.1 and 22.1.2 do not apply to:
   22.2.1 the extent such Confidential Information is public knowledge or already known to the third party at the time of disclosure, other than
by breach of the Agreement, or where required to be disclosed by law or applicable regulatory requirement or code, including the Freedom of Information (Scotland) Act 2002
and the Recipient shall provide such assistance as SE may reasonably require in relation to such disclosure;
   22.2.2 the publication or disclosure by SE of details of the Agreement, in respect of which the Recipient waives all rights to prevent or restrict
publication or disclosure on the ground of commercial confidentiality or otherwise;
   22.2.3 the disclosure of Confidential Information or information relating to the Agreement and each of the Loans and/or Grants to a
Regulatory Body; and/or
   22.2.4 the disclosure, by SE of Confidential Information or information relating to the Agreement to (a) SE’s legal or financial advisers
(including, but not limited to, its auditors), (b) SE’s employees or officers, and (c) any member of
the Scottish Enterprise Group and its legal or financial advisers, employees and officers
(subject in each case to them being informed of the confidential nature of such information
and being subject to confidentiality restrictions consistent with this Condition 22.
22.3 The Recipient will cooperate with and assist SE by
providing such information as SE or any Regulatory Body
may require. The Recipient may identify information the
Recipient considers commercially confidential together
with an explanation as to why the Recipient considers it
commercially confidential. SE shall have regard to such
representations and both Parties shall act reasonably in
seeking to agree the extent to which such information
may be shared.

23. DATA PROTECTION
23.1 The parties agree that any transfer of Personal Data
between them is on a Controller to Controller basis. Each
Party shall comply with their obligations under all Data
Protection Law.
23.2 The Recipient agrees that:
   23.2.1 where it discloses Personal Data to SE in
relation to the terms of the Agreement or any
Loans or Grants, such disclosure must be fair,
transparent and lawful, and not contravene
Data Protection Law;
   23.2.2 SE shall Process that Personal Data as a
Controller in accordance with the Published
Privacy Notice; and
   23.2.3 SE may share such Personal Data with
Regulatory Bodies, and in accordance with SE’s
legal requirements, as detailed in the
Published Privacy Notice.

24. ENTIRE AGREEMENT
24.1 The Agreement constitutes the whole agreement
between the Parties and supersedes any previous
arrangements or agreements between them relating to
the Loan and the Grant.
24.2 Nothing in this Condition 24 shall operate to limit or
exclude any liability for fraud or misrepresentation.

25. SEVERANCE AND VALIDITY
If any provision of the Agreement is or becomes illegal,
invalid or unenforceable in any respect under the law of
any jurisdiction, such provision shall be deemed to be
severed from the Agreement. The remaining provisions
will remain in full force in that jurisdiction and all
provisions will continue in full force in any other
jurisdiction.

26. REMEDIES AND WAIVERS
26.1 No waiver of any right under the Agreement shall be
effective unless in writing and signed by an SE Signatory.
Unless expressly stated otherwise a waiver shall be
effective only in the circumstances for which it is given.
26.2 No delay or omission by either Party in exercising any right
or remedy provided by law or under the Agreement shall
constitute a waiver of such right or remedy.
26.3 The single or partial exercise of a right or remedy under
the Agreement shall not preclude any other nor restrict
any further exercise of any such right or remedy.
26.4 The rights and remedies provided in the Agreement are
cumulative and do not exclude any rights or remedies
provided by law except as otherwise expressly provided.

27. FURTHER ASSURANCE
Subject to Condition 19 (Costs and Expenses), the
Recipient shall from time to time do, execute and deliver
or procure to be done, executed and delivered all such
further acts, documents and other matters required by law or as
SE may reasonably request if necessary or desirable to
give effect to the Agreement and the Finance Documents
and the rights, powers and remedies conferred under them.

28. NOTICES
28.1 Any notice or other communication to be given under or
in connection with the Agreement ("Notice") shall be in
writing and signed by or on behalf of the Party giving it. A
Notice shall be delivered (a) personally, by courier or by
mail to the postal address and (b) by electronic mail to the
e-mail address (as applicable) provided pursuant to
Condition 28.3, and marked for the attention of the person specified pursuant to that Condition.

28.2 A Notice shall be deemed to have been received:
28.2.1 at the time of delivery, when delivered personally;
28.2.2 three (3) Business Days after the time and date of posting, if sent by international courier; and
28.2.3 at the time of confirmation of receipt by recipient when sent by electronic mail, provided that if deemed receipt of any Notice occurs after 6.00 p.m. of the recipient’s time or is not on a Business Day, deemed receipt of the Notice shall be 9.00 a.m. of the recipient’s time on the next Business Day.

28.3 The addresses and details for service of Notices are as specified in the Offer Letter.

29. RIGHTS OF THIRD PARTIES
A person who is not a Party has no right under the Contracts (Third Party Rights) (Scotland) Act 2017 to enforce or enjoy the benefit of any term of the Agreement.

30. BRINGING THE AGREEMENT TO AN END
30.1 The Agreement may be terminated at any time by agreement between us.
30.2 Termination of the Agreement will be without prejudice to any accrued rights and obligations under the Agreement as at the date of termination.
30.3 Termination of the Agreement shall not affect any of Conditions 16.2.3, 16.2.5 to 16.2.7, 16.3 and 16.4.

31. ASSIGNMENT
31.1 The Recipient may not assign or transfer any of its rights and benefits under the Agreement and/or any Finance Document except with the prior written consent of SE.
31.2 SE may assign or transfer any of its rights and benefits under the Agreement and/or any Finance Document to any member of the Scottish Enterprise Group at any time.
31.3 The Parties acknowledge that a new Scottish National Investment Bank (“SNIB”) is in the process of being created by the Scottish Government (pursuant to the Scottish National Investment Bank Act 2020), and SNIB may acquire certain of the investment assets of SE and may carry on the investment function currently carried out by SE. The Parties acknowledge and agree for these purposes that:
31.3.1 SNIB is a Scottish Enterprise Successor and accordingly any transfer by SE to SNIB of: (i) all or any part of the amount remaining outstanding on the Loan (and all accrued interest thereon); (ii) SE’s Shares in the capital of the Recipient following conversion of the Loan (or any part of the Loan) into Conversion Shares free from any rights of pre-emption or similar; (iii) SE’s rights and/or obligations under the Agreement and/or any Finance Document; (iv) SE’s interest in the Grant; and (v) any rights and/or obligations which SE may have under the Articles and any other agreement between it, the Recipient, and/or any of the Recipient’s shareholders and/or lenders from time to time, including without limitation any security and/or intercreditor agreements or similar entered into between SE and/or the Recipient and/or any other lenders to the Recipient pursuant to any of those documents (collectively the “Relevant Scottish Enterprise Agreements”), is hereby permitted;
31.3.2 upon SNIB notifying the Recipient in writing that it has acquired the Scottish Enterprise Assets and that it undertakes to abide by the terms of the Agreement and any Relevant Scottish Enterprise Agreements, then SNIB shall be deemed to be a party to the Agreement and any Relevant Scottish Enterprise Agreements in substitution for SE thereunder with effect from the date of such notification, without any further action or consent being required;
31.3.3 the foregoing shall apply to any subsequent transfer of the Scottish Enterprise Assets by SNIB to any successor body which is established for the purposes of carrying out the investment function of SNIB; and
31.3.4 any party adhering or acceding to any Relevant Scottish Enterprise Agreements following the date hereof that such party shall, by virtue of having so adhered or acceded, be deemed to have acknowledged and agreed to the foregoing.

32. GOVERNING LAW AND SETTLEMENT OF DISPUTES
32.1 The Agreement, and any non-contractual obligations arising out of or in connection with the Agreement, shall be governed by and interpreted in accordance with Scots law.
32.2 The courts of Scotland have exclusive jurisdiction to settle any dispute arising out of or in connection with the Agreement (including a dispute relating to the existence, validity or termination of the Agreement (a "Dispute").
32.3 The courts of Scotland are the most appropriate and convenient courts to settle Disputes and the Parties prorogue the exclusive jurisdiction of the Scottish courts. Accordingly, no Party will argue to the contrary.