

APOLLO INFORMAL INVESTMENTS

CONFIDENCE
THROUGH
CLARITY

A brief guide for Investees

1 Background

Morton Fraser advises the Apollo Informal Investments Limited syndicate ('**Apollo**'). When Apollo chooses to invest in a company (the '**Investee**'), we will represent the Apollo investors to ensure that the investment is properly documented and that the investors' position is adequately protected.

The Investee must instruct its own solicitor to advise it, its directors and existing shareholders on the investment process.

We have prepared templates of the two key investment documents - the Investment Agreement and the Articles of Association of the Investee. While the documents have been drafted by us to protect the investors' position, using these template documents is designed to make the process simpler, quicker and more cost effective for both the investors and Investee. These documents are therefore non-negotiable.

This guide has been prepared to explain what is expected from the Investee but is not intended to constitute legal advice for the Investee.

2 Morton Fraser's Responsibilities

During the investment process, Morton Fraser will:

- prepare an Investment Agreement documenting the Apollo investment using the Apollo template Investment Agreement;
- provide the Investee's solicitor with the template Articles of Association which should be adopted by the Investee at or immediately prior to completion of the investment;
- prepare the documents indicated as our responsibility in the documents list at Appendix 2 of this guide and provide these to the Investee's solicitor for review; and
- review the draft documents to be prepared by the Investee's solicitors to ensure the investment is properly documented and the investors' position is protected.

3 Investee's responsibilities

Before we can begin drafting the Investment Agreement, it is the responsibility of the Investee to:

- ensure that the business and all assets required to run the Investee's business (including intellectual property rights and the ownership of any website) are owned by the Investee and take all steps necessary to ensure this is the case;
- ensure the Investee's statutory registers are accurate and reflect the position of the Investee prior to the investment taking place;
- provide us with share capital tables in the forms set out in Appendix 1 of this note, showing the share capital prior to and following the investment, as well as Apollo's investment; and
- provide us with its solicitor's name and contact details.

In most cases, Apollo will have agreed the percentage of the Investee's share capital which each investor will hold after the investment has been completed. It is the responsibility of the Investee to work out how this shareholding will be achieved. For example, this may require the subdivision of the existing share capital before the investors' shares can be created. The share capital tables should reflect any such subdivision.

4 **Investee's responsibilities during the investment process**

Once we have been provided with the information set out in section 3 we will prepare the draft Investment Agreement and send this to the Investee's solicitor. We will also provide the template Articles of Association which the Investee is to adopt.

At this point it will be the responsibility of the Investee and its solicitors to:

- review the Investment Agreement to ensure the Investee, its directors and existing shareholders are happy to agree to its terms;
- populate Part 1 of the Schedule to the Investment Agreement with any disclosures against the warranties being given in the Investment Agreement - the Investment Agreement contains a limited number of standard warranties and it is not expected that significant or extensive disclosures will be made. There may be cost implications if anything material is disclosed;
- prepare the documents indicated as its responsibility in the documents list at Appendix 2 of this guide and provide these to us for review; and
- work with Morton Fraser to incorporate any comments we may have on the draft documents prepared by the investee.

Unless agreed by all parties, completion of the investment will take place at Morton Fraser's office in Edinburgh at a time which is suitable for the signatories who are required to attend.

5 **Investee's responsibilities post-investment**

After the investment has been completed, it will be the responsibility of the Investee and its solicitor to:

- take copies of all signed documents and arrange for their safe-keeping;
- provide Morton Fraser with an electronic copy of the complete set of signed documentation involved in the investment;
- update the Investee's statutory registers to reflect the investment;
- file all relevant filings at Companies House in good time; and
- issue share certificates to Morton Fraser for distribution to the investors.

APPENDIX 1

1 Share Capital Immediately Prior To Investment

Issued: £• divided into • Ordinary Shares		
Name, address and email address	Number of Shares	Percentage Shareholding
Executives		
Existing Shareholders		
Total		

2 Investor's Subscription

Total Investment: £• divided into • Ordinary Shares			
[Premium: £•]			
Name, address and email address of Investor	Number of Ordinary Shares at £• per share	Total Price (£)	Percentage Shareholding
Total			

3 Share Capital After Investment

Issued: £• divided into • Ordinary Shares		
Names, addresses and email addresses	Total Number of Ordinary Shares of £• each	Total Percentage Shareholding
Total		

APPENDIX 2
DOCUMENT LIST
INVESTMENT BY APOLLO INFORMAL INVESTMENTS LIMITED ("APOLLO")
IN
[INVESTEES COMPANY] (THE "COMPANY")

Parties

<i>Executives</i>	<i>Investors</i>	<i>Existing Shareholders</i>
[Executive] ("●")	[Apollo Investor] ("●")	[Existing Shareholder] ("●")
[Executive] ("●")	[Apollo Investor] ("●")	[Existing Shareholder] ("●")

Document **Signatories** **Responsibility** **Status**

Investment Agreement	Company, the Executives, the Investors and the Existing Shareholders	Morton Fraser	
New Articles of Association of the Company	Any director of the Company	Investee Company (using template provided by Morton Fraser)	
Completion Board Minute of the Company	Any director of the Company	Investee Company	
Written Resolution of the Company adopting the new Articles and, if required, subdividing the share capital	[List signatories needed to pass resolution]	Investee Company	
Extract Resolution of the Company adopting the new Articles and, if required, subdividing the share capital	Any director of the Company	Investee Company	
Letter of Application for each investor	Investor(s)	Investee Company	
Companies House Form SH01	Any director of the Company	Investee Company	
Companies House Form SH02 [If subdivision is required]	Any director of the Company	Investee Company	

	Company	
Share Certificate(s) - [Investor]	Any two directors of the Company or a director and the secretary of the Company	Investee Company
Statutory Registers of the Company	-	Investee Company
Management Accounts of the Company	-	Investee Company
Business Plan	-	Investee Company
Form AP01 in respect of any Investor Director	Any director on behalf of the Company and the investor director	Morton Fraser
SEIS Certification	-	Investee Company