



Template advisor share agreement

User notes

This is a simple agreement for the provision of advisory services to an early stage company (including where a company is establishing a formal advisory board).

This template is drafted on the basis that the advisor is to receive shares in the company as compensation for the services provided. It assumes no cash compensation will be paid. Some of the shares may be *clawed back* by the company if the advisor fails to make the expected contributions over the agreed period, which is usually one or two years.

There are a number of important *health warnings* for the use of vesting and clawback arrangements generally, and for the use of this document in particular:

- ▲ advisors should obtain tax advice on the proposed arrangement before using this document. The implementation of vesting arrangements may give rise to tax liabilities
- ▲ the parties should think carefully about the % of the advisor's shares that are subject to vesting, and about the overall vesting period
- ▲ depending on where the company is incorporated, there may be certain restrictions on share repurchases under applicable company law. A company may need express authority under its constitution for any share repurchases. A share buy-back agreement may be required, and there are often limits on the number of shares that can be repurchased in any specified period.

Your lawyer or company secretary will need to complete any necessary board and/or shareholder resolutions needed to implement this document.

You should obtain tax and accounting advice before adopting this document.

This document should be used in conjunction with company governance documents (e.g. constitution and/or shareholders' agreement) that adequately deal with small minority shareholdings, including pre-emptive rights on share transfers and drag along.

applicable law

This document is intended for use by companies domiciled in Southeast Asia. Because the laws in each Southeast Asian country are different, you should have the document reviewed by a local lawyer. We have suggested (as a placeholder) that the document be subject to Singapore law as this is the most common domicile of tech companies raising capital in Southeast Asia, and Singapore is well respected as a legal jurisdiction.

using this template

The **User Notes** and the statements in the footer below (all marked in red) are included to assist in the preparation of this document. They are for reference only – you should delete all user notes and the statements in the footer from the final form of your document.

The use of [*square brackets*] around black text means that:

- ▲ the requested details need to be inserted
- ▲ there are different options for you to consider within a clause
- ▲ the whole clause is optional and you need to consider whether to include it, based on the company's circumstances and the user notes.

Before finalising your document, check for all square brackets to ensure you have considered the relevant option and ensure that all square

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brackets have been deleted. Also, if you delete any clauses or schedules, remember to cross reference check the document.

ADVISOR SHARE AGREEMENT

DATE

PARTIES

[User note: This agreement contemplates that the services will be carried out by an individual.]

- 1 **[INSERT NAME OF ADVISOR]** (passport/ID number: *[insert]*, of *[address]* (**Advisor**)
- 2 **[INSERT NAME OF COMPANY]**, company number *[insert company number]*, a company incorporated in *[insert]* whose registered office is at *[insert]* (**Company**)

BACKGROUND

- ▲ The Advisor has agreed to provide the Services to the Company. The Company will issue the Advisor Shares to the Advisor in consideration for the provision of the Services.
- ▲ The Company will have an option to repurchase some of the Advisor Shares if the Advisor ceases to provide the Services to the Company during the term stated in Schedule 1.
- ▲ This Agreement sets out the terms on which the Services are to be provided, and the terms of the Company's repurchase option.

[User note: This agreement contemplates that the services will be carried out by an individual. If the services are provided via a company, the below signature block will need to be amended.]

SIGNED by **[INSERT NAME OF
ADVISOR]:**)
)

Signature

SIGNED for and on behalf of [*INSERT*)
NAME OF COMPANY] by:)

Signature of authorised signatory

Print full name of authorised
signatory

TERMS OF THIS AGREEMENT

1 INTERPRETATION

1.1 **Definitions:** In this Agreement the following words have the following meanings:

Definition	Meaning
Advisor Shares	the number of ordinary shares in the Company set out in Schedule 1.
Agreement	this agreement, including the Schedules.
Board	the board of directors of the Company.
Business Day	Monday to Friday, other than any public holiday that occurs in [<i>Singapore</i>].
Confidential Information	this Agreement, its terms and any information the Advisor receives about the Company and its business in connection with this Agreement.
Exit Date	the date on which the Advisor ceases to provide the Services to the Company as referred to in clause 5.2a, or the date on which the Advisor is given notice under 5.2b.
Intellectual Property Rights	includes copyright and all worldwide rights conferred under statute, common law or equity relating to inventions (including patents), registered and unregistered trade marks and designs, circuit layouts, data and databases, confidential information, know-how, and all other rights resulting from intellectual activity. Intellectual Property has a consistent meaning and includes any document, report, material or other output produced by the Advisor in the course of providing the Services, regardless of where the item was produced, and other outputs and work to which Intellectual Property Rights attach.
Purchase Price	\$1 in aggregate.
Repurchase Option	has the meaning given in clause 5.2.

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Services	the services set out in Schedule 1.
Term	the term set out in Schedule 1.
Unvested Shares	Advisor Shares that are subject to the Repurchase Option on the date of exercise of the Repurchase Option, calculated in accordance with clause 5.3 and Schedule 1.

1.2 Interpretation:

- a a reference to:
 - i a **clause** or a **Schedule** is to a clause in or a schedule to this Agreement;
 - ii a **person** includes a body corporate, an association of persons (whether corporate or not), a trust, governmental or other regulatory body, authority or entity, in each case whether or not having a separate legal personality;
 - iii **including** and similar words do not imply any limitation;
 - iv a **statute** includes references to that statute as amended or replaced from time to time;
 - v a **party** is a reference to a party to this Agreement, and includes that party's permitted assigns; and
 - vi **\$** or **dollars** are to [*Singapore*] currency;
- b the **headings** in this Agreement are for convenience only and have no legal effect; and
- c the **singular** includes the plural and vice versa.

2 TERM

This Agreement may be terminated by the agreement in writing of both parties to it.

3 ADVISOR SHARES

- 3.1 **Issue of Advisor Shares:** The Company must issue the Advisor Shares to the Advisor within 10 Business Days of the date of this Agreement.

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3.2 **No cash compensation:** The Advisor will not be entitled to receive any cash compensation for the provision of the Services (other than the reimbursement of any expenses in accordance with clause 4.3).

4 SERVICES

4.1 **Services:** The Advisor must provide the Services to the Company during the Term.

4.2 **Conflict of interest:**

- a The Advisor must avoid any interest that may conflict with the Advisor's performance of the Agreement, including:
 - i any situation that could give rise to a conflict of interest or compromise the Advisor's or the Company's integrity; and/or
 - ii any financial or other interest or undertaking that could interfere with the performance of the Advisor's obligations under the Agreement.
- b The Advisor must immediately advise the Company in writing of any breach of clause 4.2a or of any situation or undertaking that could, if entered into by the Advisor, breach that clause.

4.3 **Expenses:** The Company may, at its discretion, reimburse the Advisor for reasonable expenses incurred by the Advisor in the provision of the Services if:

- a the expenses were approved by the Company in advance; and
- b the Advisor has submitted a valid tax invoice to the Company in respect of those expenses.

4.4 **Failure to contribute:** If the Board considers that the Advisor has failed to satisfactorily provide the Services in one or more material respects, the Company may give notice to the Advisor providing details of that failure. The Advisor may respond within five Business Days of receipt of the notice either accepting the matters stated in the notice and proposing the remedial action that he or she will take to remedy those matters, or setting out the reasons why he or she disagrees with the matters stated in the notice.

4.5 **Board decision:** If the Board:

- a is satisfied with the remedial action proposed by the Advisor in response to the Company's notice or is satisfied based on the reasons provided by the Advisor that

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there was not a failure to satisfactorily provide the Services in one or more material respects, the Company must withdraw the notice given under clause 4.4; or

- b is not satisfied with the remedial action proposed or continues to consider that the Advisor has failed to satisfactorily provide the Services in one or more material respects, the Company may give the Advisor a further notice stating that he or she has failed to satisfactorily provide the Services and that the Company intends to exercise the Repurchase Option under clause 5.2.

- 4.6 **Advisor may dispute:** If the Advisor receives a notice from the Company under clause 4.5b, he or she may, by giving notice to the Company within 10 Business Days of the date of the Company's notice, dispute the Board's decision and require the matter to be referred for determination by an expert under clause 6.

5 VESTING AND REPURCHASE OPTION

- 5.1 **Vesting:** The initial percentage of the Advisor Shares that are Unvested Shares (and are accordingly subject to the Repurchase Option) is specified in Schedule 1. This percentage will reduce on a monthly basis from the start of the vesting period specified in Schedule 1 to the end of the Term, in the monthly amounts specified in Schedule 1.
- 5.2 **Option:** Subject at all times to the [*Companies Act (Cap 50) of Singapore*], the Company has an option to repurchase the Unvested Shares for the Purchase Price (**Repurchase Option**) if:
- a the Advisor ceases to provide the Services to the Company for any reason, including due to the death or disability of the Advisor; or
 - b the Company gives notice to the Advisor in accordance with clause 4.5b that he or she has failed to satisfactorily provide the Services and the Company intends to exercise the Repurchase Option.
- 5.3 **Exercise of option:** The Company may exercise the Repurchase Option arising under clause 5.2 by giving notice of exercise to the Advisor no later than 60 Business Days after the Exit Date, stating the number of Advisor Shares to which it applies (which may be some or all of the Unvested Shares). Upon that notice being given, the Advisor undertakes to take all steps (including executing all documents and resolutions) necessary to give effect to the repurchase by the Company of the number of Advisor Shares the subject of the notice, and the Company will immediately cancel them without further action by the Advisor in accordance with the Act. If the Advisor fails to comply with such undertaking, it gives

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any director of the Company authority as agent and attorney to execute all documents on their behalf to complete the repurchase of shares.

5.4 **Accelerated vesting:** If:

- a the Company enters into a listing agreement with the [*Singapore Stock Exchange*], or other national stock exchange of similar or better standing;
- b the Company or a shareholder (or shareholders) of the Company enters into a binding agreement with a third party (or a group of associated third parties) on arms' length terms under which the third party is to acquire (other than by way of a subscription for new shares) 50% or more of the voting shares of the Company, and that agreement becomes unconditional;
- c the Company enters into a binding agreement to dispose of assets comprising more than half the value of the Company's assets, and the shareholders of the Company approve the disposition of those assets; or
- d the Company resolves to amalgamate with any other company (whether or not it is the continuing company), in a transaction that is in substance the same as those in b and c above,

the Repurchase Option will lapse.

5.5 **Adjustments:** If there is any bonus issue, consolidation or subdivision of any shares in the Company or any reduction or cancellation of share capital (or any similar reorganisation of the capital of the Company), the number of Unvested Shares will be adjusted by the Board to ensure that the effect of the Repurchase Option remains the same.

6 **EXPERT DETERMINATION**

If a notice is given by the Advisor in accordance with clause 4.6, the following procedure applies:

- a an independent expert will be appointed by agreement of the parties, or failing agreement, by [*the President of the Singapore Law Society*] (or his or her delegate) on application by either party;
- b the role of the expert will be to decide whether or not the Advisor failed to satisfactorily provide the Services to the Company in one or more material respects;

- c in reaching his or her decision, the expert must have regard to a single set of written submissions from the Company and from the Advisor;
- d the Company and the Advisor must each provide the expert with any assistance that the expert may request to issue his or her opinion;
- e the expert must not act as a mediator or arbitrator;
- f unless otherwise specified by the expert, the expert's fees must be borne equally between the Company and the Advisor; and
- g in the absence of manifest error, the expert's decision is final and binding on the parties.

6.2 **Effect of decision:** If the expert's decision is that the Advisor failed to satisfactorily provide the Services to the Company in one or more material respects, the Company may exercise the Repurchase Option as if the Advisor was given notice under clause 4.5b on the date of the expert's determination being given. If the expert finds that the Advisor did not fail to satisfactorily provide the Services, the Company's notice given under clause 4.5b will be of no effect and the Company may not give another notice under clause 4.4 in respect of the same matter.

7 SHARE TRANSFERS

The Advisor must not transfer any Unvested Shares without the prior written consent of the Board.

8 INTELLECTUAL PROPERTY

8.1 General:

- a All Intellectual Property Rights in the following items (together, **Company IP**) are owned by the Company from the date the items are created, produced or worked on:
 - i the Confidential Information; and
 - ii any Intellectual Property created, produced or worked on by the Advisor in the course of providing the Services or in connection with this Agreement.

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8.2 **Assignment clause:**

- a From the date the relevant Company IP was created, produced or worked on, the Advisor assigns to the Company all of the Advisor's rights, title and interest in and to the Company IP.
- b The Advisor must do any further thing and sign any document required by the Company to give effect to clause 8.2a.

9 RECEIPT OF DOCUMENTS BY ELECTRONIC MEANS

The Advisor notifies the Company that:

- a it wishes to receive by electronic means all notices, statements, reports, accounts and other documents to be sent to shareholders of the Company; and
- b the email address to send those documents to is the email address of the Advisor listed in Schedule 2, or as otherwise notified to the Company in writing.

10 CONFIDENTIALITY

10.1 **Confidentiality:** The Advisor must keep the Confidential Information confidential, and must not use or disclose any Confidential Information without the prior written consent of the Company, except to the extent that:

- a disclosure is required by law; or
- b the relevant information is already in the public domain.

10.2 **Return of information:** At the Company's request, the Advisor must return to the Company or destroy (at the Company's option) all Confidential Information in the Advisor's control.

10.3 **Company's right to disclose:** The Company will have the right to disclose the existence of this Agreement and the Advisor's status as an advisor. The Company may include the Advisor's name, image and profile in promotional materials and on the Company's website.

11 GENERAL

11.1 **Notices:** All notices and communications given under this Agreement must be in writing and will be delivered personally, sent by post or sent by email, to the address or email

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address set out in Schedule 2 (or at such other address as notified from time to time by the party changing its address).

11.2 **Time of service:** Any notice given under this Agreement will be deemed to be validly given:

- a in the case of delivery, when received;
- b in the case of posting, on the second day following the date of posting; or
- c if emailed, one hour after the email is sent unless a return mail is received by the sender within that one hour period stating that the addressee's email address is wrong or that the message cannot be delivered,

provided that any notice received after 5pm on a Business Day or on any day that is not a Business Day will be deemed to have been received on the next Business Day.

11.3 **Entire agreement:** The Agreement sets out everything agreed by the parties relating to the Services, and supersedes and cancels anything discussed, exchanged or agreed prior to the date of this Agreement. The parties have not relied on any representation, warranty or agreement relating to the subject matter of the Agreement that is not expressly set out in the Agreement, and no such representation, warranty or agreement has any effect from the date of this Agreement.

11.4 **Further assurances:** The parties must each sign all further documents and do all other things as the Board considers necessary or desirable to give effect to this Agreement.

11.5 **Variation:** Any variation to the Agreement must be in writing and signed by both parties.

11.6 **Waiver:** To waive a right under the Agreement, that waiver must be in writing and signed by the waiving party.

11.7 **Independent contractor:**

- a The Advisor is an independent contractor of the Company. No other relationship (e.g. employment, joint venture, agency, trust or partnership) exists under the Agreement.
- b Without limiting clause 11.7a, the Company has no liability to meet any of the Advisor's obligations under any applicable health and safety legislation or to pay the Advisor:

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- i holiday pay or sick pay; or
 - ii redundancy or any other severance pay.
 - c The Advisor indemnifies the Company against any tax, levy, penalty, damage or compensation which the Company may be liable to deduct, withhold or pay by reason of the Advisor being held to be an employee of the Company.
- 11.8 **Subcontracting and assignment:** The rights and obligations of the Advisor under the Agreement are personal to the Advisor and may not be assigned, novated, subcontracted or transferred.
- 11.9 **Counterparts:** The Agreement may be signed in counterparts, each of which constitutes an original and all of which constitute the same agreement. A party may enter the Agreement by signing and emailing a counterpart copy to the other party.
- 11.10 **Costs:** Except as otherwise provided in this Agreement, the parties will meet their own costs relating to the negotiation, preparation and implementation of this Agreement.

12 GOVERNING LAW

This Agreement, and any non-contractual obligations arising from or in connection with it, will be governed by, and interpreted in accordance with, the laws of [Singapore].

[User note: The clauses below provide that disputes that are not settled will be referred to the Singapore International Arbitration Centre (SIAC). SIAC is seen as a leading venue for the holding of commercial arbitration and is used by companies across Southeast Asia.]

13 [DISPUTE RESOLUTION

- 13.1 **Dispute:** *If any dispute, controversy or claim (**Dispute**) arises out of or relating to this Agreement, or to the interpretation, breach, termination or validity of this Agreement other than in relation to clauses 4 and 6, the parties to the Dispute (**Disputing Parties**) must use their best efforts to resolve the Dispute through consultation or mediation. The consultation or mediation between the Disputing Parties must begin as soon as practicable after one Disputing Party has delivered to the other Disputing Party or Parties a written notice setting out the matter of the Dispute (**Dispute Notice**).*
- 13.2 **Arbitration:** *If a Dispute is not settled under clause 13.1 within 30 days after the date of the relevant Dispute Notice, the Dispute must be referred to and resolved by arbitration in*

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*Singapore in accordance with the Rules of the Singapore International Arbitration Centre (**SIAC Rules** and **SIAC** respectively). The tribunal will consist of one arbitrator, to be appointed by the President of the SIAC. The language of the arbitration will be English.*

- 13.3 **SIAC Rules:** *The SIAC Rules are deemed to be incorporated by reference in this clause 13. However, to the extent that the SIAC Rules are in conflict with the provisions of this clause 13, the provisions of this clause 13 will prevail.]*

SCHEDULE 1**1 Advisor Shares**

Total number of Advisor Shares:	<i>[Insert the number of shares to be issued to the Advisor]</i> ordinary Shares.
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2 Term

[User note: The Term (set out below) should be equal to the period over which the Advisor Shares are to vest. Vesting periods will vary for each company, but often in Southeast Asia the period for advisors is one to two years.]

From the date of this Agreement to the date that is *[insert the total vesting period of the Advisor Shares]* months after the date of this Agreement.

3 Services

[User note: The Services should be described in as much detail as possible, as this description forms the basis on which the Company can exercise its Repurchase Option if the Advisor fails to make expected contributions as set out in this Schedule. We have inserted some examples below but these will need to be reviewed and amended as necessary.]

- a *[Act as a mentor and/or advisor to the Company and provide up to 2 hours per week of advice and assistance to the Company as reasonably requested, via email, telephone or in person.*
- b *Attend quarterly meetings to provide feedback on the Company's strategy for at least one hour.*
- c *Attend quarterly meetings of the Company's advisory board.*
- d *Assist the Company on at least one strategic project, as requested by the Company during the Term.]*

4 Advisor Shares subject to Repurchase Option

Unvested Shares (% of Advisor Shares subject to Repurchase Option):	<i>[100]</i> %
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Start of the vesting period:	The vesting period starts on [<i>the date of this Agreement</i>]
Monthly reduction in the number of Unvested Shares:	<p>[User note: The below assumes straight-line monthly vesting over the course of the Term with no “cliff” (this is the most common approach for advisor shares in Southeast Asia).]</p> <p>[insert]% of the Advisor Shares per month until the end of the Term</p>

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SCHEDULE 2**Details for Notices**

[INSERT NAME OF ADVISOR]	
Address	<i>[Insert]</i>
Email address	<i>[Insert]</i>

[INSERT NAME OF COMPANY]	
Contact name	<i>[Insert]</i>
Address	<i>[Insert]</i>
Email address	<i>[Insert]</i>

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