



Template friends and family subscription agreement

User notes

This agreement is for use when a start-up wishes to issue shares to a new investor as part of a friends and family investment round in Southeast Asia. It sets out the mechanics for the investment and the warranties to be given by the start-up. It provides for investment for ordinary shares in the company in one tranche, with no conditions (other than those relating to corporate authorisations).

There are no standard terms that apply to investment by *friends and family* type investors – these types of investments can often be relatively informal and may not always include the investor protection provisions required by professional investors or formal investment groups, such as angel groups.

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

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 if your company is incorporated outside of Singapore.

using this template

The **User Notes**, this front page 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 brackets have been deleted. If you delete any clauses or schedules, remember to cross reference check the document.

SUBSCRIPTION AGREEMENT

DATE

PARTIES

- 1 The persons whose names and addresses are set out in part 1 of Schedule 1 (together the **Investors** and each an **Investor**)
- 2 **[INSERT NAME OF COMPANY]** (company number *[insert]*), a company incorporated in *[insert]* whose registered office is at *[insert]* (**Company**)

AGREEMENT

The Company agrees to issue, and the Investors agree to subscribe for, shares in the Company on the terms of this Agreement.

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

Signature of authorised signatory

Print full name

[User note: Use the following signature block if an Investor is an individual.]

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

Signature

[User note: Use the following signature block if an Investor is a company.]

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

Signature of authorised signatory

Print full name

TERMS OF THIS AGREEMENT

1 INTERPRETATION

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

Term	Meaning
Agreement	this Agreement, including the Schedules attached to it.
Business Day	Monday to Friday, other than any public holiday that occurs in [<i>Singapore</i>].
Companies Act	[<i>Companies Act (Cap. 50) of Singapore</i>].
Completion	the fulfilment of the completion obligations of the parties set out in clause 4.
Completion Date	the date that is two Business Days after satisfaction of all of the conditions set out in clause 3.1, or such other date as the parties agree.
Constitution	the constitution of the Company (as amended from time to time).
Existing Shareholders	[<i>insert names of existing shareholders of the Company (including founders)</i>].
Ordinary Shares	ordinary shares in the Company having the rights set out in the Constitution.
Securities	any Share and any security that may be converted into Shares or that gives the holder of the security the right to have Shares issued to it (including options and warrants).
Shares	all issued shares of any class in the capital of the Company.
Subscription Price	[\$ <i>insert</i>] per Subscription Share.
Subscription Shares	the fully paid Ordinary Shares to be issued to the Investors.

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 SUBSCRIPTION SHARES

- 2.1 **Subscription for shares:** The Company must issue, and each Investor must subscribe for, the Subscription Shares on the terms and conditions of this Agreement, for the Subscription Price and in the proportions set out against each Investor's name in the table set out in Schedule 2.
- 2.2 **Fully paid:** Each Investor's Subscription Shares will be fully paid up upon payment of the relevant Subscription Price.
- 2.3 **Issue:** The Company must, on payment of the Subscription Price, issue the Subscription Shares to the Investors:
 - a free of all mortgages, security interests, charges, liens and other encumbrances or adverse interests; and
 - b together with all rights, title and interest attaching to the Subscription Shares at the time of issue.
- 2.4 **Individual Investors:** Each Investor is only obliged to subscribe for the proportion of Subscription Shares set out against its name in the table set out in Schedule 2, and will

be under no obligation to subscribe or pay for any additional Subscription Shares not paid for by any other Investor.

3 CONDITIONS

3.1 **Conditions:** This Agreement is conditional on:

- a the Existing Shareholders approving the issue of the Subscription Shares to the Investors in accordance with the Companies Act; and
- b the Existing Shareholders (if applicable) waiving any rights of pre-emption relating to the issue of the Subscription Shares to the Investors arising under the Companies Act, the Constitution, or otherwise.

3.2 **Waiver of conditions:** The conditions in clauses 3.1a and 3.1b are for the benefit of the Investors and the Company. Any waiver will only be effective if given in writing by the Investors and the Company.

4 COMPLETION

4.1 **Completion:** Completion of the issue of the Subscription Shares must take place no later than the Completion Date.

4.2 **Company's obligations:** On the Completion Date, the Company must:

- a issue all of the Subscription Shares to the Investors in the proportions set out against the Investors' names in Schedule 2; and
- b deliver to the Investors:
 - i a resolution in writing of the board of directors of the Company:
 - ▲ approving the issue and allotment of the Subscription Shares to the Investors in the proportions set out against the Investors' names in Schedule 2;
 - ▲ authorising the execution of this Agreement by the Company;
 - ▲ approving the entry of the Investors' names in the Company's register of members as the holders of the Subscription Shares in the proportions set out against the Investors' names in Schedule 2;
 - ii signed waivers from the Existing Shareholders (if applicable) of any rights of pre-emption relating to the issue of the Subscription Shares to the Investors arising under the Companies Act, the Constitution, or otherwise; and

- iii a resolution in writing of the Existing Shareholders approving the issue and allotment of the Subscription Shares to the Investors in the proportions set out against the Investors' names in Schedule 2.
- 4.3 **Investors' obligations:** On the Completion Date, each Investor must pay to the Company the total Subscription Price set out against that Investor's name in Schedule 2.
- 4.4 **Interdependent obligations:** The parties' obligations at Completion are interdependent and Completion will not occur until the parties have complied with all of their obligations set out in this clause 4. Completion will be deemed to have occurred once all of such obligations have been complied with.
- 4.5 **Post-completion obligations:** Within 7 days of Completion, the Company must:
 - a enter the name of each Investor in the register of members of the Company as the holder of the Subscription Shares as set out against that Investor's name in Schedule 2;
 - b deliver to the Investors:
 - i duly executed share certificates for the Subscription Shares issued and allotted to each Investor; and
 - ii a copy of the updated electronic register of members kept and maintained by [*the Accounting and Regulatory Authority of Singapore*] reflecting the Investors as the holders of the Subscription Shares; and
 - c make all filings and disclosures required under applicable law in respect of the issue and allotment of the Subscription Shares to the Investors, including all returns required to be made with [*the Accounting and Regulatory Authority of Singapore*].

5 PAYMENTS

- 5.1 **Payments:** Any payment made under this Agreement is to be made:
 - a during normal banking hours on the due date;
 - b in same day cleared funds;
 - c without deduction, withholding or set-off (other than as provided for in this Agreement or as required by law); and
 - d to the bank account specified by the payee, by notice to the payer.

- 5.2 **Date of payment:** If the date for payment of any amount under this Agreement is not a Business Day, then the payment must be made on the next day which is a Business Day.
- 5.3 **Full discharge:** Payment of any amount to the account specified in clause 5.1d is a full discharge of an Investor's obligation to pay that amount.

6 WARRANTIES

- 6.1 **Mutual warranties:** Each party warrants to each other party that the following is true as at the date of this Agreement:
- a if it is a company, it is a company duly incorporated and validly existing under the laws of the country of its incorporation;
 - b it has the power, and, if it is a company, it has taken all necessary corporate action (including the passing of all resolutions), to enter into, execute and deliver, and exercise its rights and perform its obligations under, this Agreement; and
 - c it has validly executed and delivered this Agreement and its obligations under this Agreement are legal, valid and binding and enforceable against it in accordance with its terms.
- 6.2 **Company warranties:** The Company warrants to the Investors that, as at the date of this Agreement and at Completion, the capitalisation of the Company immediately following the issue of the Subscription Shares will be as set out in Part B of Schedule 3, and except as set out in that Schedule:
- a there are no Securities; and
 - b there are no options in the Company or other entitlements to have Shares; or any Securities, issued.
- 6.3 **Aggregate maximum liability:** The Company's aggregate liability to each Investor in respect of all claims under this Agreement will be limited to the total Subscription Price paid by that Investor for their Subscription Shares.

7 INDEPENDENT TRUSTEES

The liability of any independent trustee under this Agreement is not an unlimited or personal liability and instead is limited to the funds from time to time belonging to the trust on behalf of which he has entered into this Agreement, in the proper course of the administration of that trust. In this clause, an **independent trustee** is any party who has signed this agreement in his capacity as the trustee of a trust and who is not a beneficiary of the trust nor has any right to, or interest in, any of the assets of the trust except in his capacity as trustee of that trust

8 GENERAL

8.1 **Confidentiality:** Each party must keep this Agreement and information it receives about the Company and its business in connection with this Agreement (**Confidential Information**) confidential, and must not use or disclose that Confidential Information without the prior written consent of the other parties except to the extent that:

- a disclosure is required by law;
- b the relevant information is already in the public domain other than through the default of that party;
- c it is reasonably required to obtain professional advice; or
- d it is reasonably necessary in connection with any proposed:
 - i financing of that party;
 - ii sale of that party's interest in the Company; or
 - iii sale of all or part of the business of, or the shares in, that party,

and the party receiving the Confidential Information has entered into confidentiality undertakings substantially the same as those set out in this clause.

8.2 **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 address set out in Schedule 8 (or at such other address as notified from time to time by the party changing its address).

- a **Time of service:** Any notice given under this Agreement is deemed to be validly given:
 - b in the case of delivery, when received;
 - c in the case of posting, on the second day following the date of posting; or
 - d if emailed, one hour after the email is sent unless a return email 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 5 pm 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.

8.3 **Entire agreement:** This Agreement contains all of the terms, representations and warranties made between the parties relating to the matters dealt with in this

Agreement and supersedes and cancels all prior discussions and agreements covering the subject matter of this Agreement. The parties have not relied on any representation, warranty or agreement relating to the subject matter of this Agreement that is not expressly set out in this Agreement, and no such representation, warranty or agreement has any effect from the date of this Agreement.

- 8.4 **Further assurances:** The parties must each sign all further documents, pass all resolutions and do all further things as may be reasonably necessary to give effect to this Agreement.
- 8.5 **Amendment:** This Agreement may only be amended by agreement of the parties in writing.
- 8.6 **Waiver:** No exercise or failure to exercise or delay in exercising any right or remedy will constitute a waiver by that party of that or any other right or remedy available to it.
- 8.7 **No assignment:** No party may assign any of its rights or obligations under this Agreement without the prior written consent of the other parties.
- 8.8 **Costs:** Except as otherwise provided in this Agreement, the parties must meet their own costs relating to the negotiation, preparation and implementation of this Agreement.
- 8.9 **Partial invalidity:** If any provision of this Agreement becomes invalid or unenforceable to any extent, the remainder of this Agreement and its application will not be affected and will remain enforceable to the greatest extent permitted by law.
- 8.10 **No merger:** The obligations, warranties and representations of the parties under this Agreement, to the extent not already performed at Completion, will not merge on Completion, or on the execution or delivery of any document in connection with this Agreement, but will remain enforceable to the fullest extent notwithstanding any rule of law to the contrary.
- 8.11 **Signature:** This Agreement may be executed in two or more counterparts, each of which is deemed an original and all of which constitute the same Agreement. A party may enter into this Agreement by signing and sending (including by email) a counterpart copy to each other party.

9 GOVERNING LAW

This Agreement, and any disputes or claims 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.]

10 [DISPUTE RESOLUTION

- 10.1 **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, 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**).*
- 10.2 **Arbitration:** *If a Dispute is not settled under clause 10.1 within 30 days after the date of the relevant Dispute Notice, the Dispute must be referred to and resolved by arbitration in 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.*
- 10.3 **SIAC Rules:** *The SIAC Rules are deemed to be incorporated by reference in this clause 10. However, to the extent that the SIAC Rules are in conflict with the provisions of this clause 10, the provisions of this clause 10 will prevail.]*

SCHEDULE 1**The Investors**

Name	Registered no. / Identification	Address
<i>[insert]</i>	<i>[insert]</i>	<i>[insert]</i>

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SCHEDULE 2**Subscription Shares**

Investor Name	Number of Subscription Shares	Total Subscription Price
<i>[insert]</i>	<i>[insert]</i>	<i>[\$[insert]]</i>
Totals	<i>[insert]</i>	<i>[\$[insert]]</i>

SCHEDULE 3**Tables of Shareholdings (Capitalisation Tables)****Part 1 - immediately before the issue of the Subscription Shares**

Shareholder Name	Number of Shares on a fully diluted basis*	Percentage shareholding
[insert]	[insert]	[insert]
Totals	[insert]	[insert]

* Include details of all options over shares in the Company, convertible loans and any other obligations to issue shares in the Company.

Part 2 - immediately after the issue of the Subscription Shares

Shareholder Name	Number of Shares on a fully diluted basis*	Percentage shareholding
[insert]	[insert]	[insert]
Totals	[insert]	[insert]

* Include details of all options over shares in the Company, convertible loans and any other obligations to issue shares in the Company.

SCHEDULE 4**Details for Notices**

COMPANY	
Contact name	[insert]
Address	[insert]
Email address	[insert]

[INSERT NAME OF PARTY]	
Contact name	[insert]
Address	[insert]
Email address	[insert]

[INSERT NAME OF PARTY]	
Contact name	[insert]
Address	[insert]
Email address	[insert]