[*PLEASE CAREFULLY READ THE NOTES BEFORE USING THIS DOCUMENT*]

**SIMPLE EQUITY INVESTMENT CONTRACT**(SEIC)

relating to

[***Name of Company***]

* 1. Key Terms of the Investment

The Company (as defined below) is an Austrian limited liability company (*Gesellschaft mit beschränkter Haftung*). The Investor (as defined below) intends to invest into the Company in accordance with this simple equity investment contract ("**Agreement**") and on the basis of the following key terms:

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| **Mandatory Terms** | |
| **Cap Amount** | means EUR [*amount*] |
| **Company** | means [*name and details of company*] GmbH |
| **Investment Amount** | means EUR [*amount*] |
| **Investor** | means [*name and details of investor*] |
| **Optional Terms** | |
| **Fallback Valuation Amount** | means EUR [*amount*] OR N/A |
| **Long Stop Date** | means [*number*] months after the date hereof [OR [*date*]] OR N/A |

* 1. Investment

Subject to the terms and conditions of this Agreement, the Investor agrees to pay the Investment Amount to the Company within three (3) business days. The Investment Amount shall not be repayable.

* 1. Delivery

The Company and the shareholders of the Company (the "**Shareholders**") shall notify the Investor of any Subsequent Investment or a Change of Control. "**Subsequent Investment**" means any equity financing round made with respect to the Company after the date hereof and "**Change of Control**" means any transaction or series of related transactions in which one or more persons (acting jointly), directly or indirectly, acquire more than 50% of the outstanding share capital or of the business of the Company, including by way of reorganization of the Company (e.g. by way of merger or spin-off) or disposal of all or substantially all of the assets of the Company.

Without undue delay after the Investor has been notified of a Subsequent Investment or Change of Control, the Shareholders and the Company shall procure that (i) the share capital (*Stammkapital*) of the Company is increased by way of an effective cash capital increase (*effektive Barkapitalerhöhung*), excluding the preferential subscription right of then existing shareholders, and a new share in the Company with a nominal amount calculated in accordance with section 3.3 or 3.4, as applicable, is issued and (ii) the Investor is permitted to subscribe for such newly issued share in the Company at par ("**Delivery**", and the newly issued share in the Company, the "**New Share**").

The nominal amount of the New Share shall correspond to the Investment Amount divided by the price per EUR 1 of the share capital of the Company issued in the Subsequent Investment or the price for EUR 1 of the share capital of the Company agreed for in the Change of Control, in each case of the highest share class, *provided that* if the (pre-money) valuation of the Company in the Subsequent Investment or the Change of Control is greater than the Cap Amount, the Investment Amount shall be divided by the following amount: Cap Amount divided by the fully diluted share capital (*Stammkapital*) of the Company immediately prior to the Subsequent Investment or Change of Control (excluding a dilution from this Agreement or the Subsequent Investment or Change of Control).

The following provision only applies if the "Optional Terms" in section 1 have been agreed and completed by the parties: If by the Long Stop Date no Subsequent Investment or Change of Control has occurred, the Company and the Shareholders shall procure Delivery without undue delay after the Long Stop Date. In such case, the nominal amount of the New Share shall correspond to the Investment Amount divided by the following amount: Fallback Valuation Amount divided by the fully diluted share capital (*Stammkapital*) of the Company (excluding a dilution from this agreement). The Investor shall be obliged to subscribe for the New Share at par in accordance with this Agreement.

The New Share shall rank equal to the most senior class of shares issued by the Company to its shareholders and any other investors as of the Subsequent Investment or Change of Control, or at the time of the Long Stop Date, as applicable. The New Share shall in any case confer the right to dividends (*Dividendenbezugsrecht*) and to participate in liquidation profits (*Beteiligung am Liquidationsgewinn*) as provided for under applicable law, subject only to the provisions of the articles of association of the Company and any shareholders' agreement relating to the Company.

* 1. Company Warranties

As far as legally permissible, the Company hereby exclusively represents and warrants to the Investor that the representations and warranties (*Gewährleistungen*) given in this section 4 are true and accurate as of the date hereof:

The Company is a corporation duly organized and validly existing under the laws of Austria and is duly qualified and has full corporate power and authority to conduct its business as now being conducted.

The Company has the requisite corporate power and authority to execute, deliver and perform all of its duties and obligations under this Agreement.

To the best knowledge of the managing director(s) of the Company, the Company owns or possesses (or can obtain on commercially reasonable terms) sufficient legal rights to all patents, trademarks, service marks, trade names, copyrights, trade secrets, licenses, information, processes and other intellectual property rights necessary for its business as now conducted and as currently proposed to be conducted, without any conflict with, or infringement of the rights of, others.

The parties mutually confirm and agree that the warranties included in section 4.1 constitute a full and complete list of all representations and warranties made or given by all parties in relation to this Agreement. The Investor confirms in that respect that it is qualified, sophisticated and capable of evaluating the merits and risks of the transactions contemplated under this Agreement, it understands the financial history and situation of the Company and the early stage, nature and risk of its investment into the Company, it is in the position to afford the complete loss of its investment into the Company made pursuant to this Agreement and it has conducted a satisfactory due diligence in relation to the Company, including financial, legal and tax due diligence or at least had the chance to do so.

* 1. No interest, Subordination

For the avoidance of doubt, the investment of the Investor into the Company does not bear any interest, and the Investor thus has no claim for interest vis-à-vis the Company.

Any claims of the Investor vis-à-vis the Company under or in connection with this Agreement shall be subordinated (*nachrangig*) according to Art. 67 para 3 of the Austrian insolvency Act. Any such claim of the Investor may thus only be satisfied after removal of a negative equity of the Company or, in case of a liquidation, after satisfaction of claims of other creditors and that insolvency proceedings shall not be opened with respect to the Company due to any outstanding, but unpaid claims of the Investor(*der Gläubiger erklärt, dass er Befriedigung erst nach Beseitigung eines negativen Eigenkapitals oder im Fall der Liquidation nach Befriedigung aller Gläubiger begehrt und dass wegen dieser Verbindlichkeiten kein Insolvenzverfahren eröffnet zu werden braucht*).

* 1. Confidentiality

The parties shall keep strictly confidential any information obtained by them in connection with the negotiation and execution of this Agreement and the transaction contemplated herein (including, for the avoidance of doubt, any information on the Company).

* 1. Governing Law and Jurisdiction

This Agreement shall be governed by and construed in accordance with the laws of the Republic of Austria, with the exception of (A) the UN Sale Convention and (B) the conflict of law rules.

The competent court at the seat (*Sitz*) of the Company having jurisdiction over the subject-matter shall have non-exclusive jurisdiction to settle any disputes arising out of or in connection with this Agreement or related to its creation, validity, nullity, interpretation, performance and termination as well as its pre- and post-contractual effects, unless otherwise provided by mandatory law.

* 1. Miscellaneous

The Shareholders hereby approve (by way of a circular resolution (*Umlaufbeschluss*) according to Art. 34 of the Austrian Limited Liability Company Act) that the Company enters into this Agreement and performs its obligations under this Agreement.

Any notice required or permitted by this Agreement will be deemed sufficient when delivered personally or by overnight courier or sent by email to the relevant address listed on the signature page, or 48 hours after being deposited in the mail as certified or registered mail with postage prepaid, addressed to the party to be notified at such party's address listed on the signature page, as subsequently modified by written notice.

The Company shall bear any taxes, costs and expenses of the parties incurred in connection with the preparation, execution and consummation of this Agreement.

Each of the parties shall without undue delay (*unverzüglich*) execute, or procure the execution of, such further documents as may be required by law or be necessary to implement and give effect to the transactions contemplated hereunder, including Delivery. In the event that any change to the Company's share capital, including any share split, any reorganization, restructuring, merger, spin-off or split-off, or any similar transaction requires that this Agreement be amended to continuously serve its purpose and to continue to be effective, the parties agree to implement such amendment without delay.

This Agreement contains the entire agreement reached between the parties on the subject of this Agreement and supersedes all prior agreements and understandings, whether oral or written, to the subject matter hereof. There are no side agreements.

Amendments and supplements to this Agreement as well as the waiver of any rights under this Agreement must be in writing in order to be valid. This also applies to any amendment to, or cancellation of, this section 8.6.

Should any binding provision of this Agreement be or become invalid, unenforceable or impracticable this shall not affect the validity and enforceability of the binding remaining provisions hereof. *In lieu* of the invalid, unenforceable or impracticable provision a provision shall apply which – to the extent possible – carries out the original intent of the signatories hereto.

The parties agree to waive any rights to challenge, terminate, adjust or otherwise set aside this Agreement for whatever legal reason, including for *leasio enormis*, error and *clausula rebus sic stantibus*.

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| \_\_\_\_\_\_\_\_ (place), this \_\_\_\_\_\_\_ (date) |  |
| **[*Name of Company*]** | **[*Name of Investor*]** |
| by: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  title: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  Address: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  E-Mail: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ | by: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  title: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  Address: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  E-Mail:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |

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| --- | --- |
| **[*Name of Shareholder 1*]** | **[*Name of Shareholder 2*][[1]](#footnote-2)** |
| by: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  title: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  Address: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  E-Mail: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ | by: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  title: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  Address: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  E-Mail:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |

1. To be signed by (i) the Company, (ii) the Investor and (iii) all shareholders of the Company. [↑](#footnote-ref-2)