**SHAREHOLDERS’ AGREEMENT**

This Shareholders’ Agreement (the Agreement) has been concluded on […] by and between the following parties:

1. […], a company incorporated and existing under the laws of [...], legal entity code […], with its registered address at [...] (the **Shareholder 1**), represented by […], acting in accordance with […] [*N.B. if the Shareholder is a legal entity*],
2. […], personal code […], residing at [...] (the **Shareholder 2**)[[1]](#footnote-2),

[*In case shareholder is married and acquired the shares under the joint ownership, it is recommended that Agreement would be signed by the spouses too*].

hereinafter the parties under Clauses 1) and 2) are jointly referred to as the “**Shareholders**” and individually as the “**Shareholder**”,

and

[…], a company incorporated and existing under the laws of [...], legal entity code […], registered at [...] (the **Company**), represented by […], acting in accordance with [representation basis].

The Shareholders and the Company are hereinafter jointly referred to as the “**Parties**” and individually as the “**Party**”.

**recitals**

1. On the date of execution of the Agreement the share capital of the Company is equal to EUR [...] and is divided into [...] ordinary registered [book-entry / certificated] shares with the par value of EUR [...] per share. The Shareholders hold the shares of the Company representing [...]% of the Company’s share capital;
2. Details of the ownership of the share capital of the Company are set out in Schedule 1 (the Capitalisation Table);
3. The Parties intend to enter into this Agreement in order to agree on principles and procedure for the management of the Company and to determine the procedures for the disposition of the Company’s shares as well as other related issues.
4. **Definitions**

In this Agreement the following words and expressions shall have the meaning given below:

|  |  |
| --- | --- |
| “**Accepting Shareholders**” | shall have a meaning prescribed to it in Clause 9.5. |
| “**Affiliated Person(s)**” | shall mean (i) a person’s spouse or partner by registered or unregistered partnership, parents, step parents, foster parents, brothers, stepbrothers, sisters, stepsisters, children, adopted children and spouses of any of the aforementioned persons, and (ii) any other person directly or indirectly, including the persons named in the above paragraph (i), or collectively with them, controlling such person, controlled by such person or jointly controlled with such person. |
| “Agreement” | shall mean this Shareholders’ Agreement relating to the management of the Company, disposal over the Shares and other issues, with any Schedules, amendments and supplements thereof. |
| “Articles of Association” | shall mean the articles of association of the Company as amended or superseded from time to time. |
| “**Bad Leaver Event**” | shall mean a notice of termination or termination with immediate effect of the relationship between a Shareholder and the Company at the initiative of the Company due to:1. voluntary resignation of the Shareholder (except for death or permanent inability of the Shareholder to perform his duties to health reasons); or
2. material breach of the Shareholder’s obligations under this Agreement; or
3. material breach of the Shareholder’s obligations under the employment or service agreement concluded with the Shareholder; or
4. the Shareholder has caused material damage to the Company.
 |
| “Business” | shall mean the main business of the Company consisting of […].[[2]](#footnote-3) |
| “Business Day” | shall mean any day (except Saturday, Sunday and public holidays) on which commercial banks are open for general banking business (other than internet banking) in the Republic of Lithuania. |
| “**Called Shares**” | shall have a meaning prescribed to it in Clause 9.8. |
| “**Drag Along Notice**” | shall have a meaning prescribed to it in Clause 9.8. |
| “**Drag Along Right**” | shall have a meaning prescribed to it in Clause 9.7. |
| “**Dragging Shareholders**” | shall have a meaning prescribed to it in Clause 9.7. |
| “**Employee Option Pool**” | shall have a meaning prescribed to it in Clause 5.1. |
| “**Encumbrance**” | shall mean any contractual right, right *in rem* or other right, pledge, mortgage, attachment, claim, condition, option, retention, prohibition, security, pre-emptive right or any other restriction that limit or may limit the ownership, management or usage rights. |
| “Equity Instruments” | shall mean options, warrants, convertible loans, convertible bonds, subscription rights or any other securities or instruments of the Company, outstanding from time to time, which can be converted into Shares or carry or have attached thereto a right to subscribe for Shares. |
| “**General Meeting**” | shall mean the general meeting of the shareholders of the Company. |
| “**Good Leaver Event**” | shall mean the notice of termination or termination with immediate effect of the relationship between a Shareholder and the Company for any of the following reasons:1. death or permanent inability of the Shareholder to perform his duties under the employment or service agreement concluded with the Shareholder; or
2. material breach by the Company of any obligations towards the Shareholder under the employment or service agreement concluded with the Shareholder (otherwise than due to default by any of the Shareholder); or
3. notice of termination or termination with immediate effect of the relationship between a Shareholder and the Company at the initiative of the Company for any reason not designated as a Bad Leaver Event under this Agreement.
 |
| “Intellectual Property” | shall mean all inventions, patents, trademarks, trade names, logos, domain names, copyrights, design rights, database rights, trade secrets, know-how, related rights, and other intellectual property rights, including, where any such rights are obtained or enhanced by registration, all registrations of such rights and applications and rights to apply for such registrations, in any jurisdiction that have been or will be created for the Company and/or that relate to the Business. |
| “**Law on Companies**” | shall mean the Law on Companies of the Republic of Lithuania, as amended and supplemented from time to time. |
| “**Manager**” | shall mean the manager of the Company. |
| “**Offered Shares**” | shall have a meaning prescribed to it in Clause 9.4. |
| “**Right of First Refusal**” | shall have a meaning prescribed to it in Clause 9.4. |
| “Sale” | shall mean (i) a sale to a third party of all or substantially all of the Shares and Equity Instruments; (ii) a sale to one or more existing Shareholders of all or substantially all of the Shares and Equity Instruments not already held by such Shareholders; (iii) a sale of all or substantially all of the assets of the Company; or (iv) a reorganisation, merger, demerger, consolidation or other type of transaction or series of transactions in which ownership and/or control of the Company or all or substantially all of its assets are transferred to a third party. |
| “Share(s)” | shall mean ordinary registered [book-entry / certificated] shares issued by the Company, including any shares issued subsequently to the Signing Date. |
| “Shareholder(-s)” | shall mean any person owning the Shares of the Company from time to time and who are a Party to this Agreement. |
| “Signing Date” | shall mean the signing date of this Agreement. |
| “Subsidiary(-ies)” | shall mean all legal entities directly or indirectly owned or controlled by the Company from time to time for as long as such control lasts. |
| “**Tag Along Right**” | shall have a meaning prescribed to it in Clause 9.10. |
| “**Tag Along Shares**” | shall have a meaning prescribed to it in Clause 9.10. |
| “**Third Party Purchaser**” | shall have a meaning prescribed to it in Clause 9.7. |
| “**Transfer**” | shall have a meaning prescribed to it in Clause 9.1. |
| “**Transfer Notice**” | shall have a meaning prescribed to it in Clause 9.5. |
| “**Transferring Shareholder**” | shall have a meaning prescribed to it in Clause 9.4. |
| “**Vesting Period**” | shall have a meaning prescribed to it in Clause 6.1. |

1. **SUBJECT MATTER**

**Purpose of the Agreement**

* 1. The main purpose of this Agreement is to agree on the principles and procedures for the governance of the Company and to establish the terms and conditions of the disposal of the Shares in the Company, as well as certain other aspects.
1. **COMPANY’S BUSINESS AND OPERATIONS**

**Business**

* 1. During the term of this Agreement, the Company shall be engaged in the Business. The Company and the Shareholders shall pursue the Business in good faith, exercising reasonable efforts and due care, procure that the Business is properly managed, use all reasonable endeavours to comply with all applicable laws, and maintain all licenses, consents and authorities whatsoever which are required or necessary to carry on the Business from time to time, provided that a legitimate business failure shall not constitute a breach hereunder.

**Market conditions**

* 1. All sales made by the Shareholders or their Affiliated Persons to the Company, or purchases made by the Shareholders or their Affiliated Persons from the Company or any other transactions between the Company and the Shareholders or their Affiliated Persons shall be concluded only at the market price and on an arm’s length basis.

**Intellectual Property**

* 1. Each of the Shareholders acknowledges and confirms that all Intellectual Property shall be the exclusive property of the Company. The Shareholders shall not own and waive any rights to intellectual property created in the course of the Company’s Business activities. For the avoidance of doubt, the Shareholders to the fullest extent permitted by law waive any title and intellectual property to the products intended to be used for the purposes of the Company’s Business, which were created beforehand the establishment of the Company and entering into this Agreement.
	2. Each of the Shareholders hereby exclusively, entirely and irrevocably assigns/transfers to the Company any and all rights, title and interest and benefit to any and all Intellectual Property held by it, including, but not limited to, the right to make changes and modifications thereof as well as the right to further assign/transfer such rights to any third party, for no compensation, or such compensation as required by law. Furthermore, each of the Shareholders hereby undertakes to take all such actions necessary to effect such assignment/transfer.

1. **FOUNDERS’ UNDERTAKINGS**
	1. Each of […] and […] shall, as long as he/she is an employee or service provider of the Company, devote [entire/at least [...]%] of his/her business time and attention to the Company and not undertake additional business activities without a Shareholders’ consent. [As an exception, the following Shareholders are entitled to undertake the following business activities, provided that this does not interfere with the relevant Shareholder’s ability to perform its duties under this Agreement:
		1. […] is entitled to undertake the following business activities: […];
		2. […] is entitled to undertake the following business activities: […].
	2. Each Shareholder’s role and main responsibilities are described in Schedule 4.
2. **employee Option pool**
	1. The Parties agree that the persons other than the Shareholders may be granted an option to acquire up to [10]% (or more in case the Company acquires Shares from leaving Shareholders in accordance with Clause 6) of all the Shares existing on the Signing Date as a motivational package (the “**Employee Option Pool**”), provided that the persons who acquire the Shares shall adhere to this Agreement on the side of the shareholder and shall undertake to fulfil the same obligations under the Agreement without any deviations as from the day of acquisition of the Shares.
3. **LEAVER PROVISIONS[[3]](#footnote-4)**
	1. The Parties agree that Shareholders’ Shares shall be subject to reverse vesting for a period of […] years (the **Vesting Period**) as described in Schedule 2, starting from the Signing Date.
	2. Upon the occurrence of a Good Leaver Event during the Vesting Period, the Company shall have the option, to acquire the unvested Shares held by the leaving Shareholder for [nominal value]. Such shares shall be included into the Employee Option Pool. In case the Company cannot acquire the unvested Shares under the applicable laws, the other Shareholders shall acquire these Shares *pro rata* their shareholding in the Company. The Shareholders shall hold the Shares acquired from the leaving Shareholder solely for the purpose of transferring them to the Company for nominal value in accordance with the applicable laws to supplement the Employee Option Pool or grant them directly to employees/consultants of the Company in accordance with the decisions of the General Meeting to that effect. In addition, the Shareholders shall have the option, to acquire the vested Shares held by the Shareholder, *pro rata* their shareholding in the Company, for the price equal to [the Fair Value] of such Shares.
	3. Upon the occurrence of a Bad Leaver Event during the Vesting Period, the Company shall have the option, to acquire the Shares (including the vested and unvested ones thereof) held by the leaving Shareholder for [their nominal value] (whereas the option to acquire the Shares of the leaving Shareholder under Clauses 6.2 and 6.3 jointly the **Call Option**). In case the Company cannot acquire the Shares under the applicable law, the Shareholders shall acquire these Shares *pro rata* their shareholding in the Company. The Shareholders shall hold the Shares acquired from the leaving Shareholder solely for the purpose of transferring them to the Company for nominal value in accordance with the applicable law to supplement the Employee Option Pool or grant them directly to employees/consultants of the Company in accordance with the decisions of the General Meeting to that effect.
	4. The leaving Shareholder is obliged to notify the other Parties in writing about any leaver event within [10] Business Days as of the occurrence of the leaver event.
	5. The Company or the Shareholders (as applicable) may exercise the Call Option within [60] Business Days from the moment they became aware of the leaver event (the **Call Option Period**) by sending the Call Option notice to the leaving Shareholder.
	6. If the Company or the Shareholders (as applicable) exercise the Call Option, the Shareholder shall take all actions requested by the Company (or the other Shareholders) to transfer such Shares to the Company (or the Shareholder) within a period which shall be:
		1. if the transfer is for nominal value, [10] Business Days after the receipt of the Call Option Notice; and
		2. if the transfer is at the Fair Value, [10] Business Days after the determination of Fair Value under Clause 6.7.
	7. The Fair Value shall be determined as follows:
		1. within [30] Business Days after exercise of the Call Option the leaving Shareholder and the Parties that have exercised the Call Option shall seek in good faith to agree upon the Fair Value; and
		2. in case the said Parties do not reach an agreement on the Fair Value within the said term, the Parties that have exercised the Call Option shall appoint a reputable, independent valuator to carry out a valuation and determine the Fair Value. The Parties shall instruct such valuator to perform the valuation within [20] Business Days as of receiving respective instructions. The cost of such valuation shall be covered in equal parts by the Company and the leaving Shareholder. The result of such valuation shall be the binding Fair Value.
4. **CORPORATE GOVERNANCE**

**General principles**

* 1. The management structure of the Company shall consist of the General Meeting and the Manager.
	2. The Shareholders agree to act, and to ensure that the members of the Company’s management bodies nominated by them shall act in the best interests of the Company following the provisions laid down in this Agreement. Each Shareholder shall take all necessary steps to ensure the implementation of the provisions laid down in this Agreement, including:
		1. shall use voting and other rights granted by the Shares so as to ensure the implementation of the provisions laid down in this Agreement;
		2. shall ensure that the members of the Company’s management bodies nominated by the Shareholder shall use their voting and other rights so as to ensure the implementation of the provisions laid down in this Agreement;
		3. shall ensure that the Shareholder attends the General Meetings and vote on decisions.

**General Meeting**

* 1. The General Meeting is the highest governing body of the Company. The General Meeting shall have the competence established in the Law on Companies of the Republic of Lithuania, unless otherwise provided in this Agreement.
	2. The procedure of convening the General Meeting and the decision-making procedure shall be as provided in the Law on Companies of the Republic of Lithuania, unless otherwise provided in this Agreement.
	3. The General Meeting shall be considered to have a quorum, if at least [50]% of the Shareholders’ votes are represented at the General Meeting.
	4. A decision of the General Meeting is adopted by a simple majority of votes, except for the decisions listed in Schedule 3 (the **Limited Decisions**), which shall be adopted by a qualified majority of [2/3] of votes.[[4]](#footnote-5)
	5. The Parties agree that the General Meeting may be convened at the request of any of the Shareholders. The Shareholder that requests to convene the General Meeting must submit the request to the Manager, who must initiate such a meeting within 14 days from the receipt of the request. A notice regarding the convocation of the General Meeting (as established in the Law on Companies) shall be made in writing not later than 21 days prior to the scheduled date of the meeting (unless all Shareholders agree in writing on the earlier convocation date). The notice may be sent via e-mail (provided that the addressee confirms the receipt of the e-mail), registered mail, in person, by signature of the courier, confirming the receipt of the letter, via public notary or bailiff (other modes of delivery are not suitable). Not later than on the same date, access shall be granted to the drafts of the planned decisions and other information regarding the issues on the agenda.
	6. The General Meeting may also be held via phone or video conference. The General Meeting shall be properly documented in the minutes of the meeting. After each General Meeting, the Company shall provide a copy of the minutes to the Shareholders.

**Manager**

* 1. The Manager shall be appointed, removed and his/her employment terms and conditions shall be determined by the General Meeting in accordance with the procedure established in the Law on Companies and this Agreement.
	2. The Manager shall be removed in the event of his/her material breach of the Agreement or in case he/she does not follow the duty of care, loyalty, does not avoid conflicts of interest, fairness, reasonability or beaches his/her other fiduciary duties.
	3. The Manager shall have the competence as established in the legislation of the Republic of Lithuania and this Agreement. The Manager shall carry out the decisions of the General Meeting and shall comply with the budget of the Company.
1. **Information rights**
	1. The Shareholders shall procure that the Company provides to a Shareholder, at the request of such Shareholder:
		1. audited annual accounts, as soon as possible after such accounts have been prepared, but not later than [4] months from the end of each financial year; and
		2. […]
	2. The Shareholders shall be entitled to request, and the Company shall provide any other information and documents related to the Company.

1. **Transfer of Shares**

**General**

* 1. In this Clause 9, the expression Shares also includes Equity Instruments. Each Shareholder agrees that it will not transfer, sell, assign, pledge, contribute to capital or otherwise create any Encumbrances, directly or indirectly, and whether or not voluntarily (hereinafter in this Clause 9 - the **Transfer**) any of its Shares except in compliance with all terms, conditions and provisions of this Agreement. The Shareholders are not entitled to transfer the rights granted by the Shares separately from the Shares.
	2. Save as expressly provided for in this Agreement, it shall be a condition to the Transfer of any Shares that the purchaser consents in writing to be bound by the terms of this Agreement (as amended from time to time) and shall become a party to this Agreement on the same terms and in the same capacity as the transferor.

**Issue of Shares**

* 1. In the event of issue of any new Shares or Equity Instruments during the term of this Agreement, all Shareholders shall have a *pro rata* right, but not an obligation, based on their shareholdings in the Company, to acquire such new Shares or Equity Instruments (subject to exceptions stated in the Law on Companies) (the **Right of Pre-Emption**). To the extent such right is not exercised by any Shareholder, it may be exercised by the remaining Shareholders.

**Right of First Refusal**

* 1. If a Shareholder (the Transferring Shareholder) wishes to sell and transfer all or some of its Shares (the Offered Shares), the other Shareholders shall have a right of first refusal to purchase the Offered Shares in accordance with the below (the **Right of First Refusal**).
	2. The Transferring Shareholder shall notify the other Shareholders and the Company in writing of its intention to dispose of the Offered Shares, stating the material terms of the disposition, including information on prospective purchaser, number of shares and price per share (the Transfer Notice). The other Shareholders shall within a period of [30] days after the receipt of the Transfer Notice (the **Acceptance Period**) notify the Transferring Shareholder in writing to what extent they wish to exercise their Right of First Refusal and accept the offer under the Transfer Notice. Those Shareholders accepting the offer (the Accepting Shareholders) shall be entitled and required to purchase some or all of the Offered Shares. If more than one Shareholder accepts the offer, the Offered Shares shall be allocated between the Accepting Shareholders on a pro rata basis in relation to their (at the applicable time) respective holdings of Shares. If a Shareholder does not notify the Transferring Shareholder within the Acceptance Period, such Shareholder shall be deemed to have rejected the offer under the Transfer Notice.
	3. If the other Shareholders do not accept, or if they have rejected, the offer under the Transfer Notice, then the Transferring Shareholder shall be entitled to sell the Offered Shares to a third party on terms not more favourable for the acquirer than the terms that the other Shareholders were entitled to under the Transfer Notice, provided that such sale is completed within [45] days from the day the Transferring Shareholder became entitled to sell the Offered Shares under this Clause and such third party acquirer agrees in writing to be bound by this Agreement as set forth in Clause 9.2.

**Drag Along Right**

* 1. If a third party (the Third Party Purchaser) makes a written *bona fide* offer of a Sale and Shareholders representing more than [75]% of the Shares wish to accept such offer, such Shareholders (the Dragging Shareholders) shall have the option to require (the Drag Along Right) that the other Shareholders shall sell and transfer all of their Shares to such Third Party Purchaser against the consideration per Share determined in the Sale offer and otherwise on the same terms and conditions as the Dragging Shareholders (however with any agreed exceptions under this Agreement). Any sale pursuant to this Clause shall always be subject to the other Shareholders’ Right of First Refusal.
	2. The Dragging Shareholders may exercise the Drag Along Right by giving written notice to the other Shareholders with a copy to the Company (a Drag Along Notice) to that effect at any time before the transfer of their Shares to the Third Party Purchaser. A Drag Along Notice shall specify that the other Shareholders are required to transfer all their Shares (the Called Shares) to a particular person, the consideration for which the Called Shares are to be transferred and the proposed date of transfer.
	3. Drag Along Notices shall lapse if for any reason there is no Sale of the Dragging Shareholders’ Shares to the Third Party Purchaser within 90 days after the date of provision of the Drag Along Notice.

**Tag Along Right**

* 1. If any Shareholders wish to sell the Shares constituting more than 50% of the share capital of the Company (except if Shares are sold from Employee Option Pool) to the potential Third Party Purchaser and give a Transfer Notice to other Shareholders and in the event other Shareholders do not exercise the Right of First Refusal, but the Shareholder(s) wish(es) to sell the Shares owned by it (them) (either a *pro rata* part of its/their Shares or all Shares of it/them), along with the Shares of the Transferring Shareholder, the Transferring Shareholder shall ensure that together with the transferable Shares the Third Party Purchaser shall purchase, respectively, part or all the Shares owned by such Shareholder(s) (the **Tag Along Shares**) at the same fair price and on the same fair terms as agreed between the Transferring Shareholder and the Third Party Purchaser (the **Tag Along Right**).
	2. Each Shareholder shall notify the Transferring Shareholder of their intention to exercise the Tag Along Right within the Acceptance Period by giving a written notice thereof to the Transferring Shareholder and the Company. In the event the Shareholder presents a request to exercise the Tag Along Right, the Transferring Shareholder may not transfer the transferable Shares to the Third Party Purchaser, unless the Third Party Purchaser together with the transferable Shares purchases the Tag Along Shares.
1. **Non-Compete and Non-Solicitation**
	1. Each of the Shareholders hereby undertake and covenant that (save for any interest in the shares or other securities of a company traded on a securities market so long as such interest does not extend to more than 5% of the issued share capital of the company or the class of securities concerned) he/she/it shall not as long as he/she/it is a direct or indirect Shareholder and [24] months thereafter in any countries where the Company and/or its Affiliated Persons operates or intends to operate (if investments or actions have been made to enter such markets) at the relevant time:
		1. carry on or be concerned, engaged or interested directly or indirectly in any capacity whatsoever in any trade or business competing with the Business; or
		2. either on his/her/its own behalf or in any other capacity whatsoever directly or indirectly endeavour to entice away from the Company or solicit or engage any person or company who is client, customer, supplier, agent, distributor or employee of the Company.
	2. The obligations on a Party under this Clause 10 shall survive any transfer of all or any Shares and shall survive, in the case the party is a natural person, him/her ceasing to be a director or employee of or consultant to the Company.
2. **Representations and warranties**
	1. Each Party hereby represents and warrants to the other Parties that the following representations and warranties of the Party are true and correct in all respects as of the date of this Agreement:
3. **Authorisations**. The Party has full right, power and authority (including decisions and consents from its bodies, creditors and relevant authorities) required to execute this Agreement and perform the obligations indicated herein, and all such decisions and consents are valid and enforceable. This Agreement constitutes a valid and binding obligation of the Party, enforceable in accordance with its terms.
4. **No conflict**. Neither the execution of this Agreement nor the compliance by the Party with its terms and provisions will conflict with or result in a breach or violation of any of the terms, conditions and provisions of (i) any permit, consent, decision, judgement, order, decree or ruling of any person, authority, organisation or dispute resolution body, to which the Party is subject; (ii) any transaction or commitment to which the Party is a party; or (iii) any applicable laws.
5. **No proceedings**. There is no claim, action, suit, proceeding, arbitration, pre-trial investigation or hearing, pending or threatened, by or before any public authority or dispute resolution body against the Party due to which the Party would be unable to perform its obligations under this Agreement.
6. **Legal capacity**. The Party is (i) a duly established company which is not subject to bankruptcy, restructuring, insolvency, reorganisation, spin-off or liquidation under the applicable laws; or (ii) a natural person with full legal capacity.
7. **LIABILITY AND REMEDIES**
	1. If a Shareholder fails to duly perform any of its obligations under this Agreement, such Shareholder shall be fully liable to the other Shareholders for any and all damages and expenses caused by breach or undue fulfilment of this Agreement.
	2. If a Shareholder fails to duly perform any of its obligations under Clause 9, Clause 10, Clause 7.6 and Clause 3.3, which shall be considered as material breaches of the Shareholders’ obligations, and in case such Shareholder fails to cure such violation(s) within [15] calendar days after the date of the respective written notice from the other Shareholder, such Shareholder shall pay the other Shareholders within [30] days as from the receipt of a written claim from the other Shareholder a contractual penalty in the amount of EUR [...]. The damages incurred by the other Shareholder due to such breach shall be compensated in addition to the payment of the contractual penalty.
	3. If a Shareholder fails to duly perform any of its obligations that are not subject to Clause 12.2 above, which shall be considered as non-material breaches of the Shareholders’ obligations, and in case such Shareholder fails to cure such violation(s) within [15] calendar days after the date of the respective written notice from the other Shareholder, such Shareholder shall pay the other Shareholder within [30] days as from receipt of a written claim from the other Shareholder a contractual penalty in the amount of EUR [...]. The damages incurred by the other Shareholder due to such breach shall be compensated in addition to the payment of the contractual penalty.
	4. In the event that any of the Parties is in delay with the fulfilment of a monetary obligation, the defaulting Party shall pay to the aggrieved Party default interest of [0.05]% per day on the delayed amount.
	5. Any and all penalties due from the Shareholder (or a group of Shareholders) defaulting hereunder shall be payable to the non-defaulting Shareholder or, if there are more non-defaulting Shareholders, penalties shall be paid *pro rata* the number of Shares held by them, except the number of Shares held by the Party in default. Any and all penalties due from the Company defaulting hereunder shall be paid to the non-defaulting Shareholders *pro rata* to the number of Shares held by them.
	6. Payment of penalties shall not exempt from the obligation to perform the obligations assumed under this Agreement.
	7. The Shareholders confirm that in the event of a breach of this Agreement, adequate remedies may not always be available under law; therefore, all the provisions contained in this Agreement shall be in addition to any remedies available under law (using interim measures, rendering a final judgment, etc.).
8. **Term and Termination**
	1. This Agreement shall come into force upon signing hereof by all the Parties.
	2. This Agreement shall terminate:
		1. in respect of a Shareholder, when the Shareholder transfers all this Shares in accordance with the procedure and conditions laid down in this Agreement;
		2. when one person becomes the owner of all (100%) of the Shares;
		3. when the Company is liquidated.
	3. This Agreement may be terminated by written agreement of all the Parties.
	4. Termination of this Agreement shall not affect the obligations of the Parties that are intended to survive termination of this Agreement, including provisions contained in Clause 10 (Non-Compete and Non-Solicitation), Clause 11 (Liability), Clause 14 (Confidentiality) and Clause 15 (Miscellaneous).
9. **Confidentiality**
	1. Each of the Parties agrees to keep secret and confidential and not to use or disclose to any third party any confidential information relating to the Company and its Business. A Party is not subject to this confidentiality undertaking if and only insofar as (i) the information is in the public domain (otherwise than through the wrongful disclosure of any Party), (ii) the Party or its Affiliated Persons have by reasonable proof already been in the possession of such information at the time of the receipt of the information, (iii) the information shall be disclosed to its professional advisors, and/or (iv) the disclosure of the information is required by law or by the rules of any regulatory body to which the Party is subject.
	2. The obligations on a Party under this Clause 14 shall survive any transfer of all or any Shares and, in the case the Party is a natural person, shall survive him/her ceasing to be a director or employee of or consultant to the Company, for a period of [2] years.
10. **mISCELLANEOUS**
	1. This Agreement contains the entire agreement between the Parties with respect to the subject matter of this Agreement and supersedes all previous and contemporaneous negotiations and understandings between the Parties, whether written or oral.
	2. Changes and additions to this Agreement, including to this provision, must be in writing and duly executed by all Parties.
	3. In the event of any discrepancy between this Agreement and the Articles of Association, the Parties shall follow this Agreement. The Parties shall take all measures necessary to amend the Articles of Association to the extent legally possible, where these are not in compliance with this Agreement.
	4. If any provision of this Agreement is held to be invalid or unenforceable by any judicial or other competent authority, the remainder of that provision and all other provisions of this Agreement will remain in full force and effect and will not in any way be impaired. The Parties agree to substitute the invalid or unenforceable provision by a provision which will come as close as possible to the intended economic effect of the invalid or unenforceable provision.
	5. None of the Parties shall be entitled to assign any of their rights or obligations under this Agreement to any third persons without the prior written consent of the other Parties, except the cases provided for in this Agreement.
	6. All notices, requests, claims and other communications shall be in writing and shall be delivered to the recipient in person, sent by e-mail (with an acknowledgement of receipt from the recipient), registered mail or via courier at the addresses indicated by the Parties:

**If to the Shareholders:**

Name: [...]

Address: [...]

E-mail: [...]

Name: [...]

Address: [...]

E-mail: [...]

Name: [...]

Address: [...]

E-mail: [...]

**If to the Company:**

Name: [...]

Address: [...]

E-mail: [...]

* 1. Correspondence shall be deemed delivered (i) on the date of actual delivery if delivered in person; (ii) at the time when the recipient acknowledges receipt of the message if sent by e-mail; (iii) on the third Business Day if sent by registered mail, except when sent to or by the Party established abroad, in which case it shall be deemed delivered on the fifth Business Day; and (iv) on the following Business Day if sent by courier, except when sent to or by the Party established abroad, in which case it shall be deemed delivered on the third Business Day. The Parties hereby accept that the Company uses e-mail and other electronic communication when communicating with its shareholders.
	2. This Agreement shall be governed by and construed in accordance with the laws of the Republic of Lithuania.
	3. [Any dispute, controversy or claim arising out of or in connection with this Agreement, its breach, termination or validity shall be finally settled by arbitration in Vilnius Court of Commercial Arbitration in accordance with its Rules. The number of arbitrators shall be 3. The venue of arbitration shall be Vilnius, Lithuania. The language of arbitration shall be English. Any dispute shall be governed by the substantive law of Lithuania. In case the Parties to the dispute do not appoint an arbitrator in a timely manner, the arbitrator (including the chairman) shall be appointed by the Chairman of Vilnius Court of Commercial Arbitration./ *Any dispute, controversy or claim arising out of or in connection with this Agreement and not resolved by negotiations of the Parties, shall be referred to courts of the Republic of Lithuania.*]

[This Agreement has been signed digitally] [This Agreement has been duly executed in […] original copies, of which the Parties have taken one copy each.]

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_
 […] […] […]

**Schedule 1**

**Capitalisation Table**

|  |  |  |
| --- | --- | --- |
| Shareholder | *Excl. Equity Instruments* | *Incl. Equity Instruments(as if converted to Shares)* |
| Shares | Share Capital (EUR) | Owner-ship (%) | Equity Instru­ments | Share Capital (EUR) | Owner-ship (%) |
|  |  |  |  |  |  |  |
|  |  |  |  |  |  |  |
|  |  |  |  |  |  |  |
| **TOTAL** | **[X]** | **[X]** | **100%** | **[X]** | **[X]** | **100%** |

**SCHEDULE 2**

**VESTING SCHEDULE**

|  |  |  |
| --- | --- | --- |
| **Months from the day of the signing the Agreement (inclusive)\*** | **Vested Shares\*\*** | **Unvested Shares\*\*** |
|  |  |  |
|  |  |  |
|  |  |  |
|  |  |  |
|  |  |  |
|  |  |  |

**\*** Months are counted as “current” months, i.e. “1” means the period between the beginning of 1st month following the Signing Date and the last day of 1st month following the Signing Date, and etc.

**\*\*** The proportions (percentages) are calculated based on the number of Shares held by the respective Shareholder in respect of which the Call Option might be exercised, i.e. for the purpose of calculation of the Call Option Shares, on the date of the exercise of the Call Option, all Shares held by the respective Shareholder shall be considered as constituting 100%.

**SCHEDULE 3**

**LIST OF LIMITED DECISIONS**

1. to amend the Articles of Association;
2. to increase or decrease the share capital;
3. to issue new Shares, to establish their class, number, nominal value and minimum issue price;
4. to enter into, or amend any material terms of, any Equity Instruments agreement, or any other transaction granting any person any right to acquire any shares of the Company other than agreements with employees and/or consultants of the Company;
5. to conclude, amend or terminate any agreements, providing the right to acquire Shares of certain issue or Equity Instruments;
6. to acquire and transfer own shares of the Company;
7. to effect any merger, division, transformation or dissolution;
8. to distribute profit;
9. to allocate dividends;
10. to introduce new types of activities of the Company, fully or partially terminate activities, to change the goal or object of the Business of the Company;
11. to transfer the business of the Company or an essential part thereof;
12. to take decisions on reorganisation or separation of the Company, as well as decisions on approval of terms and conditions of reorganisation or separation;
13. to liquidate the Company and to revoke liquidation of the Company;
14. election, appointment and removal from office of the Manager, change of his/her incentives package;
15. to approve the rules for provision of Shares to employees and (or) members of the bodies of the Company;
16. to approve the business plan and each annual budget and any material changes thereto or deviations therefrom;
17. to dispose of or grant any right to use IP or other material assets (including providing the right of use to third persons) other than non-exclusive licenses granted in the ordinary course of business;
18. to incur any loan or other obligation in excess of EUR [...], excluding VAT;
19. to grant on behalf of the Company any loan or credit, including financial lease, issue or acquisition of debt securities, or any other debt instruments or to provide any collateral;
20. to enter into any joint ventures, consortiums, shareholder agreements, other agreements having the same or very much alike effect;
21. to conclude, terminate or change any transactions with the Shareholders or their Affiliated Persons, as well as members of management bodies or their Affiliated Persons;
22. to issue guarantees and/or suretyships or other securities for obligations by the Company in favour of any person, to assume obligations of joint and several liability with a third party, to issue promissory notes;
23. to establish any subsidiary and to acquire, transfer or encumber a shareholding in any other entity, including any subsidiary;
24. as a shareholder or member of other entities to pass decisions or to vote in the meetings of the members of such other entities on questions analogous to the ones stated in this list;
25. to enter into, terminate or amend any transaction with the value in excess of EUR [...], excluding VAT, except for agreements foreseen in the budget (calculating every transaction separately or several connected transactions together);
26. to create or undertake to create any Encumbrance over the assets of the Company;
27. to conclude, terminate or change any transaction not in the ordinary course of Business;
28. to enter into transactions on non-market conditions;
29. to approve or amend share option plan and/or rules of granting of shares, or enter into an option agreement or any other transaction granting a right to acquire Shares of the Company with employees and/or consultants of the Company.

**SCHEDULE 4**

**SHAREHOLDERS’ RESPONSIBILITIES**

|  |  |
| --- | --- |
| [...] | [describe the responsibilities] |
| [...] | [describe the responsibilities] |
| [...] | [describe the responsibilities] |

1. DRAFTING NOTE: if the Shareholder is natural person. [↑](#footnote-ref-2)
2. DRAFTING NOTE: this definition matters for example for intellectual property and non-compete, so make sure it covers the company's business but is not unnecessarily broad. [↑](#footnote-ref-3)
3. DRAFTING NOTE: the primary resource of most early stage startups is the founders commitment to focus 100% on building the company during many years. The purpose of this vesting clause is to make sure that if a founder stops working for the company they have to return all or some of their shares. The other shareholders can use those shares to recruit a new co-founder/employees. [↑](#footnote-ref-4)
4. DRAFTING NOTE: provided list is for discussion purposes. Founders might agree on different questions, include other decisions which they consider as fundamental for the business. [↑](#footnote-ref-5)