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| CONVERTIBLE LOAN AGREEMENT |

**CONVERTIBLE LOAN AGREEMENT**

between

**company,** a corporation organized under the laws of country, having its registered office at address (the "**Company**");

and

**XXXXXX**

 (the "**Investor**")]

each a “**Party**” and, together, the “**Parties**”

**concerning a currency XXXXXXXX loan granted to the Company**

****Preamble****

1. **The Company** is a country corporation with a share capital of currency number **divided into number fully paid-in ordinary registered shares with a nominal value of** currency number **each.**
2. **The capitalization table in Schedule A sets out the existing shareholdings in the Company.**
3. **The Company wishes to borrow from the Investor, and the Investor wish to lend to the Company, an amount of currency XXXX (WORDS currency spelled out) under the terms and conditions set out in this Agreement.**

****the parties agree as follows:****

# Definitions and interpretation

## Definition

For all purposes of this Agreement, in addition to the terms defined above, the following terms shall have the following meanings (such meanings to be equally applicable to both the singular and plural forms of the terms defined):

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| "**Agreement**" | means this convertible loan agreement and its Schedules.  |
| "**Business Day**" | means any day (other than a Saturday or a Sunday) on which banks are open for general business in city, country. |
| "**currency**" | means currency spelled out. |
| "**law**" | means the law spelled out, as amended. |
| "**Company**" | has the meaning set forth in the second page of this Agreement. |
| "**Confidential information**" | has the meaning set forth in Section 8.1(a). |
| "**Control Transaction**" | means (i) the liquidation of the Company or (ii) the sale of all or substantially all of the assets of the company or (iii) the sale of all or substantially all of the shares of the Company or (iv) a merger or similar reorganization of the Company (excluding any further financial rounds), provided that the persons who, immediately before the transaction, are shareholders of the Company, hold less than 50% of the voting rights associated with securities of the surviving or acquiring entity immediately after completion of such transaction. |
| "**Conversion Event**" | has the meaning set forth in Section 6.1(b). |
| "**Conversion Price**" | has the meaning set forth in Section 6.2. |
| "**Disbursement Date**" | has the meaning set forth in Section 2.2. |
| "**Effective Date**" | means the latest date mentioned on the signature page. |
| "**Investor**" | has the meaning set forth in the second page of this Agreement. |
| "**Loan**" | has the meaning set forth in Section 2.1. |
| "**Maturity Date**" | has the meaning set forth in Section 4.2. |
| "**Party**" | has the meaning set forth in the second page of this Agreement. |
| "**Qualified Equity Financing**" | means a private placement in the form of an equity financing of the Company where the Company raises a minimum of currency number (number and currency spelled out) in the aggregate in gross proceeds excluding the amount of the Loan and the related accrued interest. |
| "**Schedule**" | means a schedule to this Agreement. |
| "**Shareholder**" | means any shareholder of the Company.  |
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## Interpretation

Except to the extent that the context otherwise requires:

1. when a reference is made in this Agreement to a Section, such reference is to a Section of this Agreement unless otherwise indicated;
2. the headings for this Agreement are for reference purposes only and do not affect in any way the meaning or interpretation of this Agreement;
3. the words "hereof", "herein" and "hereunder" and words of similar import, when used in this Agreement, refer to this Agreement as a whole and not to any particular provision of this Agreement; and
4. the use of "or" is not intended to be exclusive unless expressly indicated otherwise.

# Loan

## Amount

Subject to the terms and conditions of this Agreement, the Investor hereby agrees to grant to the Company, which accepts, a convertible loan in the principal amount of **currency **XXXXXX (WORDS** currency spelled out)**] (the "**Loan”**).

## Disbursement

The Investor shall transfer, or cause to transfer, to the Company the Loan in a one-off disbursement within number Business Days from the Effective Date or any other date as mutually agreed in writing between the Investor and the Company (the "**Disbursement** **Date**"), by wire transfer in immediately available funds to the bank account detailed in Schedule B. Upon disbursement of the Loan by the Investor pursuant to this Section, the Company shall issue a note to the Investor substantially in the form set out in Schedule C.

## Use of proceeds

The Loan will be used for the operational costs of the Company, including without limitation, the running expenses, the acquisition, defense and development of the technology and the intellectual property, the payment of employees and consultants, the lease of facilities, and the negotiation of future financing rounds or of a Control Transaction.

# Interest

No interest shall be due on the unpaid principal amount of the Loan.

# Prepayment and repayment

## Prepayment

The Company may only prepay any portion of the Loan with the prior written consent of the Investor.

## Repayment

Subject to the terms and conditions of this Agreement, the Company shall repay on the third anniversary of the Disbursement Date (the "**Maturity Date**") any amount due under the Loan in principal and interest (except any portion of the Loan converted into shares in the Company and paid by way of set off pursuant to Section 6).

## Manner of repayment

Subject to Section 6, any payment due under this Agreement by the Company to the Investor shall be made in currency spelled out (currency) by wire transfer in immediately available funds to such bank account as the Investor shall designate in writing.

Any repayment pursuant to this Agreement due on a day other than a Business Day shall be payable on the immediately subsequent Business Day.

# No security and guarantee / Subordination

## No security and guarantee

The Loan is unsecured and granted without any guarantee whatsoever.

## Subordination Agreement

In the event that the Company is overindebted (*surendettée*) within the meaning of law section, the Investor agrees to subordinate his claims under the Loan according to the terms and conditions of the subordination agreement set forth in Schedule D.

# Conversion

## Conversion Trigger

### The Investor shall be obligated to convert all (but not less than all) unpaid principal amount of the Loan together with any related accrued interest into new preferred registered shares in the Company of a per share par value of currency number and at a per share conversion price equal to the Conversion Price upon the occurrence of the earlier of the following event (a "**Conversion Event**"):

#### the signing of a Qualified Equity Financing; or

#### the signing of a Control Transaction; or

#### at the first written request of the Company.

## Conversion Price

The issue price for each new ‘converted’ share shall be determined at the time of the Conversion Event and shall be based upon the lower of i) the price paid by those investors purchasing the shares in the Conversion Event, and ii) the price per share that reflects a pre-money valuation in such Conversion Event of currency number shares, AND the Investor shall benefit from a discount on the price of such new ‘converted’ share of %, such that the Investor shall pay an issue price for each new converted share that is % lower than that paid by those investors purchasing the shares in the Conversion Event, where the pre-money valuation in such Conversion Event is equal to or less than currency number shares, or greater than %, if the pre-money valuation in such Conversion Event is greater than currency number shares (the "**Conversion Price**”).

## Conversion Modalities

### All Parties hereby irrevocably undertake to perform any and all necessary operations as provided by law or by the articles of association of the Company in order to give effect to the provisions of this Section 6.

### Upon occurrence of a Conversion Event, the Investor shall exercise their conversion rights within number Business Days from receipt of a written notice by the Company informing them of the occurrence of the Conversion Event. The Investor hereby grants power of attorney to the chairman of the board of directors of the Company, with the right to appoint a substitute, in order to exercise his conversion rights, to subscribe for his shares acting on a fiduciary basis on his behalf, to set off the subscription price against the Loan and to transfer such shares to him upon issuance. Should the Investor refuse to convert upon the occurrence of a Conversion Event, he shall inform the Company of such decision within number Business Days from receipt of the written notice mentioned in the first sentence of this Section and will by so doing waive his conversion rights, which will not be exercisable anymore, as well as his right to be repaid the principal of the Loan and the related accrued interest.

## Payment of the Conversion Price

The Conversion Price shall be paid by way of set-off against all or parts of the amounts due under the Loan including the related accrued interest.

## Dividends

The Company's shares obtained through conversion will give the Investor concerned the right to receive *prorata temporis* all dividends payable with respect to such shares by the Company following such conversion.

## Stamp Duty

Any stamp duty levied by the capital increase necessary to the conversion will be paid by the Company.

## Transferability of conversion rights

Except with the prior written consent of the Company, the conversion rights provided hereunder may not be sold, encumbered, assigned or otherwise transferred.

Any purported sale, assignment or transfer of such conversion rights in violation of this provision shall be void.

## Shareholders Agreement

The Investor undertakes to sign and adhere unconditionally to the shareholders’ agreement in force between the existing shareholders on conversion of the Loan. Should the Investor refuse to sign and adhere to such shareholders’ agreement, he will be precluded from the conversion of his Loan.

# Representations and Warranties

## Representations and Warranties of the Company

The Company represents and warrants on the date hereof that:

1. it is a company duly organized, validly existing and in good standing under the laws of country and has full corporate power and authority to execute and perform this Agreement;
2. the execution, delivery and performance by the Company of this Agreement and any related documentation, are within its corporate powers, have been duly authorized, do not require any governmental approvals, consents or filings (or if any is required, it has been obtained), and do not contravene the Company's organizational documents, any laws, regulations and orders or any contractual obligations of the Company.

## Representations and Warranties of the Investor

The Investor represents and warrants for himself on the date hereof and on the Disbursement Date that the execution, delivery and performance by such Investor of this Agreement and any related documentation do not require any governmental approvals, consents or filings (or if any is required, it has been obtained), and do not contravene any laws, regulations and orders or any contractual obligations of the Investor.

# Confidentiality

## Principle

### Each Party shall keep strictly confidential the existence as well as the terms and conditions of this Agreement, and any information exchanged between the Parties (including their respective representatives or advisors) during the due diligence and the negotiation of this Agreement and/or pertaining to the business and the operation of the Company (all such information collectively, the "**Confidential Information**"). The Parties shall neither use in any form nor disclose to any third party any Confidential Information unless explicitly authorized by this Agreement. The Parties shall ensure that their employees, directors and any other representatives as well as the advisors of each Party to whom any such Confidential Information is entrusted comply with these restrictions. Without limiting the generality of the foregoing, the term Confidential Information shall include in particular:

1. any information regarding this Agreement, the investments made or to be made by the Investor in the Company, or the investments made or to be made by other investors in the Company, and the commercial terms and conditions of the investments; and
2. any trade secrets, financial or confidential information of the Company or any of the Investors.

## Exceptions

The term Confidential Information shall not include any information: (i) which as of the time of its disclosure by a Party was already lawfully in the possession of the receiving Party as evidenced by written records, or (ii) which at the time of the disclosure was in the public domain, or (iii) the disclosure of which was previously explicitly authorized by the disclosing Party. The non-disclosure obligation shall further not apply to any disclosure of Confidential Information required by law or regulations. In the event a disclosure of Confidential Information is required by law or regulations (including, without limitation, for tax, audit or regulatory purposes), the disclosing Party shall use all reasonable efforts to arrange for the confidential treatment of the materials and information so disclosed.

## Permitted use

### Each Party may use any Confidential Information in accordance with this Agreement. However, subject to the terms hereof, each Party acknowledges and agrees that any Confidential Information made available to it (including to any representative or advisor of such Party) by the Company or any other Party (including their representatives or advisors) hereunder shall not be used by such Party other than (i) as permitted under this Agreement, (ii) for the benefit of the Company, or (iii) for the respective Party's assessment of the Company, and shall not be exploited by or for the benefit of such Party or any of its affiliates or third party.

### The Company may issue an announcement confirming that it has concluded a seed financing round; provided, however, that such announcement shall neither disclose the specific terms on which the Investor and other investors, if any, have invested in the Company nor the amounts invested without the prior written approval of the Investor. No other announcement or press releases regarding the matters contemplated by this Agreement shall be made by the Parties without the prior written consent of the Company and the Investor.

### Nothing herein shall restrict the Company and the Shareholders from granting third parties customary due diligence access for purposes of financial, commercial, strategic or similar transactions based on appropriate non-disclosure and non-use agreements.

# Miscellaneous

## Conditions precedent – confirmation of the conversion rights

### The entry into force and the effectiveness of the conversion rights set out in this Agreement are subject to:

1. the general Shareholders’ meeting of the Company having resolved (a) to increase the conditional share capital in an amount sufficient for the conversion of the full amount of the Loan with the related withdrawal of the preferential subscription rights (*droits préférentiels de souscription*) of the existing Shareholders in the Company in accordance with article 21 para. 4 point 6 and (b) to amend the articles of association of the Company accordingly; and
2. such amendment of the articles of association of the Company having been registered with the legal/financial entity of the location.

## Amendment

This Agreement – including this Section - shall not be amended or modified except by a document in writing duly executed by the Parties.

## Expenses

Each Party shall pay its own costs and expenses (including, but not limited to, all legal, accounting and advisory fees), as well as any taxes or other charges which might become due in connection with, this Agreement, any agreements provided for the performance of this Agreement or any agreements provided for herein and the transactions contemplated hereby and thereby, except that all costs to prepare the legal documentation for the above mentioned transactions shall be paid by the Company.

## Survival

The obligations set out in Sections 8, 9 and 10 shall survive the expiration or termination of this Agreement for whatever reason.

## Successors and Assigns

This Agreement shall be binding upon and shall inure to the benefit of the Parties and their respective permitted successors and assigns.

## Assignment

Without prejudice to Section 6.7, no Party may assign or transfer, in whole or in part, or delegate all or any portion of their respective rights or obligations under this Agreement without the prior written consent of the Company and the Investor concerned. Any assignment, transfer or delegation made without such consent shall be void.

## Entire Agreement

This Agreement contains the entire agreement between the Parties relating to the subject matter of this Agreement and supersedes all prior agreements, negotiations, correspondence, undertakings and communications of the Parties, whether oral or written, with respect to such object matter.

## Severability

If any provision of this Agreement is held to be unenforceable for any reason, it shall be adjusted rather than voided, if possible, in order to achieve the intent of the Parties to this Agreement to the fullest extent possible. In any event, all other provisions of this Agreement shall remain valid and enforceable to the fullest extent possible.

## Notice

Any notice or other communication made in connection with this Agreement shall be in writing and in the English language, and shall be given or made: (a) by registered letter; (b) by an internationally recognized express delivery service, or (c) by email :

If to Investor: XXXXXXXX

If to the Company: Company

Address

Email

Email header

Such addresses may be changed, from time to time, by means of a notice given in the manner provided in this Section. In the event that notification has to be made within a certain period of time, the concerned Party should have complied with such requirement if he has mailed, transmitted or initiated delivery procedure at the last day of such period.

## No Waiver

Unless provided otherwise herein, the failure of any of the Parties to enforce any of the provisions of this Agreement or any rights with respect thereto shall in no way be considered as a waiver of such provisions or rights or in any way affect the validity of this Agreement. The waiver of any breach of this Agreement by any Party shall not operate to be construed as a waiver of any other prior or subsequent breach.

# Governing law and arbitration

## Governing law

This Agreement and the transactions contemplated hereby shall be governed, interpreted and construed by, under and pursuant to the substantive laws of country, without regard to any conflict of laws principles.

## Arbitration

Any dispute, controversy or claim arising out of or in relation with this Agreement including the validity, invalidity, breach or termination thereof, shall be finally decided by one arbitrator in accordance with the Country Rules of arbitration entity of the economic entity in force on the date when the notice of arbitration is submitted in accordance with such rules. The seat of the arbitration shall be city, country. The language of the arbitration shall be English.

**SIGNATURE PAGE TO FOLLOW**

## In witness whereof, the Parties hereto have duly executed this Agreement.

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| **For and on behalf of company****\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_** | **\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_** |
| **Name:  CEO/Founder 1****Place:****Date:** |  |
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| **\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_** | **\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_** |
| **Name:  CEO/Founder 2 (opt)****Place:****Date:** |  |
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| **XXXXXXXXXX****\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_****Place:****Date:** |

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**List of Schedules**

1. Capitalization Table
2. Details of the Company's Bank Account
3. Note
4. Standard Form Subordination Agreement

**Schedule A**

**Existing Capitalization Table**

|  |  |  |
| --- | --- | --- |
| **Company - Capitalization Table – date** |  |  |
|  |  |  |  |
|  | **Shares** | **% ownership** | **Type of shares** |
| CEO/Founder 1 |  # | % | Fill in |
| CEO/Founder 2 |  # | % | Fill in |
| **Total** |  **#** | **%** |  |

**Details of the Company's Bank Account**

Bank Name: fill in

Bank Address: fill in

Account Name: fill in

Account Number: fill in

IBAN: fill in

BIC/SWIFT: fill in

**Schedule C**

**Standard Form Note**

[Name]

[Address]

[Investor]

city, [date]

# Note

Dear [Madame, Sir],

With reference to the convertible loan agreement dated […] by and between [names of the parties to the Convertible Loan Agreement] (the "**Convertible Loan Agreement**") we hereby issue a Note, details of which are as follows :

Issuer : [ ]

Beneficiary : [Investor]

Amount : [currency [•] ([*in words*] currency spelled out)]

Payment currency : currency spelled out

Term : [•], i.e. [date]

Interest : %

Conversion right : in accordance with Section 6 of the Convertible Loan Agreement

Other conditions : this Note is subject to the Convertible Loan Agreement and Section 10 of the Convertible Loan Agreement (Governing Law – Arbitration) shall apply to this Note.

Yours faithfully,

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**Schedule D**

**Standard Form Subordination Agreement**

between

**[XXX**], domiciled at [address] (the "**Creditor**")

and

**[ ]**, a corporation organized under the laws of country, having its registered office at [ ], country (the "**Company**")

(the Creditor and the Company, together the "**Parties**" and, individually, a "**Party**")

**PREAMBLE:**

1. The annual balance sheet of the Company at [date of closure], prepared on the going concern basis, shows an accumulated deficit (excess of liabilities over assets) of currency [xxx].
2. In consideration of the above and with the aim to guarantee to all the Company’s creditors, who do not subordinate their claims, full coverage in the case of bankruptcy, the Parties agree as follows.

**AGREEMENT** :

1. The Company hereby acknowledges that it presently owes to the Creditor an amount of currency [●] and interest arising from a convertible loan agreement dated as of [date] (the "**Claim**", respectively the "**Convertible Loan Agreement**").
2. Effective as of the date hereof, the Creditor hereby irrevocably and unconditionally agrees to subordinate his/its Claim to claims of other creditors of the Company in an amount of currency [●], under the terms and conditions of this Agreement (the "**Subordinated Claim**").
3. The Creditor shall forbear from demanding payment of principal or interest (whether in arrears as of the date hereof or to accrue during effectiveness of this Agreement) constituting or arising out of the Subordinated Claim as long as this Agreement remains in force.
4. The Creditor agrees that the Subordinated Claim shall not, in whole or in part, be repaid, set-off, secured assigned, pledged, or otherwise altered as long as this Agreement remains in force. Notwithstanding the foregoing, the conversion into share capital of the Company, the set off with the issuance price of the new shares of the Company to be issued in particular according to Section 6 of the Convertible Loan Agreement, or an assignment approved by the board of directors of the Company based on an assessment of soundness of the assignee shall be permissible at any time.
5. The Parties hereby agree that this Agreement shall expire forthwith and the Subordinated Claim shall cease to be subordinated and shall immediately rank *pari passu* with all other non-privileged indebtedness of the Company upon the occurrence of the following events:
	1. the Company's audited balance sheet for the prior business year and/or an interim balance sheet approved by the Company's auditors (or, in case the Company has no statutory auditors, by a licensed auditor (*réviseur agréé*)) shows that the Company's assets exceed the Company's liabilities (including the Subordinated Claim); and
	2. the legal requirement of an auditors’ report without indication of section of the country law is given.
6. Once the above cumulative conditions have been met the Company, if so requested by the Creditor, shall not unreasonably refuse to execute a document confirming that this Subordination Agreement is of no legal force or effect.
7. This Subordination Agreement has been approved by the Company's board of directors, considering the Creditor's sound financial status. The Company's board of directors, however, are not released from their obligation to inform the judge if the financial situation of the Company is not in fact restored or if as a result of a further deterioration of the financial position of the Company the claims of the other creditors should no longer be covered in full in spite of the subordination of the Creditor's claims.
8. This Agreement shall be governed, interpreted and construed by, under and pursuant to country law, without regard to conflict of laws principles thereof.
9. Any dispute, controversy or claim arising out of or in relation with this Agreement including the validity, invalidity, breach or termination thereof, shall be finally decided by [one] arbitrator in accordance with the Country Rules of arbitration entity of the economic entity in force on the date when the notice of arbitration is submitted in accordance with said rules. The seat of the arbitration shall be [city], country. The language of the arbitration shall be English.

Place and date :

[Name and signature of the Creditor]

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[ ]

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