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## TERM SHEET

dated as of [date]

relating to

[the COMPANY]

made by and among

[INVESTORS]

and

[FOUNDERS]

and

[OTHER SHAREHOLDERS]

and

[the COMPANY]

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## TERM SHEET

Proposed Investment in

[Name of the company] (the "**Company**")

This Term Sheet summarizes the principal terms of a potential investment (the "**Financing Round**") in the Company, a stock corporation having its registered office at [address], Switzerland. It is for discussion purposes only, and except as specifically set forth below there is no legally binding obligation on the part of any negotiating party until definitive agreements are signed and delivered by all parties. This Term Sheet does not constitute an offer to sell nor an offer to purchase securities in the Company.

<b>Company / Issuer</b>	[Name of the company]												
<b>Investment Amount</b>	[amount]												
<b>Investors</b>	<table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 70%;">[Investor 1]</td> <td style="text-align: right;">CHF [amount]</td> </tr> <tr> <td>[Investor n]</td> <td style="text-align: right;">CHF [amount]</td> </tr> <tr> <td colspan="2" style="border-top: 1px solid black; padding-top: 5px;"><b>Total</b></td> </tr> <tr> <td></td> <td style="text-align: right;"><b>CHF [amount]</b></td> </tr> </table>	[Investor 1]	CHF [amount]	[Investor n]	CHF [amount]	<b>Total</b>			<b>CHF [amount]</b>				
[Investor 1]	CHF [amount]												
[Investor n]	CHF [amount]												
<b>Total</b>													
	<b>CHF [amount]</b>												
<b>Type of Security</b>	[number] of newly issued preferred shares with a nominal value of CHF [amount] each (" <b>Preferred Shares</b> ")												
<b>Issue Price per Preferred Share</b>	CHF [amount]												
<b>Pre-money Valuation</b>	CHF [amount] fully diluted pre-money valuation (including the effects of shares issuable to holders of options, warrants and other convertible securities of the Company, if any)												
<b>Pre-Closing Shareholder Structure</b>	<table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 40%;">[Founders] [number] shares</td> <td style="width: 20%;"></td> <td style="width: 40%; text-align: right;">[%]% of issued share capital</td> </tr> <tr> <td>[Other Shareholders] [number] shares</td> <td></td> <td style="text-align: right;">[%]% of issued share capital</td> </tr> <tr> <td>[Management] [number] shares</td> <td></td> <td style="text-align: right;">[%]% of issued share capital</td> </tr> <tr> <td colspan="2" style="border-top: 1px solid black; padding-top: 5px;"><b>Total</b></td> <td style="text-align: right;"><b>CHF [amount]</b></td> </tr> </table>	[Founders] [number] shares		[%]% of issued share capital	[Other Shareholders] [number] shares		[%]% of issued share capital	[Management] [number] shares		[%]% of issued share capital	<b>Total</b>		<b>CHF [amount]</b>
[Founders] [number] shares		[%]% of issued share capital											
[Other Shareholders] [number] shares		[%]% of issued share capital											
[Management] [number] shares		[%]% of issued share capital											
<b>Total</b>		<b>CHF [amount]</b>											
<b>Employee Participation / Option Pool</b>	[Information about existing employee participation / option pool, if any, as well as information about employee participation / option pool to be implemented together with Financing Round]												
<b>Shareholder Structure after Financing Round</b>	As of completion of the Financing Round the Company shall have an issued share capital of CHF [amount] divided into [number] common shares and [number] Preferred Shares with a nominal value of CHF [amount] each and the ownership structure of the Company [on a fully diluted basis] and the holdings of each shareholder in the respective class of shares shall be as set forth in the Cap Table set forth in <b>Annex 1</b> .												

<b>Use of Proceeds</b>	[All corporate purposes/activities consistent with the business plan.]
<b>Ranking</b>	Up to the Preference Amount the Preferred Shares will rank senior to the common shares of the Company with respect to exit/liquidation events and dividends.
<b>Preference Amount</b>	Preference Amount shall mean the sum of (i) the aggregate Issue Price paid by the respective holder of Preferred Shares and (ii) interest of [percentage]% per year on the Issue Price (to be calculated on the basis of the Issue Price paid and not yet compensated by a preferred repayment) since payment of the Issue Price until payment of the Preference Amount in full.
<b>Dividends</b>	<p>Dividends which will be payable when, as and if declared by the shareholders upon proposal by the Board of Directors ("<b>Board</b>" and each member, a "<b>Director</b>"), shall be paid in first priority to the holders of Preferred Shares <i>pro rata</i> to their holdings in the Preferred Shares.</p> <p>The maximal amount of preferred dividends shall not exceed the Preference Amount less any proceeds received by a holder of Preferred Shares resulting from a voluntary or non-voluntary liquidation, a dissolution or winding up or a Sale of the Company (together with a dividend event, each an "<b>Exit/Liquidation Event</b>"), whereby a "<b>Sale</b>" shall mean the sale, transfer or other disposal (whether through a single transaction or a series of related transactions) of shares in the Company that result in a change of control or the sale of all or <u>[substantially all]/[a major part]</u> of the Company's assets.</p> <p>Further dividends to be paid to all holders of Preferred Shares and common shares <i>pro rata</i> to their respective aggregate holdings of shares in the then issued share capital of the Company will be paid only provided the Preference Amount has been fully paid.</p>
<b>Liquidation Preference</b>	<p>In an Exit/Liquidation Event, the proceeds resulting therefrom shall be allocated as follows:</p> <ol style="list-style-type: none"> <li>[In first priority and up to the Preference Amount to the holders of Preferred Shares <i>pro rata</i> to their holdings in the Preferred Shares, it being understood that that the maximal amount payable to holders of Preferred Shares shall not exceed the Preference Amount less any proceeds received by a holder of Preferred Shares resulting from a previous Exit/Liquidation Event.]</li> <li>[In second priority, if and to the extent the Preference Amount has been fully paid, to all holders of Preferred Shares and common shares <i>pro rata</i> to their respective aggregate holdings of shares.]</li> </ol>
<b>Voluntary Conversion</b>	Holders of Preferred Shares may convert their Preferred Shares at any time into common shares at the conversion rate of [rate].
<b>Mandatory Conversion</b>	Each Preferred Share will be automatically converted into common shares of the Company [at the then applicable conversion rate] upon (i) an IPO with a firm underwriting commitment of the underwriter(s)/ global co-ordinator(s) in respect of newly issued shares representing an aggregate issue price in excess of CHF [amount], or (ii) a Sale that values the Company in excess of CHF [amount], or (iii) the consent of <u>[each of the Investor Directors]/[the majority of the Investor Directors]/</u>

	<u>[the affirmative vote of the Investors holdings more than [percentage]% of the then outstanding Preferred Shares].</u>
<b>Anti-Dilution</b>	[Broad based weighted average adjustment formula.] To be effected by issuance to the Investors of new Preferred Shares at nominal value.
<b>Voting Rights</b>	Each Preferred Share carries one vote; <i>i.e.</i> the same vote as each common share.
<b>Qualified Majorities</b>	<p>Important Shareholders Matters as listed in <b>Annex 2</b>:<sup>1</sup></p> <ol style="list-style-type: none"> <li>Each shareholder will undertake not to cast an affirmative vote unless such Important Shareholder Matter will be approved by at least (i) <u>[66<sup>2</sup>/3%]</u> of shareholder votes and the absolute majority of the share capital of the Company <u>[represented at the relevant General Meeting of Shareholders]/[issued by the Company]</u> and (ii) <u>[66<sup>2</sup>/3%]</u> of shareholder votes of the holders of Preferred Shares <u>[represented at the relevant General Meeting of Shareholders]/[issued by the Company]</u>.</li> </ol> <p>Important Board Matters as listed in <b>Annex 2</b>:<sup>2</sup></p> <ol style="list-style-type: none"> <li><u>[Alternative 1:]</u> [Each shareholder will undertake that any affirmative decision with respect to such Important Board Matter will require the consent of at least <u>[percentage]%</u> of <u>[all elected Directors]/[the Directors present at the meeting].</u>]</li> <li><u>[Alternative 2:]</u> [Each shareholder will undertake to procure that the Director(s) nominated by such shareholder shall not, subject only to their fiduciary duties, cast an affirmative vote unless such Important Board Matter will be approved by (i) the simple majority of the Directors present at the meeting and (ii) <u>[each]/[at least [number]]</u> Investor Director[s].]</li> </ol>
<b>Board Composition</b>	<p>The Board shall comprise a maximum of <u>[number]</u> Directors.</p> <p>Each Investor shall have the right to be represented on the Board by <u>[number]</u> Director[s] nominated by <u>[each of]/[the absolute majority of the voting rights represented by the]</u> Investors[, if and as long as the <u>aggregate shareholdings of [such Investor]/[all Investors] reach or exceed [percentage]% of the Company's then issued share capital</u>] (each an "<b>Investor Director</b>").</p> <p>The <u>[Founders]/[Other Shareholders]</u> shall have the right to be represented on the Board by <u>[number]</u> Director[s] nominated by [the absolute majority of the voting rights represented by] the holders of Common Shares[, if and as long as the <u>aggregate shareholdings of all [Founders]/[Other Shareholders] reach or exceed [percentage]% of the Company's then issued share capital</u>] (each a "<b>Common Shareholder Director</b>").</p> <p>The <u>[Board]/[Shareholders collectively by [the majority] of voting rights represented by the Shareholders]</u> shall from time to time nominate</p>

<sup>1</sup> **[Note: See explanatory drafting notes (re considerations to be made on how to implement qualified majority thresholds for important shareholder and board matters) in the Shareholders Agreement of the SECA Model Documentation.]**

<sup>2</sup> **[Note: See Footnote 1 above.]**

	[ <i>number</i> ] independent Director[s] (each an " <b>Independent Director</b> ").
<b>Information Rights</b>	<p>[<i>Alternative 1:</i>] [Each [<u>Investor</u>]/[shareholder holding at least [<i>percentage</i>]% of Preferred Shares] will receive the information listed below and will have the right (<i>i</i>) to discuss any issues relating to its investment and the Company with the Company and (<i>ii</i>) to periodically inspect the books, records and facilities of the Company.</p> <ol style="list-style-type: none"> <li>1. Within [<i>90 days</i>] of the end of each financial year, audited financial statements;</li> <li>2. within [<i>30 days</i>] of the end of each fiscal quarter, unaudited quarterly financial statements[, and a 12 month rolling forecast];</li> <li>3. within [<i>20 days</i>] of the end of each month, monthly management accounts (i.e. balance sheet, profit and loss statement, cash flow statement); and</li> <li>4. no later than [<i>60 days</i>] prior to the end of each financial year, the proposed budget for the next following financial year.]</li> </ol> <p>[<i>Alternative 2:</i>] [The Investor[s] will have customary financial and other information rights.]</p>
<b>Subscription Preference</b>	Except for shares to be delivered under any employee stock ownership plan (" <b>ESOP</b> "), each holder of Preferred Shares shall have a [ <i>preferential</i> ] right to subscribe for any new equity or equity related securities offered by the Company at the same terms and conditions as specified in such offer, <i>i.e.</i> that new equity or equity related securities offered shall be available to holders of Preferred Shares in their entirety[, if and to the extent necessary to effect the anti-dilution protection of each holder of Preferred Shares].
<b>General Transfer Restrictions</b>	No transfer [for a period of [ <i>number</i> ] years and thereafter no transfer] other than transfers in accordance with the customary transfer restrictions to be set forth in the Shareholders Agreement.
<b>Right of First Refusal</b>	In first priority the Investors, in second priority the Company and in third priority all other shareholders will have the right of first refusal to purchase any shares any shareholder wishes to transfer to another shareholder or a third party in any transaction other than a transfer of an Investor to an affiliate of such Investor.
<b>Tag-Along Right</b>	Each of the shareholders shall have the right to participate, on a <i>pro rata</i> basis on identical terms, in any transfer or sale of shares by other shareholders <i>provided</i> such transfer or sale of shares would [ <u>result in a change of control</u> ]/[relate to [ <i>percentage</i> ]% of all shares]/[relate to [ <i>percentage</i> ]% of all Preferred Shares].
<b>Drag-Along Right</b>	In the event [ <u>a holder of Preferred Shares</u> ]/[ <u>a group of holders of more than [<i>50</i>]% of all Preferred Shares</u> ]/[ <u>all holders of Preferred Shares</u> ] wish[es] to transfer all [ <i>its</i> ]/[ <i>their</i> ] shares in the Company in one or a series of related transactions to a proposed acquirer (including another shareholder) who wishes to acquire all (but not less than all) shares in the Company pursuant to a <i>bona fide</i> purchase offer, [ <i>that holder</i> ]/[ <i>that group of holders</i> ]/[ <i>all holders</i> ] of Preferred Shares (the " <b>Relevant Selling Shareholder[s]</b> ") shall, [subject to customary exclusions] have the right (but not the obligation) to require all other shareholders to sell all of their shares to the proposed acquirer for the same consideration

	per share and otherwise at the same terms and conditions as applicable to the Relevant Selling Shareholder[s].
<b>Purchase Option</b>	<p>Each [shareholder]/[holder of Preferred Shares] shall have an option to purchase the shares of another shareholder [in proportion to the nominal value of such shareholder's shareholdings in the Company] [pro rata to such shareholder's holding of Preferred Shares] upon the occurrence of [certain events to be defined in the Shareholders Agreement and subject to the terms and conditions agreed in the Shareholders Agreement]/[the following events:</p> <ol style="list-style-type: none"> <li>1. <u>such shareholder dies, becomes incapable to act or otherwise loses its capacity to exercise its rights and obligations under the Shareholder Agreement;</u></li> <li>2. <u>such shareholder becomes subject to an insolvency event;</u></li> <li>3. <u>such shareholder commits a criminal act against the interests of another shareholder, of the Company or of any of its subsidiaries;</u></li> <li>4. <u>such shareholder materially breaches a provision of the Shareholders Agreement (unless such breach and its effects are fully cured within an agreed period of days); or</u></li> <li>5. <u>any board membership, employment or consultancy agreement, as the case may be, between such shareholder and the Company is terminated.</u></li> </ol> <p><u>Other than as per 1. and 2. above and a good leaver situation under 5. above, the purchase price shall be the lower of the fair market value and the nominal value of the shares.]</u></p>
<b>Related Party Transactions</b>	All transactions and dealings between Company and its shareholders, directors, officers and managers will reflect market conditions and be made at arm's length terms.
<b>Confidentiality</b>	The terms and existence of this Term Sheet are confidential and will not be disclosed by the undersigned except as otherwise agreed in advance by each of the parties hereto.
<b>Exclusivity</b>	From the date hereof until [date], or such earlier date upon which the Investor[s] and the Company agree in writing to terminate discussions contemplated by this Term Sheet, neither the Company nor the Founders, the incumbent directors and/or the members of the senior management of the Company will, directly or indirectly, solicit or participate in any way in negotiations with, or knowingly provide any information to, any person (other than the Investor[s]) concerning any potential investment in the debt or equity securities of the Company (an " <b>Alternative Proposal</b> ") or otherwise facilitate any effort or attempt to make or consummate an Alternative Proposal.
<b>Documentation</b>	<p>The investment into the Company is subject to contract. Legally binding documentation will be [based on SECA's ("regular") Model Documentation templates], prepared and drafted by counsel to the [Investor[s]],[Company], be expressed to be subject to Swiss law and will consist of the following key documents:</p> <ol style="list-style-type: none"> <li>1. Investment Agreement [(substantially in the form of SECA's Model Documentation template)];</li> </ol>

	<p>2. Shareholders Agreement [(substantially in the form of SECA's Model Documentation template)];</p> <p>3. Articles [(substantially in the form of SECA's Model Documentation template)];</p> <p>4. Board Regulations [(substantially in the form of SECA's Model Documentation template)]; and</p> <p>5. such ancillary documents and annexes related thereto as required or deemed appropriate by the Investor[s].</p>
<b>Conditions to Closing</b>	The consummation of the Financing Round contemplated by this Term Sheet shall be subject to satisfactory due diligence and the approval and signing of legally binding Documentation by the Investor[s].
<b>Legal Fees and Expenses</b>	<p>The Company will reimburse the Investor[s], or pay at the direction of the Investor[s], for the reasonable legal fees and expenses incurred by counsel to the Investor[s] not to exceed CHF [<i>amount</i>], payable at Closing.</p> <p>Should the investment not complete each side shall pay for their own costs. [The Investors agree amongst themselves to share the costs of legal counsel and other due diligence expenses and costs.]</p>
<b>Non-Compete</b>	<i>[wording regarding any non-compete undertakings by the founders and/or the managers to be added if appropriate]</i>
<b>Timing</b>	<p>Due Diligence:                    [<i>date</i>]</p> <p>Negotiations:                    [<i>date</i>]</p> <p>Signing:                            [<i>date</i>]</p> <p>Closing:                            [<i>date</i>]</p> <p>End of Exclusivity:               [<i>date</i>]</p>
<b>Effect of Term Sheet</b>	The parties expressly agree that, with the exception of the obligations set forth in the paragraphs ["Confidentiality", "Exclusivity", "Timing", "Legal Fees and Expenses", "Effect of Term Sheet" and "Governing Law"] which are intended to be and shall be legally binding, no binding obligations shall be created by this Term Sheet until definitive, legally binding agreements are duly executed and delivered by all parties thereto.
<b>Governing Law</b>	This Term Sheet is governed by Swiss law and subject to the exclusive jurisdiction of the ordinary courts of [ <i>place</i> ].

*[Signature page to follow]*

**[Investor 1]**

By: \_\_\_\_\_

Names: \_\_\_\_\_

Titles: \_\_\_\_\_

**[Investor n]**

By: \_\_\_\_\_

Names: \_\_\_\_\_

Titles: \_\_\_\_\_

**[Founder 1]**

By: \_\_\_\_\_

Names: \_\_\_\_\_

Titles: \_\_\_\_\_

**[Founder n]**

By: \_\_\_\_\_

Names: \_\_\_\_\_

Titles: \_\_\_\_\_

**[Other Shareholder 1]**

By: \_\_\_\_\_

Names: \_\_\_\_\_

Titles: \_\_\_\_\_

**[Other Shareholder n]**

By: \_\_\_\_\_

Names: \_\_\_\_\_

Titles: \_\_\_\_\_

**[Company]**

By: \_\_\_\_\_

Names: \_\_\_\_\_

Titles: \_\_\_\_\_



**Cap Table**

Attached.

## List of Important Shareholder and Board Matters

### Part A – Important Shareholder Matters

Each of the following decisions shall be an Important Shareholder Matter and shall require the consent requirements set forth in the Term Sheet:

- (a) any amendment of the Company's [Articles or its] corporate purpose;
- (b) any creation of shares with preferential rights of any kind, shape or form or with privileged voting rights;
- (c) any amendment to the restriction of the transferability of shares;
- (d) any authorized or conditional capital increase;
- (e) any increase of capital against the Company's equity, against contributions in kind, or for the purpose of acquiring assets or the granting of special benefits;
- (f) any limitation or withdrawal of subscription rights;
- (g) any change of [the corporate name or] registered office of the Company;
- (h) [any sale of all or substantially all of the assets of the Company;]
- (i) [any merger, demerger or similar reorganization of the Company;]
- (j) the liquidation of the Company;
- (k) [any resolution on dividend payments or other distributions to the shareholders;]
- (l) [the election of the auditors of the Company;] and
- (m) [*specify additional Important Shareholder Matters as appropriate*].

### Part B – Important Board Matters

Each of the following decisions shall be an Important Board Matter and shall require the consent requirements set forth in the Term Sheet:

- (a) [any acquisition of a business or any part thereof (whether a share or asset transaction)];  
  
the sale, disposal or transfer of all or substantially all of the Company's business and/or assets;

- (b) the entering into any joint venture or partnership or any profit sharing agreement (other than routine arrangements wholly within the ordinary course of business);
- (c) any investment, capital expenditure, sale of assets, incurrence of debt or any contract obligation by the Company in excess of CHF [*amount*] (whether by a single transaction or a series of related transactions) unless such expenditure has been specifically provided for in the budget and business plan;
- (d) the execution of any agreement providing for obligations in excess of CHF [*amount*] (whether by a single transaction or a series of related transactions), save as specifically set forth in the budget and business plan;
- (e) the appointment and removal of the Company's CEO and all other members of the management;
- (f) the approval of the budget and business plan, and any change thereto;
- (g) the listing of shares of the Company on any securities exchange or automated quotation system;
- (h) the issuance of shares or equity-related securities out of the Company's authorized or conditional share capital (including the determination of the issue price, the date for the entitlement for dividends and the type of contribution therefor), except [as contemplated under the Company's ESOP or] in respect to any shares issued in accordance with the anti-dilution provisions to be set forth in the Shareholders Agreement;
- (i) [the creation of any security interests upon any part of the Company's property or assets in any form whatsoever exceeding CHF [*amount*] in aggregate (whether by a single transaction or by a series of related transactions) save as set forth in the budget and business plan;
- (j) any related-party transactions or arrangements including variations thereof;
- (k) any transactions or arrangements other than on arm's-length terms and/or in the ordinary course of business;
- (l) the approval and amendment of any share option plan and option and/or share grants to the Management[, except as set forth in the Company's ESOP];
- (m) any material change in accounting policies or principles save with the prior approval of the Company's auditors;
- (n) any purchase by the Company of any of its own shares or the exercise of a right of first refusal in combination with the designation of a third party acquirer;
- (o) any proposed transfer of shares in the Company other than in accordance with the transfer restrictions to be set forth in the Shareholders Agreement;]
- (p) [*specify additional Important Board Matters as appropriate*]; and
- (q) any amendment or modification of the board regulations.