

BVCA model form documents – Table of Changes (published February 2025)

Shareholders' Agreement

Clause	Change
1 Definitions	Various updates to definitions, including the definition of 'Data Protection' and 'Intellectual Property' which adds definitions for 'Know How' and 'Patents' and 'Sanctions Laws'.
2.4 Interpretation	References to time and date to be construed as references to London time/date.
2.16 Interpretation	Addition to specify that a person who ceases to be engaged as a Service Provider and is then immediately re-engaged as a Service Provider shall not be deemed to have ceased being a Service Provider.
4.3 Board	Addition of the requirement for Investor Director Consent in respect of changes to the number of board meetings per year and/or the intervals at which they are to be held.
4.6 Board	Addition of exceptions to the general rule that Investor Directors and/or Investor Observers be allowed to make full disclosure to their appointing Investors in respect of commercially sensitive information relating to the Company, including in respect of: • information in relation to which there is a conflict of interest between the intended recipient and the Company; • advice provided by legal counsel to the Company which could jeopardise attorney-client privilege; • any unpublished confidential IP which could jeopardise the patentability or loss of confidentiality in respect of that information; • disclosure prohibited by law; and • disclosure in material breach of any confidentiality obligations owed by the Company to a third party. These additions are to be considered in respect of strategic investors.
4.9 – 4.12 Board	Optional addition of director indemnification in respect of each Investor Director either under this agreement or by way of separate agreement.

	4.11 stipulates that if the Company merges or is consolidated with any other entity, the Company shall procure that the successors and assignees of the Company assume the indemnification obligations immediately before any such transaction. 4.12 grants the Investor Directors third-party rights to enforce the indemnification.
4.13 Board	Addition of board right to decide to not disclose commercially sensitive information which mirrors the exclusions in clause 4.6 above, and the board will be entitled to withhold or redact such information which is otherwise required to be provided pursuant to the agreement (with the exception of certain financial information rights, including the management accounts, budget, accounts of the Company/Group and schedule of issued share capital).
7.5 Undertakings	Deletion of obligation on the Founders to procure the Company and its Subsidiaries don't contravene any VCT or EIS provisions. Obligation is now only on the Company and Subsidiaries to not knowingly contravene such provisions, subject to the fiduciary duties of the directors and unless agreed by the board and the EIS/VCT Manager.
7.6 Undertakings	Obligation on the Company to not to knowingly do anything or omit to do anything which would prejudice shares issued to the VCT Investor as being 'qualifying holdings' or 'eligible shares' as defined in the ITA or impact HMRC's ability to authorise the Company to issue compliance certificates in respect of the EIS Shares has been extended to the Company and its Subsidiaries subject to the fiduciary duties of the directors and unless agreed otherwise by the board and the EIS/VCT Manager.
8.3 IPO	Addition of unlimited Form S-3 and Form F-3 registrations after Company's IPO and suggestion to limit this clause to Major Investors.
10.1 Restrictive Covenants	Restrictive covenants carve out refined to specify up to a 3% interest in shares traded on a securities market and add a [0.1]% carve-out for shares in any other undertaking. Minor other additional wording added, including to expand restrictive covenant to being concerned, engaged or interested in any competing trade or business.
11.1 Other investments and business opportunities	Addition of acknowledgement from the Company that [each Investor] is in the business of venture capital investing and may therefore have previously made investments in and may review business plans and related proprietary information for other businesses which may compete directly or indirectly with the Company. Nothing in the shareholders agreement shall preclude the Investor from participating in any enterprise whether or not it competes with the Company, so long as it doesn't disclose any Confidential Information in connection with such investment or discussions.
11.2 Other investments and business opportunities	Without prejudice to their fiduciary and statutory duties, neither the Investors nor their Permitted Transferees shall be obliged to present any investment opportunity to the Company and the Investors may take such for their own account or present it to others.

12 Confidentiality	Addition of wording to the effect that the confidentiality obligations are undertakings given to the Company and the Investors. Addition of wording that the Investor shall procure the use and disclosure of Confidential Information by a recipient is in compliance with the restrictions applicable to the Investor under clause 12.
16 Waiver	Additional clause to note that any waiver of any breach or default under the agreement will not be deemed a waiver of any subsequent breach or default Additional clause that no delay, failure or omission in enforcing or pursuing any right, claim or remedy will be deemed to be construed as a waiver.
18 Variation and termination	Clarifications to the clauses regarding changes which would amend the definition of 'Major Investor' and inclusion of the requirement for the consent of each such affected Investor who would cease to qualify as such. Addition of Founder threshold for consent to amendment and termination of the agreement, to be considered on a deal-by-deal basis (e.g. could be tied to the Founder remaining a Service Provider).
20 Assignment	Ability for an Investor to assign its rights under the agreement to any person who has received a transfer of shares from such Investor is extended to its Permitted Transferees who hold shares.
21 Rights of third parties	Ability to enforce the agreement is explicitly extended to the Investor's Permitted Transferees.
29 Confirmation by Founders, Investors and Existing Shareholders	Addition of clause to mirror the Articles as a result of recent case law (DnaNudge) to state that each of the Founders, the Investors and the Existing Shareholders confirms that in the case of the exercise of any right or discretion expressly provided for under this agreement or the Articles in respect of any reclassification, conversion, redesignation or redenomination of their shares in accordance with Articles [9.1] or [9.2] (Conversion of Series A Shares) [and/or under Article [19.1] (Departing [Founder][Service Provider]) and/or the removal, suspension or variation of voting rights or economic rights in respect of its Shares in accordance with Article [19.3] or Article [19.4] (Departing [Founder][Service Provider])], such reclassification, conversion, redesignation or redenomination[or removal, suspension or variation] shall not be deemed to constitute any variation or abrogation of the rights of its shares and shall not require any class or other additional consent to be obtained (save as expressly required by the agreement or the Articles) and in the event and to the extent that such additional consent is required, each such Founder, Investor or Existing Shareholder hereby irrevocably consents and approves such reclassification, conversion or removal or suspension.

Schedule 3 Undertakings	Addition of undertakings related to maintaining policies and procedures to prevent Associated Persons of the Company (being any person or subsidiary that performs services on the Company's behalf) from undertaking conduct which would result in them committing an offence under anti-money laundering regulations or laws, anti-tax evasion laws or regulations and Sanctions Laws. Addition of undertaking that the Company shall maintain governance and managerial policies, practices and procedures and financial and treasury controls, designed to provide assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes.
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Subscription Agreement

Clause	Change
1 Definitions	Various updates to definitions, including the definition of 'Intellectual Property' which adds definitions for 'Know How' and 'Patents' (to mirror those in the shareholders agreement). Addition of 'Indemnification Agreement' (in the agreed form and entered into between the Company and the Investor Director).
2 Interpretation	References to time and date to be construed as references to London time/date. References to 'persons' expanded to include individuals, trusts and joint ventures.
4 Completion	A simplified completion mechanics clause has been suggested as an alternative to clauses 4.2 – 4.5 where the expectation is that 100% of the subscription funds will be received prior to Completion. The alternative clause contains simplified protections for the Company whereby if an Investor fails to pay its subscription monies by the Longstop Date, the Company and the Lead Investor/Subscriber Majority may agree to proceed to Completion without them, with the defaulting Investor's completion following once they have satisfied their payment obligations. The Company may terminate the defaulting Investor's right to invest after the Longstop Date. Clause 4.2 – 4.5 contain additional protections and optionality in case of a defaulting Investor, including the concept of an Initial Threshold which is to be met before shares are issued to any Investor and the ability for the shares in respect of a defaulting Investor to be allotted to an existing or additional Investor.
4.7 Completion – NSIA	Addition of clause to cover if any transaction under the agreement is called-in under the NSIA or pursuant to any other regulatory investigation (or an Investor believes the Company should take action in relation to the NSIA or other regulatory investigation), in which

	event the Company undertakes (and shall procure the Founders) to the Investors to execute and deliver such documents and provide assistance to the Investors as may be required in connection with such investigation.
5 Warranties	Despite some pressure from industry, it was decided by the BVCA committee to not include Founders as an option to provide Warranties. Addition of clause to state that Investors who subscribe for Additional New Shares in an additional closing will benefit from the Warranties as if they were parties to the agreement on the original Execution Date. Adjustment of drafting to "awareness" for identified individuals based on reasonable enquiry. Addition of drafting optionality that any claims be subject to prior written consent of either the Lead Investor or New Shares Majority.
8 Costs	Clauses updated to make clear that the Company shall pay costs of the [Lead Investor] up to a certain amount and the parties shall otherwise, subject to that obligation on the Company, bear their own costs.
10 Waiver	Updated to be in line with the shareholders agreement: - additional clause to note that any waiver of any breach or default under the agreement will not be deemed a waiver of any subsequent breach or default; and - additional clause that no delay, failure or omission in enforcing or pursuing any right, claim or remedy will be deemed to be construed as a waiver.
14 Assignment	Addition that an Investor will be entitled to delegate any of its obligations under the agreement to its general partner or the Investor's management company.
15 Rights of third parties	Ability to enforce the agreement is explicitly extended to any member of the same Fund Group as the Investor.
21 Confirmations by Investors	Addition of confirmation by each Investor to the Company that it falls within one of the exemptions contained in the FSMA 2000 (Financial Promotion) 2005 Order; or if the Investor is based outside the UK, confirms that it is not subject to such restrictions.
Schedule 4 Execution conditions	Addition of wording for resolutions to include authority for option pool for Share Incentive Plan. Addition of entry into the Indemnification Agreement between the Company and the Investor Director.

Schedule 5 Warranties	Warranties relating to Intellectual Property have been expanded and refined (using new definitions of Know-How and Patents) and have been separated from warranties related to business systems (i.e. relating to computers, data, software and cloud infrastructure). Addition of warranties relating to artificial intelligence (including that, in respect of its AI Activities, the Company is in compliance with AI Legislation, it has implemented policies and procedures to ensure that Company AI Activities do not produce inaccurate or biased results, pose risks to individuals, or cause harm and that such Company AI Activities are subject to human oversight; the Group Companies comply with the license terms applicable to any Third-Party AI Product used in the business). Addition of insolvency warranties.
Schedule 7 Subscription Adherence Agreement	Addition of acknowledgement of receipt of the Disclosure Letter.
Appendix C Disclosure Letter	Addition of option to exclude Accounts and Management Accounts from general disclosure. There was pressure from US firms to remove the ability to provide a Disclosure Bundle, but this was not accepted as market practice in the UK.

Articles of Association

Article	Change
1.4	Removal of the exclusion of article 8(2) of Model Articles so that written resolutions signed by all the Directors are allowed to pass board decisions.
1.7	Additional article to specify that the reserve power of shareholders under article 4 of the Model Articles to instruct the Directors shall not apply in any way which conflicts with any provision of the Articles, the Shareholders' Agreement or the Subscription Agreement.
2 Definitions	'Bad Leaver' definition removes optional reference to resignation as a Service Provider during the Relevant Period from this definition. 'Commencement Date' definition has been updated to include for flexibility for the Company [with Investor Majority Consent] to agree a different Commencement Date in respect of particular Service Provider Shares with such Service Provider. To flag that this definition may need to cover the position for existing Service Providers who hold shares as well as Service Providers who may hold shares in the future if article 19 is to apply to them.

	'Holding Company Reorganisation' definition adds clarificatory wording that certain changes may be due to matters and modifications to reflect that the new holding Company may be incorporated in another jurisdiction. 'New Securities' definition has been updated to tie into updates to article 10 to note that shares issued pursuant to a CLN, ASA, SAFE or other similar security will be a 'Qualifying Issue' (i.e. subject to anti-dilution). 'Sanctioned Person' and 'Sanctions' been added as new definitions in respect of restrictions for new share issue and transfers and disqualification of directors. 'Service Provider' definition expanded to previous employees and providers of consultancy services, and anyone otherwise engaged to provide services to the Company or the Group. 'Service Provider Shares' definition updated to exclude any shares acquired by a Service Provider for value (other than pursuant to a Share Incentive Plan or from a Permitted Transferee) which shall not be liable to be converted into Deferred Shares or included in calculating the Leaver's Percentage for unvested shares.
5 Liquidation preference	Language in article 5.1(b) in liquidation preference states that the Series A Shares are to receive the greater of (i) the Preference Amount of such Series A Shares and (ii) the amount that would be distributed in respect of the Ordinary Shares into which such Series A Shares may be converted and the changes have been added to specify the basis on which this calculation of distribution on conversion is made which is relevant when there are multiple classes of Preferred Shares or Preferred Shares at different share prices (see Article 5.2 for further explanation). This reflects what is specified in the NVCA documents. Article 5.2 added to specify that whether article 5.1(b)(i) or (ii) applies, Series A Shares having the same Preference Amount per share shall be assessed collectively (and Series A Shares held which have a different Preference Amount per share shall be assessed severally). Board given discretion in a new article 5.5 to determine what exchange rate shall apply in respect of any distributions of amounts designated in different currencies.
10 Anti-dilution	Addition of the possibility of different starting prices for Series A Shares (a "Separately Priced Subset") in respect of which the anti-dilution calculations are to be undertaken separately for each Separately Priced Subset. Addition to clarify that where a Qualifying Issue comprises an issue of shares pursuant to the terms of any convertible loan, ASA, SAFE or similar Relevant Security (the "Qualifying Issue On Conversion") in consequence of any other issue of New Securities (the "Triggering Issuance"), then for the purposes of article 10.1 only the Qualifying Issue On Conversion and the Triggering Issuance shall then comprise a single Qualifying Issue and the values of QISP and NS shall be calculated accordingly (i.e. if there is a conversion of any convertible

	securities as a result of an issue of New Securities, the issuance as a result of the convertible securities shall be treated as one issuance with the New Securities). Additional language added to article 10.2 to note that the right to subscribe for Anti-Dilution Shares shall lapse if not exercised within 21 days of the Company notifying the Exercising Investor that such right to subscribe is then exercisable.
11 Deferred Shares	Addition of wording to allow for payment of the one penny in respect of all Deferred Shares to any one holder of Deferred Shares as satisfaction of the requirement to make such payment to this class of shares. Addition of deemed authority to enter the names of the holders of Deferred Shares in the register of members as holders of such Deferred Shares.
12 Variation of rights	Addition of wording to clarify that no consent is required to vary or abrogate the rights attached to any class of share if no shares of that class are in issue. Addition of wording that the variation or abrogation of the rights of the Deferred Shares only require Investor Majority Consent. Additional article added due to recent case law (DnaNudge) to stipulate that the exercise of any right or discretion expressly provided for in the Articles will not constitute a variation or abrogation of the rights of any class of shares and will not require the consent of the holders of such shares or such class.
13 Pre-emption rights	Article 13.2 adds clarificatory wording for the basis on which the calculation of the pro rata offering of shares is to be made. Additional wording added to the footnotes to specify that it may be appropriate to include, for example, earlier investors in the group of shareholders to benefit from pre-emption rights but to consider this carefully. Also, additional footnote language included to consider that the pro rata offering of shares be calculated on basis of that group of subscribers alone. There was pressure from the industry to expand who benefits from pre-emption, but this was resisted by the BVCA committee and this footnote added as a compromise. Addition of wording to specify that pre-emption rights shall also not apply to the issue of any shares (for example growth or hurdle) under any Share Incentive Plan. Additional wording added to 'anti-gamesmanship' provision to note that an offer of New Securities to a [Major] Investor under article 13.6 shall not itself be subject to pre-emption rights. The BVCA has included a footnote with respect to this article specifying that it "<i>may be considered if investors are concerned that a majority of investors could waive the pre-emption rights to the effect of excluding the remaining investors who would otherwise benefit from pre-emption rights, while still participating themselves. However, the parties should consider</i>

	<i>the ability to practically complete future transactions as inclusion of this provision potentially limits participation by existing shareholders in successive rounds or adds complication and timing uncertainty. The BVCA does not take a view as to if this provision is market."</i> Additional article 13.9 added to stipulate that the Company will not allot or issue any New Securities to a Sanctioned Person.
14 Transfer of shares	Deletion of article 14.1 that specified for the purposes of the transfer provisions that reference to transfer of a share includes the transfer or assignment of beneficial or other interest in that share or the creation of a trust or Encumbrance over that share. Addition to note that the board may refuse a transfer to any person who is a Sanctioned Person.
15 Permitted Transfers	Addition of wording to 'anti-gamesmanship' provision to note that a transfer to a [Major] Investor under article 15.8 shall be a Permitted Transfer. The BVCA has included a footnote in respect of this article specifying that this "<i>may be considered if investors are concerned that a majority of investors could designate a transfer as a Permitted Transfer to the effect of excluding the remaining investors who would otherwise benefit from pre-emption rights, while still participating themselves. However, the parties should consider the ability to practically complete future transactions as inclusion of this provision potentially adds complication and timing uncertainty. The BVCA does not take a view as to if this provision is market."</i>
16 Transfers of shares subject to pre-emption	Addition of wording to allow for the board to not register a transfer of any unallocated Sale Shares to a Sanctioned Person (article 16.10(b)(iv)).
18 Compulsory transfers	New articles added to allow the board to require shareholders to provide the Company such information and evidence as the board may request to determine if a Shareholder is a Sanctioned Person. If the board (having obtained legal counsel) determines that a shareholder is a Sanctioned Person or if the board is unable to determine whether or not a shareholder is a Sanctioned Person because the shareholder has not complied with the board's information requests, then the board may determine that such shareholder shall be deemed to have served a Transfer Notice in respect of all their shares and the Transfer Price shall be paid to an account established by the Company. The Transfer Price will only be paid to the relevant shareholder if or when the Company determines that they are not a Sanctioned Person and the Company will be entitled to deduct any amounts incurred in connection with determining whether such shareholder is a Sanctioned Person and any resulting action taken by the Company.
19 Leaver provisions / Suspension of voting rights	The view of the BVCA Committee regarding concerns we raised in respect of potential adverse tax treatment of conversion of Deferred Shares are considered at this stage to be a "one-off" and not indicative of the general approach taken by HMRC. Addition that the suspension of voting rights in respect of shares held by a Leaver and its Permitted Transferees ("Restricted Member") shall apply to shares acquired before, on or after such person is designated as a Restricted Member (for example, to capture shares

	exercised from options following termination date). Definition of "shares" widened so it may capture any shares held by a Leaver and not just Service Provider Shares (which may be more narrowly defined). Addition of new article to specify that shares which are held by a Leaver which have suspended voting rights ("Restricted Shares") shall not be deemed to constitute a separate class and no consent of the Restricted Members holding Restricted Shares shall be required for any abrogation or variation of rights attaching to such shares.
21 Co-sale	Addition of optionality to exclude any Investor (or nominated Investor Director) from the numerator and denominator of any Investor Majority consent (or Investor Director consent, as the case may be) to determine if Co-sale shall not apply in respect of any co-sale in which such Investor is to participate.
22 Drag-along	It was decided by the BVCA committee to make no changes to the drag-along despite some push back from certain investors in the industry.
26 Disqualification of Directors	Addition of wording to allow for disqualification as a director if the board believes such person to be a Sanctioned Person.
27.5 Proceedings of Directors' meetings	Addition of article to prohibit a director from voting on any matter concerning his or her employment or engagement with the Company, including with respect to their remuneration, review or dismissal unless agreed otherwise by a majority of the directors.
29.7 Notices	The option to give notice to shareholders by means of the Company's website has been removed on basis this provision is never used.
Appendix B – EIS / VCT	Various changes to the EIS/VCT appendix including wording for liquidation preference to align to changes generally made to this article whilst complying with EIS/VCT requirements.