



Template term sheet for convertible note (KISS terms)

User notes

This is a simple term sheet for a convertible instrument that is intended to be used by a start-up to document a seed investment from a third party investor or a bridge financing from existing shareholders.

The terms of the note are substantially based on the *keep-it-simple-security* created by 500 Startups and include some of the *investor friendly* provisions typically included in convertible seed investments in the US and as adopted for other global markets. It is prepared for use with our [Kivi KISS convertible note](#).

This term sheet anticipates that the investment amount is drawn down in one lump sum and is unsecured. The investment amount:

- ▲ automatically converts to equity on the date of a qualifying equity financing
- ▲ is repayable or convertible at the investor's discretion on the occurrence of a liquidity event
- ▲ is repayable or convertible at the investor's discretion at any time following maturity.

This term sheet anticipates that it may be one of a series of identical notes entered into as part of an investment round. In that case, some decisions that relate to the investment round as a whole are to be made by a majority of the investors, rather than by an individual investor.

We recommend that the investors take specialist tax advice before entering into a convertible note of this kind (noting that any tax obligations on conversion will be for the account of the investor rather than the company).

Your lawyer will need to complete any necessary board and/or shareholder resolutions needed to implement this document.

You should obtain tax and accounting advice before using this document.

This document should be used in conjunction with company governance documents (e.g. constitution and/or shareholders' agreement) that adequately deal with small minority shareholdings, including pre-emptive rights on share transfers and drag along.

securities law

Under New Zealand securities legislation, a company may not issue (or offer to issue) shares, options or other securities without providing detailed disclosure information to the new holders of those shares, options or other securities, unless the company is satisfied that an exclusion to the information disclosure requirements of the Financial Markets Conduct Act 2013 applies in relation to that offer or issue. Please see our *NZ securities law – tech company capital raising* guide under the capital raising section of the guides page of our website for an explanation of the relevant exclusions.

A company must ensure that an exclusion described in that guide applies before it offers to issue, or issues, shares or other securities (including entering into a keep investment simple security).

using this template

The **User Notes** and the statements in the footer below (all marked in red) are included to assist in the preparation of this document. They are for reference only – you should delete all user notes and the statements in the footer from the final form of your document.

The use of [*square brackets*] around black text means that:

- ▲ the requested details need to be inserted
- ▲ there are different options for you to consider within a clause
- ▲ the whole clause is optional and you need to consider whether to include it, based on the company's circumstances and the user notes.

Before finalising your document, check for all square brackets to ensure you have considered the relevant option and ensure that all square brackets have been deleted.

If you delete any clauses or schedules, remember to cross reference check the document.

CONVERTIBLE NOTE TERM SHEET

FOR [INSERT NAME OF COMPANY]
(Company)

This document (**Term Sheet**) summarises the principal terms of a proposed investment in the Company by way of a convertible note. This Term Sheet is not legally binding except for the terms stated in part B and there will be no obligation to issue or subscribe for convertible notes in the Company until binding investment documentation is signed by the parties.

PART A: INVESTMENT TERMS (NON-BINDING)

Business:	The business of the Company is <i>[insert a description of the Company's business]</i> .
Investors:	<i>[Insert name of investor(s) executing the term sheet]</i> and other investors identified by the Company (Investors).
Amount of investment:	Up to \$ <i>[insert maximum aggregate amount to be invested]</i> (Investment Amount). The investment may be made in multiple closings.
Notes:	The Company will issue convertible notes (Notes) in exchange for the amounts invested by the Investors. The Notes will contain the provisions set out in this Term Sheet.
Interest:	<p>[User note: Use the following option for simple interest.] <i>[Simple interest will accrue [daily/monthly/annually] at a rate of [insert]% per annum].</i></p> <p>[User note: Use the following option for compounding interest.] <i>[Interest on the Investment Amount will accrue [daily/monthly/annually] and compound [monthly/annually] at a rate of [insert]% per annum.]</i></p>
Maturity Date:	The date that is [24] months following the drawdown date of the investment (Maturity Date).
Valuation Cap	<p>[User note: The valuation cap is critical to the economics of the note. The amount of the valuation cap divided by the number of shares in issue in the Company at the relevant time is the price per share at which the Investment Amount will convert on maturity, or on the occurrence of a liquidity event (if the investor elects to convert).</p> <p>The valuation cap is also the highest valuation at which the notes will convert to shares on the occurrence of a Qualifying Capital Raise. The Investment Amount will still convert at a lower price per</p>

share than that indicated by the valuation cap if the qualifying capital raise is undertaken at a valuation that is lower than the valuation cap, after applying the discount set out in the definition of conversion price).]

[\$[insert] (Valuation Cap).

Conversion to Equity:

[User note: Convertible notes typically include a discount of 15-20% against the price per share paid by the investors participating in a qualified financing (as recognition that the noteholders invested at an earlier stage of the company's development).]

If the Company completes an equity financing under which it raises not less than \$[insert] (excluding all amounts invested under the Notes) (**Qualifying Equity Financing**), then the Notes, together with all accrued and unpaid interest under the Notes, will automatically convert into the highest class of shares issued on the Qualifying Equity Financing at the conversion price.

The conversion price is the lower of:

- ▲ [80]% of the price per share paid as part of the Qualified Financing, and
- ▲ the price per share obtained by dividing the Valuation Cap by the Company's fully-diluted capitalisation immediately prior to the Qualifying Equity Financing.

Liquidity Event:

If the Company has a Liquidity Event (to be defined in the Note) prior to the conversion or repayment of the Notes, the Investor may elect to either:

- ▲ receive a cash payment equal to the Investment Amount plus all unpaid interest accrued on the Investment Amount, or
- ▲ convert the Investment Amount, plus all unpaid interest accrued on the Investment Amount, into the highest class of shares then in issue at a conversion price obtained by dividing the Valuation Cap by the Company's fully-diluted capitalisation immediately prior to the Liquidity Event.

Maturity

If Notes remain outstanding on the Maturity Date, the Investors may elect to convert their Investment Amount together with all accrued and unpaid interest into the highest class of shares then in issue at a conversion price obtained by dividing the Valuation Cap by the

Company's fully-diluted capitalisation immediately prior to the Maturity Date.

Prepayment:

The Company may not repay all or any part of the Notes at any time before the Maturity Date (other than interest accrued on the Notes).

Decisions by majority:

Any decision or election, or any amendment to the terms of the Notes, may be made by Investors who have provided the majority of the Investment Amount.

Security:

[User note: It would be most unusual for the notes to be secured.]

The Notes will be unsecured obligations of the Company.

Warranties

The Company will give warranties to the Investors that are customary in a convertible note.

Additional rights

[User note: It is not uncommon for investors investing material amounts to receive some additional rights. Typically these relate to the information rights and participation rights set out below. Be cautious when offering participation rights as they can impact on the ability of the company to raise the qualifying equity financing.]

Investors investing an Investment Amount equal to or in excess of \$[insert] will receive the following additional rights:

- ▲ basic information and reporting rights
- ▲ participation rights on the Qualifying Equity Financing.

Most favoured nation

[User note: Delete if the company does not wish to provide a "most favoured nation" clause (i.e. a right for the investors to exchange the terms of this note for the terms of any other convertible instrument issued after the date of this note).]

If the Company issues any new convertible instrument (**Subsequent Instrument**) after the date of the Notes and before any conversion or repayment of the Notes, the Investors may elect to exchange the terms of the Notes for the terms of the Subsequent Instrument.

Documentation

The long form convertible note agreement will be prepared by the Company's lawyers.

PART B: LEGALLY BINDING TERMS

Confidentiality: The terms described in this Term Sheet including its existence are confidential information and must not be disclosed to any third party without the consent of the other parties, except as required to any related party, and any shareholder, officer, director, employee or professional adviser of any party solely in connection with the transaction.

To confirm your acceptance of this Term Sheet, please sign and date the duplicate of this Term Sheet and return it to me.

[User note: Use the following signature block if the investor is a company.]

SIGNED for and on behalf of **[INSERT]**
NAME OF COMPANY] by:)

Signature of director

Print full name of director

Date

[User note: Use the following signature block if the investor is an individual.]

SIGNED by **[INSERT NAME OF]**
INDIVIDUAL]:)

Signature

Date

SIGNED for and on behalf of [*INSERT*)
NAME OF COMPANY] by:)

Signature of director

Print full name of director

Date