MEMORANDUM OF TERMS

FOR THE InCorporation and Organization OF

[Company Name]

**This term sheet summarizes the principal terms of the proposed incorporation and organization of [Company Name] (the “Company”). This term sheet is for discussion purposes only; there is no obligation on the part of any negotiating party until definitive agreements are signed by all parties. This term sheet does not constitute either an offer to sell or an offer to purchase securities.**

|  |  |
| --- | --- |
| ***State of Incorporation:*** | Delaware |
| ***Principal Office:[[1]](#footnote-1)*** | \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_  Phone: \_\_\_\_\_\_\_\_\_\_\_\_\_\_ |
| ***Company Website:[[2]](#footnote-2)*** | www. |
| ***Doing Business in Other States:[[3]](#footnote-3)*** | None. |
| ***Board of Directors:[[4]](#footnote-4)*** | The number of authorized directors will be initially fixed at \_\_\_\_ directors. |

***Directors:[[5]](#footnote-5)***

| **Name** | **Address** |
| --- | --- |
|  |  |

***Officers:[[6]](#footnote-6)***

| **Name and Title** | **Address** |
| --- | --- |
|  |  |

***Capitalization:***

|  |  |
| --- | --- |
| ***Total Shares Authorized:*** | 10,000,000 shares of common stock, $0.00001 par value per share. |
| ***Stock Plan Reserved Pool:[[7]](#footnote-7)*** | A total of [2,000,000] shares will be reserved for issuance under the Stock Plan. |
| ***Blanket Transfer Restrictions:*** | The Bylaws and the Stock Plan will include a provision requiring Board approval of all stock transfers. |
| ***Fiscal Year End:*** | December 31st. |
| ***S Corporation Election:[[8]](#footnote-8)*** | No |
| ***Attorneys:*** | Perkins Coie LLP |
| ***Principal Client Contact for Attorneys:*** | [Name] [Title] \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_  [United States] Phone: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Email: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |

***Stockholder Table:***

| **Name and Address** | **Shares and Price[[9]](#footnote-9)** | **Amount and Form of Consideration[[10]](#footnote-10)** | **Purchase Type[[11]](#footnote-11)** | **Vesting Schedule[[12]](#footnote-12)** |
| --- | --- | --- | --- | --- |
| [Founder 1] | [3,950,000] at $0.00001 per share | [$39.50] in IP value contributed (no cash) | Common Stock Purchase Agreement outside the Stock Plan | 25% of total shares vested at incorporation and 1/48th of total shares vest monthly thereafter. 50% double trigger acceleration upon a Change of Control. |
| [Founder 2] | [3,950,000] at $0.00001 per share | [$39.50] in IP value contributed (no cash) | Common Stock Purchase Agreement outside the Stock Plan | 25% of total shares vested at incorporation and 1/48th of total shares vest monthly thereafter. 50% double trigger acceleration upon a Change of Control. |
| [Law Firm][[13]](#footnote-13) | [100,000] at $0.00001 per share | [$1.00] in cash | Common Stock Purchase Agreement outside the Stock Plan | 25% of total shares vested at incorporation and 1/48th of total shares vest monthly thereafter. 50% double trigger acceleration upon a Change of Control. |
| [Advisor 1][[14]](#footnote-14) | [50,000] at $0.00001 per share | [$0.50] in cash | RSP Agreement under Stock Plan | Total shares vest monthly over 2 years. 100% single trigger Change of Control vesting. |
| [Employee 1] | [25,000] at $0.00001 per share | [$0.25] in cash | RSP Agreement under Stock Plan | 25% of the total shares vest on the first anniversary of the date of grant and 1/48th of the total shares vest monthly thereafter. 50% double trigger Change of Control vesting. |

1. This doesn’t need to be in Delaware and is often the home address for a founder. [↑](#footnote-ref-1)
2. Make sure you reserve the URL yourself, don’t wait for the lawyers or anyone else to do that! You will assign rights to the URL over to the company once it’s formed. [↑](#footnote-ref-2)
3. This is only if you plan to have a physical presence as in an office with employees located in multiple states. [↑](#footnote-ref-3)
4. This is never more than 5 and initially its usually just 2 or 3 depending on how many founders there are and whether each founder will be on the board. Don’t leave any vacancies. The number can be increased later when others join the board. [↑](#footnote-ref-4)
5. Give careful thought to which of the founders will be on the board. A majority of board members control the company. A majority of shares outstanding elects the entire board unless there’s a voting agreement in place. [↑](#footnote-ref-5)
6. There should be a CEO, CFO and Secretary at a minimum. VCs don’t like to see co-CEOs, they want one person to be responsible for running the company. Your lawyer will often serve as the Secretary and keep the corporate minute book. [↑](#footnote-ref-6)
7. Generally you want to reserve between 10% and 20% of the authorized shares for future issuances to new hires under the Stock Plan. Larger numbers dilute the founders, but you need to be realistic and VCs like to see 20%. It ultimately depends on how many key new hires you anticipate in the future. [↑](#footnote-ref-7)
8. Check with your tax planner, but VCs will not invest in S Corps so most startups decide not to make this election. [↑](#footnote-ref-8)
9. As modeled here, the founders will generally be issued an aggregate of 8M shares, leaving 2M shares for the Stock Plan. The price per share at incorporation is nominal, but needs to be at least the par value per share as set forth here. [↑](#footnote-ref-9)
10. Founders who actually have been working on the company’s business plan and IP will be signing a general contribution agreement upon incorporation which serves as the consideration for their shares. Others who have no IP to contribute, like law firms, need to pay cash. [↑](#footnote-ref-10)
11. Founders generally get their shares outside of the Stock Plan, but often you will be adopting the Stock Plan and granting shares under it to your initial employees at the time of the incorporation. Employees generally get RSP Agreements under the Stock Plan. [↑](#footnote-ref-11)
12. This shows the most common choices for vesting of founders, advisors and employees, respectively. There are lots of possible permutations, but it’s much better to keep things as simple as possible by having no more than three types of vesting provisions and everyone gets founder vesting, advisor vesting or employee vesting. [↑](#footnote-ref-12)
13. It’s not uncommon for your law firm to receive 1.00% of the fully diluted shares at the founders round. [↑](#footnote-ref-13)
14. Advisors typically get around 0.5%. [↑](#footnote-ref-14)