

Simple Agreement for Future Equity - SAFE

Summary

This is an executive summary of the SAFE note attached. It does not form part of the SAFE note or change the terms of the SAFE note. It is for information only and is not legal advice.

A SAFE note (Simple Agreement for Future Equity) is a type of convertible security that is used by start-ups to raise capital from investors. SAFE notes are typically used in seed rounds, when a company is just starting out and does not have a lot of financial information to share with investors.

SAFE notes are not debt instruments, so they do not have a repayment date or interest rate. Instead, they convert into equity later, typically when the company has a subsequent funding round.

The SAFE note investment is provided by UniQuest Pty Limited ('UniQuest'). UniQuest is the commercialisation Company of The University of Queensland (UQ).

Here are some of the key features of this SAFE note:

- Money is paid to the Company upfront in instalments for the Company to use for business purposes.
- By providing funds under a SAFE note, UniQuest does not become a shareholder and thus has no right to vote or receive dividends, unless UniQuest later becomes a shareholder.
- UniQuest will be issued shares if there is a fundraising event – called a Qualifying Financing.
- A Qualifying Financing is where there is a fundraising by the Company where the capital raised is at least \$50,000 from third party investors which may include UniQuest.
- When UniQuest is issued shares at the time of a Qualifying Financing, the number of shares issued to UniQuest will be calculated using a price that is a discount to the fundraising price for shares. In effect, the funds provided by UniQuest now will be used to purchase these shares at a discount in the future. We don't know today how many shares will be issued – this will be determined in the future as part of the Qualifying Financing.
- If there is an Exit Event before there is a Qualified Financing, then UniQuest can elect to get its money back or receive ordinary shares at a discount price. An Exit Event includes, for example, an IPO or the sale of the business of the Company.
- If there is no Qualifying Financing or Exit Event within 5 years, and the Company has not been deregistered in the interim, then UniQuest has the right to be issued shares in the Company at a discount to a pre-determined value.
- UniQuest does not promise to make further investments in the Company other than as required by the SAFE note.
- The Company must provide ongoing information to UniQuest.

Overall, SAFE notes can be a good option for startups and investors who are looking for a simple and flexible way to raise capital. However, it is important to understand the risks and limitations of SAFE notes before using them.

Simple Agreement for Future Equity - SAFE

Date:

Parties:

1. The Company identified in Schedule 1 (**Company**)
2. **UniQuest Pty Ltd**, ABN 19 010 529 898 (**Investor**) with further details set out in Schedule 1.

Agreed terms:

1. Definitions and interpretation

In this Agreement, the defined terms, and rules as to interpretation, are in Schedule 2.

2. Right to be issued Shares

- (a) In exchange for the payment of the Purchase Amount, the Investor has the right to be issued Shares on and subject to the terms of this Agreement.
- (b) The Investor will direct UQ to pay the Purchase Amount to the Company such that payment will be in Instalments, in accordance with the iLab Agreement.
- (c) UQ will pay the first Instalment within 40 Business Days of the Effective Date, and the subsequent Instalments upon satisfaction of the requirements set out in the iLab Agreement.
- (d) Upon early termination of the iLab Agreement by UQ (pursuant to clause 5.2 of the iLab Agreement) or the Company (pursuant to clause 5.4), the Investor and UQ will have no further obligation to pay any outstanding Instalments to the Company.
- (e) The Company must have or establish an Australian bank account within 40 Business Days of the Effective Date. The Investor can delay payment of some or all of the Purchase Amount until the Company has an Australian bank account.

3. Qualifying Financing

- (a) If there is a Qualifying Financing before the Termination Date, the Company will automatically issue to the Investor that number of QF Shares equal to:
 - (i) The total Purchase Amount divided by the Discount Price;
rounded to the nearest whole number.
- (b) The Company must, not later than 3 Business Days after the issue of the QF Shares in accordance with clause 3(a), send to the Investor a certificate for the number of QF Shares issued to the Investor.
- (c) Prior to being issued with any QF Shares under clause 3(a), the Investor must, if it is not already a party to the Shareholders Agreement, provide the Company with a duly executed deed of accession to the Shareholders Agreement, if there is a Shareholders Agreement in existence at that point in time and if the Shareholders

Agreement does not impose more onerous obligations on the Investor as compared to other purchasers of equity securities in the Qualifying Financing.

4. Exit Event

- (a) If there is an Exit Event before the Termination Date, the Investor will, at its election within 2 Business Days of receipt of written notice of the Exit Event from the Company, either:
 - (i) receive a cash payment equal to the Purchase Amount; or
 - (ii) automatically receive from the Company (with effect immediately prior to the Exit Event) that number of Ordinary Shares equal to:
 - (A) the Purchase Amount paid divided by the Exit Event Price;
 rounded to the nearest whole number.

If the Investor makes no election within 10 Business Days of notice of the Exit Event, it will be deemed to have elected to receive Ordinary Shares in accordance with clause 4(a)(ii).

- (b) If the Investor elects to receive cash under clause 4(a)(i), an amount equal to the total Purchase Amount will be due and payable by the Company to the Investor concurrently with the completion of the Exit Event.
- (c) The Company must, not later than 10 Business Days after the issue of the Ordinary Shares in accordance with clause 4(a)(ii), send to the Investor a certificate for the number of Ordinary Shares issued to the Investor.
- (d) Prior to being issued with any Ordinary Shares under clause 4(a)(ii), the Investor must, if it is not already a party to the Shareholders Agreement, provide the Company with a duly executed deed of accession to the Shareholders Agreement, if there is a Shareholders Agreement in existence at that point in time and if the Shareholders Agreement does not impose more onerous obligations on the Investor as compared to other holders of Ordinary Shares in the Exit Event.

5. Insolvency Event

If there is an Insolvency Event before the Termination Date, the Company will pay to the Investor a cash amount equal to the Purchase Amount immediately prior to, or concurrent with, completion of the Insolvency Event. The Purchase Amount will be paid in priority to any distribution of any of the assets of the Company to shareholders of the Company (in their capacity as shareholders). If the assets of the Company available for distribution to the Investor and all holders of all other Safes (**Dissolving Investors**) are insufficient to permit the payment to the Dissolving Investors of their respective Purchase Amounts, then the entire assets of the Company available for distribution to the Dissolving Investors will be pro rata among the Dissolving Investors in proportion to the Purchase Amount they would otherwise be entitled to receive.

6. Termination

This Agreement will expire and terminate on the Termination Date. Termination of this Agreement does not relieve a party of any prior breach of this Agreement.

7. Waiver of pre-emptive rights

The Company must procure that any entities or persons that become new shareholders in the Company after the Effective Date and before the Termination Date must immediately waive any rights in their favour that they may have in respect of any Shares issued by the Company in accordance with this Agreement (including, without limitation, any pre-emptive rights or any contractual rights) whether arising under, or in connection with, the Shareholders Agreement or otherwise.

8. Adjustments

If, prior to the issue of Shares in accordance with this Agreement, the Company makes any reconstruction of its share capital, including without limitation a consolidation, share split, share dividend, bonus issue or capital reduction, the number of Shares which may be issued to the Investor must be reconstructed in the same manner so that the Investor is entitled to receive the same proportion of total shares of the Company on issue or the paid up capital of the Company as would have been the case but for the reconstruction of the Company's share capital. The Company must take all necessary or desirable actions to ensure that the Investor is not disadvantaged or advantaged by the operation of this clause 8 if the Company makes any reconstruction of its share capital.

9. Protective Provisions

The Company shall not enter into any transaction or series of transactions that would materially alter its capital structure, ownership, or operational control in a manner that adversely affects the rights of the Investor under this SAFE, without the prior written consent of the Investor.

10. Voting and other rights

Until Shares are issued in accordance with this Agreement, the Investor (in its capacity as an investor) has no right rights as a shareholder of the Company, including any voting, dividend or any related rights, unless expressly set out in this Agreement.

11. Information Disclosure

Until the Termination Date, the Company must promptly notify Investor in writing:

- (a) of any change of Company directors or officers;
- (b) of any change to the shareholding in the Company;
- (c) if the Company amends the Company's Constitution or the Shareholders Agreement;
- (d) if there is a change of control of the Company;
- (e) if the Company adopts an employee share plan;
- (f) if the Company receives any offer (including a non-binding offer) to purchase the whole, or substantially the whole, of the assets (including intellectual property) of the Company by a third party;
- (g) if the Company commences a process to undertake an IPO or equity fundraising;

- (h) if the Company is sued or commences a lawsuit;
- (i) if the Company ceases or intends to cease operations; or
- (j) if Insolvency Event occurs in respect of the Company.

12. Information Rights

Until the Termination Date, the Company must promptly provide the Investor, if the Investor so requests, of a copy of or electronic access to the following, which the Investor agrees to keep confidential:

- (a) the Company's EOFY books of account setting out P&L, balance sheet, cash flow and EOFY cap table;
- (b) the Company's Constitution;
- (c) the Shareholders Agreement;
- (d) details of any non-dilutive or grant funding received;
- (e) the number of employees and contractors engaged by the Company;
- (f) details of any capital raising less than \$50,000 in a single round; and
- (g) any document or file of documents in the possession or control of the Company that the Investor reasonably requests for the management of its investment and for compliance with its reporting obligations to State Government and the University but only to the extent that the Investor would be entitled to this pursuant to section 247A of the Corporations Act if the Investor was a shareholder.

13. Most Favoured Nation

- (a) The Company represents to the Investor that the Company has not entered into a SAFE (or similar agreement) with any person in relation to the current round of fundraising on terms more favourable (individually or when taken as a whole) than those set out in the Investor SAFE.
- (a) The Company agrees that if it enters into a SAFE (or similar agreement) with any person on terms more favourable (individually or when taken as a whole) than those set out in the Investor SAFE (including, but not limited to, in respect of the Valuation Cap or Discount Rate), it will:
 - (i) notify the Investor without undue delay of the terms of such SAFE (or similar agreement); and
 - (ii) at the request of the Investor amend the Investor SAFE so as to provide the Investor with such more favourable terms.

14. Automatic Conversion After 5 Years

If no Qualifying Financing or Exit Event has occurred within 5 years of the Effective Date, then the Company will automatically issue to the Investor that number of Ordinary Shares equal to the:

- (a) Purchase Amount paid divided by the Safe Price rounded to the nearest whole number.

15. Compliance with law

Notwithstanding any other provision of this Agreement, the Company may not issue Shares in accordance with this Agreement if:

- (a) the Company would be required to issue a disclosure document under Chapter 6D of the Corporations Act in connection with the issue of such Shares; or
- (b) the Company would become subject to the takeover provisions set out in Chapter 6 of the Corporations Act following the issue of such Shares.

16. Representations

16.1 The Company's representations

The Company represents to the Investor that as at the Effective Date and at any time during the continuance of this Agreement:

- (a) **(corporate status)**: the Company is a corporation duly incorporated and validly existing under the law of the country or jurisdiction of its incorporation or registration;
- (b) **(corporate powers)**: the Company has full corporate power to perform its obligations as contemplated by this Agreement;
- (c) **(corporate consents)**: the Company has procured any corporate consent necessary for the execution and performance of this Agreement in compliance with its provisions;
- (d) **(document validity)**: this Agreement has been executed in compliance with its constituent documents and constitutes an unconditional, valid and enforceable legal liability of the Company in compliance with its provisions;
- (e) **(Insolvency Event)**: no Insolvency Event has occurred and remains current in respect of the Company, and there are no circumstances which could reasonably be expected to give rise to an Insolvency Event in respect of the Company; and
- (f) **(ESG)** at the Effective Date the Company will comply with the Environment Society and Governance Policy, and no shareholder of the Company is outside of the ESG Policy.

16.2 Investor's representations

The Investor represents to the Company that as at the Effective Date, and any time during the continuance of this Agreement:

- (a) **(powers)**: the Investor has full power to perform its obligations as contemplated by this Agreement;
- (b) **(consents)**: the Investor has procured any consent for the execution and performance of this Agreement in compliance with its provisions and local regulations and approvals;

- (c) **(document validity)**: this Agreement has been executed and constitutes an unconditional, valid and enforceable legal liability of the Investor in accordance with its provisions;
- (d) **(Sophisticated Investor or Professional Investor)**: it is a 'Sophisticated Investor' or 'Professional Investor' (as those terms are defined in the Corporations Act); and
- (e) **(advice)**: it has obtained independent advice on its investment in the Company pursuant to this Agreement, or it has waived its right to independent advice, and has not relied on any representations or warranties made by the Company, its directors, officers, agents, employees and advisers.

17. General

17.1 Notices

- (a) All notices in connection with this Agreement must be:
 - (i) in legible writing and in English; and
 - (ii) addressed, marked to the attention of the person specified and sent to the receiving party at the address or email set out in this Agreement or otherwise as notified by that party from time to time.
- (b) A notice will be considered to have been received:
 - (i) if sent to the address, three Business Days after posting (or seven Business Days after posting if sent from one country to another); or
 - (ii) if sent by email, four hours after the time sent (as recorded on the device from which the sender sent the email), unless the sender receives an email in response specifying that the email did not reach the intended receiving party or the receiving party is out of the office,

but if a notice is delivered to the address, or is received by the receiving party's email, on a day that is not a Business Day, or after 5:00pm (local time) on a Business Day, the notice will be considered to have been received by the receiving party at 9.00 am on the next Business Day.

17.2 Variation

The terms of this Agreement may only be amended, waived or modified with the written consent of the Company and the Investor.

17.3 Financial Records

The Company must keep written financial records that correctly record and explain its transactions and financial position and performance.

17.4 Governing Law

- (a) The laws of Queensland govern this Agreement.

- (b) The Company irrevocably and unconditionally submits to the non-exclusive jurisdiction of the courts of Queensland or the courts of the Commonwealth of Australia.

17.5 Waiver

- (a) No waiver of a right or remedy under this Agreement is effective unless it is in writing. A written waiver is only effective in the specific instance and for the specific purpose for which it is granted.
- (b) Failure to exercise or a delay in exercising a right or remedy under this Agreement does not operate as a waiver.

17.6 Severability

Any term of this Agreement which is wholly or partially void or unenforceable is severed to the extent that it is void or unenforceable. The validity or enforceability of the remainder of this Agreement is not affected.

17.7 Further Assurances

Except as expressly provided in this Agreement, the Company will, at its own expense, do all things reasonably necessary (including executing documents) to give full effect to this Agreements and the matters contemplated by it.

17.8 Assignment

- (a) Neither party may assign, transfer or in any other manner deal with its rights under this Agreement without the prior written agreement of the other party.
- (b) Any purported assignment, transfer or dealing in contravention of clause 17.8(a) is ineffective.

17.9 Costs and expenses

The Company and the Investor shall each bear their own costs and expenses associated with the negotiation and execution of this Agreement.

17.10 Confidentiality

- (a) The Investor must keep confidential and not disclose any Confidential Information of the Company that is disclosed or provided to the Investor because of this Agreement or the iLab program. The Investor may only use such Confidential Information for the purposes set out in or contemplated by this Agreement or to enforce the terms of this Agreement.
- (b) The Investor has reporting obligations to State Government and the University. If the Investor is required to provide Confidential Information of the Company to the State Government or the University, the Investor will seek the Company's prior written consent, such consent not to be unreasonably withheld or delayed.
- (c) If the Company provides written Confidential Information to the Investor, the Company must mark such information as "Confidential" or "Proprietary".
- (d) The obligations in this clause 16.10 survive termination of this Agreement.

- (e) For the purposes of this clause 16.10, “**Confidential Information**” means any business or technical information not generally known to the public, but does not include information already known by the Investor or UQ (as proven by written records), information that the Investor or UQ obtains from a third party who is not under an obligation of confidence to the Company, or information that the Investor or UQ independently develop (without use of the Company’s Confidential Information).

17.11 Use of Company logo by Investor

- (a) The Investor shall have the right to use the Company logo on the Investor’s website and in marketing material when describing the Investor’s investment portfolio *e.g.* when showing the logos of investee companies. The logo will not be used in a manner that implies endorsement of any company, product, trademark, person, or service.

Schedule 1 - Safe details

Item	Safe Details
Effective Date	
Company Name, ACN, address and email	Name: [] ACN (if applicable): [] Address: [] Email: []
Company Board Members	
Company Shareholders	
Investor Name, ACN, address and email	Name: UniQuest Pty Ltd ACN: 010 529 898 Address: Level 7, General Purpose South Building (Building #78) Staff House Road The University of Queensland St Lucia, Queensland, Australia Email: assets@uniquet.com.au
Purchase Amount	\$15,000 (payable in the Instalments)
Discount Rate	80% (i.e. 100% minus a 20% discount).
Valuation Cap	Will be determined by multiplying the gross Company revenue in the last financial year, ending 30 June by: <ul style="list-style-type: none"> • 2 If <\$100k • 3 if ≥\$100k<\$400k; • 4 if ≥\$400k<\$1,000,000 • 6 if ≥\$1,000,000 For example, a NewCo with \$80,000 revenue in the previous financial year would have a Valuation Cap of \$160,000.

Schedule 2 - Defined Terms and Rules of Interpretation

Definitions

In this Agreement, the following terms have the meaning set out below:

Business Day means a day (other than a Saturday, Sunday or public holiday) on which commercial banks are open for business in Brisbane, Australia;

Corporations Act means *Corporations Act 2001* (Cth);

Discount Price means the price per share of the QF Shares issued in the Qualifying Financing multiplied by the Discount Rate;

Discount Rate has the meaning given in Schedule 1;

Effective Date has the meaning given in Schedule 1;

ESG Policy means UniQuest's Environmental, Social and Governance Policy as published by UniQuest;

Exit Event means:

- (a) the sale of the whole, or substantially the whole, of the assets of the Company to a third party in a *bona fide* single transaction or series of related transactions;
- (b) the sale of all or substantially all the issued share capital of the Company to a third party in a *bona fide* single transaction or series of related transactions;
- (c) an IPO; or
- (d) any other event or series of events that together have the effect of allowing a realisation of substantially all the Shares in, or substantially all of the assets of, the Company;

Exit Event Price means the price per share equal to the fair market value of the Ordinary Shares at the time of the Exit Event, as determined by reference to the purchase price payable in connection with such Exit Event, multiplied by the Discount Rate;

Fully Diluted means the total aggregate number of Shares in the capital of the Company which would be on issue assuming all securities issued by the Company were exercised or converted in accordance with their terms, but excluding:

- (a) this instrument;
- (b) any other Safe financing instrument; or
- (c) any convertible notes;

ilab Agreement means the ilab Accelerator Program Agreement between UQ and the founders of the Company.

IPO means an initial public offering of Shares (or shares in the Company's holding company) in conjunction with a listing or quotation of Shares (or shares in the Company's holding company) on a recognised stock exchange;

Insolvency Event means the occurrence of any one or more of the following events in relation to any person:

- (a) an application is made to a court for an order that it be wound up, declared bankrupt or that a provisional liquidator or receiver or receiver and manager be appointed, and the application is not withdrawn, struck out or dismissed within 21 days of being made;
- (b) a liquidator or provisional liquidator is appointed;
- (c) an administrator or a controller is appointed to any of its assets;
- (d) it enters into an arrangement or composition with one or more of its creditors, or an assignment for the benefit of one or more of its creditors;
- (e) it proposes a winding-up or dissolution or reorganisation, moratorium, deed of company arrangement or other administration involving one or more of its creditors;
- (f) it is insolvent as disclosed in its accounts, or otherwise states that it is insolvent, or it is presumed to be insolvent under an applicable Law;
- (g) it becomes an insolvent under administration or action is taken which could result in that event;
- (h) it is taken to have failed to comply with a statutory demand as a result of section 459F(1) of the Corporations Act;
- (i) a notice is issued under sections 601AA or 601AB of the Corporations Act;
- (j) a writ of execution is levied against it or a material part of its property; or
- (k) anything occurs under the law of any jurisdiction which has a substantially similar effect to any of the above clauses of this definition;

Instalments means the three tranches referred to in the iLab Agreement.

Ordinary Share means an ordinary share in the capital of the Company;

Permissible Expenses has the meaning given in the iLab Accelerator Program Agreement.

Purchase Amount means the amount specified in Schedule 1;

QF Share means Shares in the class which are issued in connection with the Qualifying Financing;

Qualifying Financing means a *bona fide*, arm's length equity fundraising event by the Company for the principal purposes of raising capital through the issue of QF Shares, where the capital raised is at least \$50,000 in a single raise from one or more Third Party Investors with or without participation by the Investor. It is agreed that any equity investment event exclusively consisting of close personal friends and/or relatives, or by

their related entities and/or associates, of the Founder(s) shall not constitute Qualifying Financing;

Safe means an instrument containing a future right to Shares, similar in form and content to this Agreement, purchased by investors for the purpose of funding the Company's business operations;

Safe Price means the price per share equal to the Valuation Cap divided by the Fully Diluted share capital of the Company and then multiplied by the Discount Rate¹;

Shareholders Agreement means the shareholders agreement between the Company and its shareholders, as amended from time to time;

Shares means a share of any class in the capital of the Company and includes Ordinary Shares and QF Shares;

Termination Date means the earlier of:

- (a) the issue of Ordinary Shares or QF Shares to the Investor in accordance with this Agreement; or
- (b) the payment of amounts due to the Investor in accordance with this Agreement.

Third Party Investor is a person who acquires or intends to acquire Shares and who is not an existing Shareholder of the Company or the parent, child, sibling, or spouse of an existing Shareholder of the Company.

UQ means The University of Queensland.

Valuation Cap has the meaning set out in Schedule 1.

General Interpretation

In this Agreement, unless context indicates a contrary intention:

- (a) **(headings)** clause headings are inserted for convenience only and do not affect interpretation of this Agreement.
- (b) **(party)** a reference to a party to a document includes that party's personal representatives, executors, administrators, successors, substitutes (including persons taking by novation) and permitted assigns.
- (c) **(including)** including and includes (and any other similar expressions) are not words of limitation, and a list of examples is not limited to those items or to items of a similar kind.

¹ $Safe\ Price = \left(\frac{Valuation\ Cap}{Fully\ Diluted\ share\ capital} \right) * Discount\ Rate.$

For example, if a Company had a Valuation Cap of \$250,000 and 100,000 shares represented the Fully Diluted position of the Company, and the Discount Rate was 80%, then:

$$Safe\ Price = \left(\frac{\$250,000}{100,000} \right) * 80\% = \$2.00\ per\ share$$

- (d) (**corresponding meanings**) a word that is derived from a defined word has a corresponding meaning.
- (e) (**rules of construction**) neither this Agreements nor any part of it is to be construed against a party on the basis that the party or its lawyers were responsible for its drafting.
- (f) (**legislation**) a reference to any legislation or provision of legislation includes all amendments, consolidations or replacements and all regulations or instruments issued under it.
- (g) (**time and date**) a reference to a time or date in connection with the performance of an obligation by a party is a reference to the time and date in Brisbane, Australia, even if the obligation is to be performed elsewhere.
- (h) (**writing**) a reference to a notice, consent, request, approval or other communication under this Agreement or an agreement between the parties means a written notice, request, consent, approval or agreement.
- (i) (**Australian currency**) a reference to dollars or \$ is to Australian currency.

Executed as an Agreement

Executed by **[insert Company Name]** in)
 accordance with section 127(1) of the)
Corporations Act 2001 (Cth):)
)

.....
 Signature of director

.....
 Signature of director or company secretary*
 *delete whichever does not apply

.....
 Name (please print)

.....
 Name (please print)

Executed by **UniQuest Pty Ltd** in accordance
 with section 127(1) of the *Corporations Act 2001*
(Cth):

.....
 Head of Investment Fund

.....
 Signature of witness

.....
 Name (please print)

.....
 Name (please print)