

SUBSCRIPTION AGREEMENT IN RESPECT OF TRANCHE []

ODIN INVESTMENT LIMITED

THE INVESTORS WHOSE NAMES ARE LISTED IN SCHEDULE 1



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DATED

2020

PARTIES

- 1 **ODIN INVESTMENT LIMITED** (company number 7867480) ("**Company**")
- 2 **THE INVESTORS WHOSE NAMES ARE SET OUT IN SCHEDULE 1** (each an "**Investor**")

BACKGROUND

- A Each Investor wishes to subscribe for, and the Company wishes to issue to the Investor, redeemable shares in the Company for a total subscription amount set out in Schedule 1 for each Investor.
- B This Agreement sets out the basis on which Investors subscribe for Shares and the basis on which the Shares may be redeemed so that the Investor is repaid the subscription amount.

IT IS AGREED:

1 DEFINITIONS AND INTERPRETATION

1.1 Definitions

The following definitions apply in this Agreement, unless inconsistent with the context or otherwise specified:

"**Application Form**" means an application form for the Shares and in the form included in the PDS;

"**Business Day**" means any day other than a Saturday, Sunday or a statutory public holiday in Auckland, New Zealand;

"**Completion**" means the performance by the parties of the obligations assumed by them under clauses 4.2 and 4.3 or, where context requires, the time at which those obligations are or are to be performed;

"**Completion Date**" means the date the Shares are to be allotted to the relevant Investor in accordance with the PDS;

"**Constitution**" means the Company's constitution from time to time;

"**Convert**" has the same meaning as in the Convertible Note Agreement being convertible notes issued, or to be issued by Magsons to the Company;

"**Convertible Note Agreement**" means the convertible note agreement dated on or about the date of this Agreement between the Company (as noteholder) and Magsons (as issuer of the Convertible Notes);

"**Convertible Notes**" means the "**Notes**" as defined in the Convertible Note Agreement;

"**Election Date**" means 60 days prior to the Maturity Date or such other date as the Company may agree. In calculating the 60 day period the Maturity Date shall be disregarded;

"**Election Notice**" means a notice to be given by an Investor under clause 3.3 in respect of the Investor's decision whether or not certain Convertible Notes are to be Converted. The form of an Election Notice is set out in Schedule 2;

"**Magsons**" means Magsons Hardware Limited (company number 413641);

"**Maturity Date**" has the same meaning as in the Convertible Note Agreement;

"Offer Closing Date" means the "Offer Closing Date" as is applicable to the application to subscribe for the Shares under the PDS;

"PDS" means the Product Disclosure Statement dated **[insert date]** for the investment of shares in the Company;

"Shares" means a B shares in the Company and **"Share"** means any one of them;

"Subscription Amount" means, in respect of an Investor, the total subscription amount for the Subscription Shares set out opposite the Investor's name in Schedule 1;

"Subscription Shares" means, for each Investor, the relevant amount of Shares set out opposite the Investor's name in Schedule 1.

1.2 Interpretation

In the construction and interpretation of this Agreement, unless inconsistent with the context or otherwise specified:

- (a) references to the Background, clauses, Schedules and Appendices are references to the background, clauses and schedules of and appendices to this Agreement;
- (b) references to statutes or statutory provisions include those statutes or statutory provisions as amended, extended, consolidated, re-enacted or replaced from time to time and any orders, regulations, instruments or other subordinated legislation made under them;
- (c) words importing the singular number include the plural and vice versa, and references to any gender include every gender;
- (d) references to a party include that party's successor, permitted assign, executor, administrator and other representative;
- (e) references to persons include corporations and unincorporated bodies of persons, government or semi-government bodies or agencies or political subdivisions of them;
- (f) headings are inserted for convenience only and do not affect the interpretation of this Agreement;
- (g) references to "dollars" and "\$" are references to New Zealand dollars;
- (h) references to "written" and "in writing" include any means of permanent visible representation;
- (i) references to time are to New Zealand time;
- (j) references to any document include all modifications and replacement documents from time to time;
- (k) referring to anything after the word "including", "include" or "includes" does not limit what else might be included and any such reference is without limitation to what else might be included; and
- (l) where any act, matter or thing is to be done on a day that is not a Business Day, that act, matter or thing may be done on the next succeeding Business Day.

2 CONDITIONS

2.1 Completion conditional

Completion in respect of an Investor is conditional on the Company being satisfied the relevant Investor has properly completed and signed an Application Form.

2.2 **Not satisfied or waived by Offer Closing Date**

If, in respect of an Investor, the condition in clause 2.1 have not been satisfied by 5.00 pm on the Offer Closing Date, then the Company may terminate this Agreement as it relates to that Investor with immediate effect (in which case neither party will be required to complete the subscription and issue of the Subscription Shares to that Investor under this Agreement).

3 SUBSCRIPTION, ISSUE AND NATURE OF SUBSCRIPTION SHARES

- 3.1 Each Investor agrees to subscribe for, and the Company agrees to issue to the Investor, the relevant Subscription Shares on the terms of this Agreement and in accordance with the PDS. The relevant Subscription Shares will be redeemable if, pursuant to clause 3.3, the relevant Investor does not, in an Election Notice, elect for the Company to Convert the relevant Convertible Notes into ordinary shares in Magsons.
- 3.2 The Company shall utilise the Subscription Amounts received by the Company to subscribe for Convertible Notes of an amount equal to the Subscription Amounts.
- 3.3 An Investor must do the following in respect of the Subscription Shares held by that Investor:
- (a) on the Election Date the Investor must advise the Company whether or not the Investor requires the Company to Convert such number of Convertible Notes with a principal amount equal to the relevant Subscription Amount;
 - (b) if, in the Election Notice, the Investor elects for the Conversion the Company shall ensure that Conversion takes place in accordance with the Convertible Note Agreement of such number of Convertible Notes with a principal amount equal to the relevant Subscription Amount; and
 - (c) if, in the Election Notice, the Investor does not elect for the Conversion the Company shall require that Magsons to repay the principal amount of the Convertible Notes in such amount equal to the Subscription Amount applicable to that Investor and all unpaid interest thereon no later than the Maturity Date so that the principal amount can be applied by the Company for redemption, in accordance with clause 5, of the Subscription Shares held by such Investor.
- 3.4 If, pursuant to clause 3.3, the Investor does not return a properly completed Election Notice prior to the Election Date the Investor shall be deemed to require Conversion and the Company shall Convert such number of Convertible Notes with a principal amount equal to the relevant Subscription Amount.
- 3.5 The Company shall send to each Investor a valuation of Magsons a reasonable time before the Election Date. The valuation shall be obtained by the Company in accordance with the Convertible Note Agreement and so that the value of Magsons is established for the purpose of the Conversion provisions in the Convertible Note Agreement.
- 3.6 The Company must not transfer or assign the Notes without the prior written consent of all the Investors.
- 3.7 Each Investor acknowledges and agrees that following Conversion of the Notes the maximum amount of shares in Magsons that the Company may hold is limited, pursuant to the Convertible Note Agreement, to a maximum of 20% of the total share capital of Magsons. The table below sets out different conversion scenarios based on possible values of Magsons at the time the Convertible Notes are to be Converted.

Net value of Magsons (as determined by valuation)	Subscription amount of Investors' Shares who elect for conversion of Notes by the	Subscription amount of Investor's Shares who elect for redemption of notes by the	20% shareholding limit in Magsons	Total value of shareholding the Company receives in Magsons
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	Company	Company		
\$60,000,000	\$10,500,000	\$0	\$12,000,000	\$12,000,000 (100%)
\$52,500,000	\$10,500,000	\$0	\$10,500,000	\$10,500,000 (100%)
\$48,000,000	\$10,500,000	\$0	\$9,600,000	\$9,600,000 (91.4%)
\$30,000,000	\$10,500,000	\$5,500,000	\$6,000,000	\$5,000,000 (57.14%)

Note: All of the examples above assume full oversubscription of all tranches of Shares to be issued by the Company.

4 COMPLETION

4.1 Time for Completion

Completion shall take place on the Completion Date or at such other time as the parties may agree in writing.

4.2 Company Completion obligations

On Completion, the Company shall:

- (a) issue the relevant Subscription Shares to each Investor as fully paid up shares; and
- (b) ensure that the Company's share register has been updated to record the issue of the Subscription Shares to each Investor.

4.3 Investor Completion obligations

On Completion each Investor shall pay the relevant Subscription Amount to the Company's or the Company's solicitors (Anthony Harper) nominated bank account in cleared funds immediately available for disbursement.

4.4 Completion obligations interdependent

The Company's obligations under clause 4.2 and each Investor's obligations under clause 4.3. If a party does not perform one of its obligations under clause 4.2 or clause 4.3 (as the case may be) at Completion, the other party will be under no obligation to perform its obligations under clause 4.3 or clause 4.2 (respectively) and, to the extent that such obligations have already been performed, the parties must do everything reasonably required to reverse the performance of such obligations (including by returning documents or funds, as applicable).

4.5 Investor's Obligations Several

Each Investor's obligations and liabilities under this Agreement are several. No Investor gives any guarantee, warranty or assurance of the performance of any liability or obligation of any other Investor.

5 REDEMPTION

- 5.1 If, pursuant to this Agreement and the terms of issue of the Subscription Shares, the Subscription Shares are required to be redeemed, the Company shall redeem the Subscription Shares according to the paragraphs (a) and (b) below:
- (a) the Company shall redeem the relevant Subscription Shares if the Company has received full payment from Magsons of the principal amount sufficient for the Company to redeem in full all the relevant Subscription Shares that are to be redeemed on the same date (a "**Full Redemption**");
 - (b) the Company shall pay the redemption amount to the relevant Investors within five Business Days of receiving the relevant principal amount from Magsons.
- 5.2 In the event that the Company is not able to complete a Full Redemption under clause 5.1 (a) the Company shall call a meeting of the relevant Investors (being those Investors who have elected to have the relevant Subscription Shares redeemed on the same date) for those Investors to discuss the course of action to be taken by the Company.

6 TERMINATION

6.1 Termination for failure to complete

If a party ("**Defaulting Party**") fails to comply with its obligations under clause 4.2 or 4.3, and does not rectify such failure within 10 Business Days of its receipt of a notice from the other party ("**Non-defaulting Party**") requesting the Defaulting Party to comply with its obligations under clause 4.2 or 4.3, the Non-defaulting Party may (without prejudice to its other rights and remedies) terminate this Agreement with immediate effect by giving notice to the Defaulting Party.

6.2 Surviving provisions

Clauses 6.3 and 7.13, together with such other provisions of this Agreement which are incidental to, and required in order to give effect to, those clauses, will survive any termination of this Agreement.

6.3 Without prejudice

Any termination of this Agreement will be without prejudice to a party's rights and remedies in respect of any breach of this Agreement by the other party, where the breach occurred before the termination of this Agreement.

7 GENERAL

7.1 Relationship between parties

Nothing in this Agreement shall be deemed to constitute a partnership between the parties or any combination of parties or constitute any party the agent of the other party for any purpose.

7.2 Assignment

None of the rights or obligations of any Investor under this Agreement may be assigned or transferred without the prior written consent of the Company. An Investor cannot transfer the Investor's Shares without the prior written consent of the Company. If the Company grants the consents required by this clause the relevant Investor must procure that the assignee or transferee of this Agreement or the Shares must sign a deed of covenant (in a form satisfactory to the Company) so that the assignee or transferee is bound by this Agreement as an Investor. The Company shall not be required to recognise an assignment or transfer of this Agreement or the Shares until it has received such deed of covenant duly signed and delivered by the assignee and assignor or the transferee and transferor (as the case may be).

7.3 **Entire agreement**

This Agreement and the documents referred to in it constitute the entire agreement between the parties relating to their subject matter, and supersede all previous agreements between the parties relating to that subject matter.

7.4 **Amendments**

No amendment to this Agreement will be effective unless it is in writing and signed by or on behalf of each party.

7.5 **Governing law**

This Agreement shall be governed by the laws of New Zealand and, the parties submit to the exclusive jurisdiction of the New Zealand courts in respect of any dispute or proceeding arising out of this agreement.

7.6 **Partial invalidity**

If any provision of this Agreement, or any part of a provision of this Agreement, is found to be illegal, invalid or unenforceable the remaining provisions, or the remainder of the provision concerned, shall continue in effect.

7.7 **No waiver**

- (a) Any waiver of any term of this Agreement shall not be binding unless set out in writing and signed by or on behalf of the party granting the waiver.
- (b) A failure or delay in enforcing compliance with any term of this Agreement shall not be a waiver of that or any other term of this Agreement.
- (c) Completion shall not constitute a waiver of any breach of this Agreement even if the breach was known about at the time of Completion.

7.8 **Non merger**

All obligations of the parties shall continue in full force and effect after Completion, except for any obligations then already fully performed.

7.9 **Costs**

Each party shall pay the costs and expenses incurred by that party in relation to the negotiation, preparation and implementation of this Agreement and the documents referred to in this Agreement and everything ancillary or incidental to them.

7.10 **Counterparts**

This Agreement may be executed in any number of counterparts and all the counterparts when taken together will constitute one agreement. Each party may enter into this Agreement by executing a counterpart. This Agreement may be executed by an exchange of facsimile and/or scanned and emailed PDF copies and execution of this Agreement by that means is valid and sufficient execution.

7.11 **Further assurances**

Each party shall execute such further documents and perform and do such further acts as may be reasonably required in order to give effect to the provisions and intent of this Agreement.

7.12 **Independent trustee liability**

The Company acknowledges and agrees that if a person has entered into this Agreement in its capacity as an independent trustee of an Investor then the liability of the independent

trustee under this Agreement is not unlimited or a personal liability, but is limited to the assets of the relevant trust in the independent trustee's hands from time to time.

7.13 **Cumulative remedies**

The rights, powers and remedies provided in this Agreement are cumulative and are in addition to any rights, powers or remedies provided by law.

EXECUTED by the parties.

SIGNED for and on behalf of **ODIN**)
INVESTMENT LIMITED)

Signature of director

Name of director

SIGNED by for and on behalf of)
each Investor listed in Schedule 1)
by its duly authorised agent **MAAT**)
CONSULTING LIMITED) _____

Schedule 1

Investors

Name	Amount of Subscription Shares (redeemable)	Subscription Amount (\$)
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[Complete table when Application Forms Received]

Schedule 2
Election Notice

To: Odin Investment Limited

From:
(name of investor)

Conversion of Convertible Notes Issued by Magsons Hardware Limited ("Magsons")

I hold shares in Odin Investment Limited and have received a copy of a valuation of Magsons. In respect of my shareholding in Odin Investment Limited:

*** I elect that Odin Investment Limited convert convertible notes it holds in Magsons for ordinary shares in Magsons in accordance with the convertible note agreement between Odin Investment Limited and Magsons. The principal amount of convertible notes to be converted shall equal the subscription amount I paid for my shares in Odin Investment Limited.**

*** I elect that Odin Investment Limited does not convert convertible notes it holds in Magsons for ordinary shares in Magsons of an amount equivalent to the subscription amount I paid for my shares in Odin Investment Limited. I direct Odin Investment Limited to require Magsons to repay, by way of redemption of certain convertible notes issued by Magsons,, Odin Investment Limited a principal amount equal to the subscription amount I paid Odin Investment Limited for my shares. Odin Investment Limited will be required to pay the relevant amount to me only upon Odin Investment receiving all the redemption amount for investors who have elected to redeem their shares on the same date as me .**

** Delete which paragraph is inapplicable.*

Odin Investment Limited is authorised to act on my instructions set out above.

Signed by:

.....
Investor

Date:

