The main legal documents

Once the investment terms have been agreed, these should be integrated into the main legal documents which will typically comprise those set out below.

Term sheet

The negotiation of a satisfactory term sheet is one of the most critical parts of the process of equity investment. If we think of the relationship between the two as a marriage, the term sheet is the ideal moment to agree on a mutually beneficial arrangement rather than putting on paper a more adversarial prenuptial agreement. The term sheet should aim for a simple document reflecting the size of the deal. It sets the terms of the deal and reflects the due diligence including issues such as the valuation, core proposed levels of investment and any requirements for warranties from the business owners.

Investment and shareholders' agreement

This document sets out the terms of the investment and regulates the relationship of the shareholders once the investment has been completed. It will address the specific rights of the investor(s), such as rights to appoint directors, to receive information on the business and to veto certain actions of the company as well as usually containing warranties as to the company's business.

Articles of Association

Typically, new articles of association are adopted on completion of the funding which will set out the company's internal regulations and deal with its management and administration. They deal with matters such as transfers of shares, dividends and voting rights, and complement the investment and shareholders' agreement.

Disclosure letter

The disclosure letter often accompanies the documents and sets out disclosures against the warranties contained in the investment and shareholders' agreement. Warranties and disclosure are key elements of the transaction documents and will be contractually binding on the parties, this can help to ensure that specific and detailed disclosures are made by the company, as opposed to the often rather general responses which due diligence flushes out. If any warranties are not true, and this is not brought to the attention of the investor(s) prior to completion of the investment, the investor(s) will potentially have a claim against the warrantors for losses which they suffer as a result.

Key Due Diligence Documents

Before the investors invest, they will conduct due diligence on your business. The longer you take to supply the documents they request, the longer you will have to wait to secure investment. You also run the risk of putting investors off by giving the impression you are disorganised or ill-prepared. We recommend gathering as much information as you can ahead of any investment and storing it in an online cloud-based document storage system. In here you should include things like key contracts with the management team and employees, any insurance policies the business may have or any customer contracts that are in place.