

# **FOUNDER AGREEMENT**

Made and entered on the 4<sup>th</sup> of February, 2018  
(the "Effective Date")

By and among **Mr. Roei Schwartz**, Israeli I.D no. 203536669 ("**Founder 1**"), **Mr. Ben Vilder**, Israeli I.D no. 316305788, ("**Founder 2**") and **Mr. Guy Bar**, Israeli I.D no. 204312292 (the "**Mentor**") (each, a "**Party**"; together, the "**Parties**").

**WHEREAS** Founder 1 and Founder 2 have decided to enter into a mutual endeavor to establish, oversee, manage and execute ventures in the field of smart phones' applications;

**WHEREAS** Mentor have knowledge and experience as an entrepreneur in startup companies;

**WHEREAS** The Parties wish to enter into a founders agreement (this "**Agreement**") in order to incorporate a company which will create, own and/or license mobile application technologies worldwide (hereinafter, the "**Activity**"); *and*

**WHEREAS** The Parties wish to set forth in this Agreement the definitive terms and conditions agreed between them in relation to the Company and their relationship as its Parties;

## **NOW THEREFORE THE PARTIES HAVE AGREED AS FOLLOWS:**

### **1. Agreement Prevails**

This Agreement shall prevail in case of contradiction of Company's articles of association – present or future.

### **The Company**

### **2. Shares allocation**

Initially, ordinary shares in the Company shall be allocated to Parties, as per **Annex A** hereto. Each of the Party declares and confirms that he has no rights or claims to shares or other securities of the Company when executing this Agreement, other than as set out in this **Annex A**.

### **3. Assignment of Equity**

3.1. The Parties hereby assign their rights in intellectual property to Company; the Parties will execute and deliver a Deed of Assignment, in a form similar to the attached hereto as **Annex B**, to put such assignment into effect.

3.2. Each of the Parties hereby waives any and all rights, title and interest they may currently have, or may have in the future, regarding the IP, and hereby irrevocably assigns any such rights to the Company.

### **4. Roles & Responsibilities**

4.1. Unless and until determined otherwise, the respective roles and responsibilities of the Parties are as set out in **Annex C**.

4.2. The Parties hereby acknowledge that an essential element of this Agreement is the Parties' ongoing commitment to perform and fulfill their respective obligations and undertakings as set forth in **Annex C** to this Agreement.

## 5. Company Formation

The Parties hereby agree to be shareholders in the Company, under the following terms and conditions:

- 5.1. The Israeli Company, with P.C.N 515795821, has incorporated by Founder 2 on 11.2.18, under the name RBCS Ltd, for the purpose incorporating the Activity, and shall serve as the Company (hereinafter, the “**Company**”)
- 5.2. The Company shall be primarily engaged in the Activity. Notwithstanding, for registration purposes, the Company's objects are 'any lawful activity'. The Parties may seek to fulfill other similar purposes as the Activity, as may be decided by the Company's board of directors (the “**Board**”) from time to time.
- 5.3. All rights in the Company shall be incorporated in its regular share capital. All rights resulting, encapsulated and embodied in the ownership of the shares shall be distinguished as follows:
  - 5.3.1. **Property Rights:** shall grant the shareholders an equal right to participate in any distribution of dividends and/or assets of the Company, during the regular course of business or upon dissolution or liquidation of the Company, subject to applicable laws.
  - 5.3.2. **Voting and Controlling Rights:** shall grant the shareholders an equal right to vote in a general assembly.

## Shareholders

### 6. Voting

- 6.1. Voting on the general assembly can be without physical presence in the assembly, provided that the vote is received by a Board member in a written form, and in a manner acceptable upon the Board. Such written form can be delivered to the Board *via* the internet by email or in any other written form. Such email shall serve a proof for its content, until proven otherwise.
- 6.2. The company may hold general assemblies by use of any medium of communication, so long as that medium allows all participating shareholders to hear each other simultaneously. The Board may set the manner and ways in which an assembly as such will convene.
- 6.3. General assembly resolution can consummate in a form of ‘unanimous written consents’ (thereinafter: “**UWC**”), *in lieu* of convening a general meeting. Such UWC may be executed in counterparts, each of which shall be deemed to be on original, and together shall constitute one and the same instrument.

### 7. Funds Injection by Parties by Way of Shareholders Loan

- 7.1. Should the general assembly resolve so, and subject to passing of an appropriate Board resolution, the Parties shall provide the company with funds in the form of shareholder loans — *pro rata* with their respective shareholdings in the Company — to be paid back to the Parties out of the Company's first distributable profits, subject to the discretion of the Board. Such loans shall bear a yearly interest of 4%, and shall be paid back to the Parties prior to any other dividend or asset distribution.
- 7.2. The provision of such loan funds by the Parties shall be completed no later than 90 days of passing such resolution. In case that any Party does not provide his share of the funds upon the end of that period, such Party's holdings in the Company shall be diluted accordingly.

8. **Investment by a Third Party**

- 8.1. The Board is eligible to raise funds by seeking a third-party investor, and to approve funds injection by means of a loan, share purchase, capital note and/or other means. The Board shall have signatory rights for executing an agreement for such an investment scheme.
- 8.2. In the event of third party funding, the Parties shall be diluted accordingly, on a *pro rata* basis.
- 8.3. The Board can authorize funds raise of a third-party investment in a share evaluation lesser than the share evaluation by which a previous round or investment has been made.

9. **Subscription Right**

All shareholders shall have a right to purchase *pro rata* security allocations by the Company before it is being offered to a third-party, in the same terms. This right may be exercised by a notice and shall be deemed waived within 30 days as of reception of notice of allocation.

10. **Transfer of Shares**

- 10.1. The Parties shall not be entitled to transfer, assign or otherwise dispose of, or grant any rights in (hereinafter, a "**Transfer**"), any Company shares including beneficial rights, except in accordance with, and subject to, the Company's Board resolution, including but not limited to a transfer of shares to a corporate entity entirely or partially owned and/or controlled by such Party, or to a trustee for the benefit of such Party.
- 10.2. Shares Transfer notwithstanding the abovementioned, shall become "dormant" in the meaning of section 308 of the Israeli Companies Law 1999-5759 (hereinafter: "**Dormant Shares**"). Dormant shares shall continue to be so, so long as the shares has not returned to their approved owner, or the Board has not duly resolved to approve the Transfer.
- 10.3. In the event of death of a Party, it is agreed that his shares shall be transferred to his successors, shall not become dormant and the transfer shall not be subject the Board's resolution authorizing the transfer.
- 10.4. In the event of a divorce of a Party, it is agreed that his shares shall not be transferred to his divorcee, shall be repurchased by the Company by the price of the shares' par value.
- 10.5. The Board may decide unanimously to allocate any part of the Company shares or any right to receive options to such shares, to Company employees, advisors, and affiliates, as it deems fit. All shareholders shall be diluted accordingly.

11. **No Power of Attorney**

None of the Parties can transfer their shares' rights to a third party, including but not limited to by means of power of attorney, whether with or without consideration, formally or practically, including pertaining to voting and equity rights.

12. **Right of First Refusal**

In the event of any Party (in this section: the "**Offeror**") desires to transfer any of its securities in the Company (the "**Offered Securities**") to any person or entity which is not an existing shareholder in the Company (the "**Buyer**"), and subject to an approval by the Board prescribed in the provisions of Article 10, all other Parties shall have a right of first refusal with respect to the Offered Securities, and the Offeror shall first offer the Offered Securities to all Parties, as follows:

- (a) The Offeror shall give the **Parties** a written notice regarding the proposed Transfer of the Offered Securities (the "**Offer Notice**"). The Offer Notice shall include all the material details specified in the Buyer's offer and the Buyer's identity;
- (b) The Offeror shall provide a proof for absence of criminal record of Buyer;
- (c) The offer which is specified in the Offer Notice shall be made with good faith;
- (d) In the event of any of the Parties desires to purchase any of the Offered Securities on the terms and conditions offered by the Buyer, they shall give the Offeror and the Company an unconditional written notice regarding their wish within 10 (ten) business days of accepting the Offer Notice; The notice shall be in respect of all Offered Securities (accordingly, the "**Acceptance Notice**" and the "**Acceptance Notice Period**"). The Acceptance Notice shall create a binding agreement between the Offeror and the relevant Party for the sale of the Offered Securities to the respective Party. In the event of more than one Party giving an Acceptance Notice, these parties shall have the right to purchase the Offered Securities on a *pro rata* basis.
- (e) In the event that none of the Parties gave an Acceptance Notice, then during a period of 45 (Forty Five) days from the end of the Acceptance Notice Period, the Offeror shall be entitled to transfer all (and not less than all) of the Offered Securities to the Buyer on the same or better terms and conditions in favor of the Offeror, of those stated in the Offer Notice.

### 13. Distribution of Profits

- 13.1. Dividends will be distributed by a resolution of the Board.
- 13.2. Dividends will be distributed from funds which are deemed as profits, and are not designated for payment of current or expected expenses of Company;
- 13.3. The expenses may include, but not limited to, increasing the equity capital of the Company, giving loans to a Party or a third party, and making sure all accounts are payable and reserves were made for future expense of Company – all subject to the Board's discretion.

### 14. Changes in Share Capital

If, from time to time during the term of this Agreement, there is a distribution of any security, share split or other change in the character or amount of any of the Company's authorized share capital, then, in such event, any and all new, substituted or additional securities shall be immediately subject to the provisions of this Agreement and be included in the word "shares" for all purposes of this Agreement with the same force and effect as the shares presently subject to this Agreement, and with respect to the new security value and terms, *mutatis mutandis*.

### 15. Repurchase Rights

- 15.1. The Company shall have the right to repurchase any or all of a Party's shares per the 'Milestones' (defined below), for a 'Cause' (as defined below).
- 15.2. For the purpose of this Agreement, "Cause" means: (i) the Party's breach of trust or fiduciary duties, including but not limited to theft, embezzlement, or breach of the provisions of the confidentiality or non-compete; (ii) any willful failure to perform, or failure to perform competently his duties per Annex B, or other breach of this Agreement, which, if capable of cure, was not cured within seven (7) days of receipt by the Party of written notice thereof; (iii) an event in which the Party deliberately or gross negligently causes harm to the Company's business affairs or reputation; (iv) conviction of, or entry of any plea of guilty by the Party for any felony or crime; (v) personal dishonesty; (vi) willful



misconduct; or (vii) if the Party has provided the Company with false information about himself prior to the execution of this Agreement.

15.3. The amount of shares subject to Repurchase shall be as follows (“**Milestones**”):

15.3.1. First year or any part thereof – 100% of the shares

15.3.2. Second year or any part thereof – 75% of the shares

15.3.3. Third year or any part thereof – 50% of the shares

15.3.4. Fourth year or any part thereof – 25% of the share

15.4. Repurchase shall be for a price equal to the shares par value. The repurchase price shall be paid in cash. The Company may assign this right of repurchase.

15.5. The Company may choose to give the Party a written notice of exercise of its repurchase rights under this Section. However, the Company’s failure to give such a notice shall not affect its rights to repurchase the shares.

## **Board of Directors**

### **16. The Board**

16.1. At the incorporation of the Company, the first director shall be Founder 2, Mr. Ben Vilder.

16.2. Immediately after the incorporation, Founder 1 shall be appointed to be a director of the board.

16.3. The Board will be appointed by the shareholders; each shareholder holding at least 25% of the Company's shares will be entitled to vote for a member of the Board.

16.4. The maximum directors in the Board shall be three (3) members.

16.5. All members of the Board shall be residents of Israel and shall have advanced skills, and knowledge if applicable, in their fields.

### **17. Board Deadlocks**

17.1. In case the Board has reached a deadlock, unable to reach a majority to vote on a certain resolution, the resolution shall be categorized as one of the following:

a) Management of the Company (including finances), wherein Founder 1 shall receive an additional vote and thus reach a majority.

b) A resolution regarding technology, wherein Founder 2 shall receive an additional vote and thus reach a majority.

17.2. In any other impasse, the chairman of the Board shall have an additional vote.

### **18. Signatory Rights**

The Company’s signatory rights shall be determined by appropriate Board resolution.

### **19. Making Certain Decisions**

The written approval of Founder 1 and 2 is required to:

19.1. Incur any debt or use credit to trade with creditors in the ordinary course of business which exceeds \$50,000 individually and \$200,000 in aggregate;

19.2. Purchase a product or service with the cost of 500,000\$ or more.

19.3. Initiate any voluntary bankruptcy proceeding, liquidation or dissolution and/or distribute

substantially all its assets and business;

19.4. Amend this Agreement;

19.5. Effect any share capital change in Company which is materially changing the Parties' rights in the Company, and which was not explicitly dictated originally by this Agreement per Annex A, or not related to funds raising.

20. **Bank Account**

20.1. An Israeli bank account shall be opened for the Company upon Company's incorporation (hereinafter: the "**Bank Account**").

20.2. Founders 1 and 2 will have right to receive information about transactions and balance of Bank Account.

21. **First CEOs**

21.1. The first CEO of the Company is Founder 1: Mr. Roei Schwartz.

21.2. The Parties hereby acknowledge that Founder 1 shall serve as a CEO for a minimum of 5 years, unless resigned earlier or otherwise breached this Agreement.

21.3. The Technology CEO of the Company is Founder 2: Mr. Ben Vilder.

21.4. The Parties hereby acknowledge that Founder 2 shall serve as a Technology CEO for a minimum of 5 years, unless resigned earlier or otherwise breached this Agreement.

22. **Non- Competition**

22.1. The Parties must refer to Company, in writing, all opportunities to participate in a business or activity that is directly competitive with the operation done by Company, whether as an employee, consultant, officer, director, advisor, investor, or partner.

22.2. The Company will have 15 days to decide whether to pursue any referred opportunity, and to notify the referring Party of its decision in writing.

22.3. If the Company elects not to pursue the opportunity, or if it does not notify the referring Party of its intent in writing within the 15 day period, then the referring Party will be free to pursue the opportunity independently. If the Company elects to pursue the opportunity, but later abandon it, then the referring Party will be free to pursue the opportunity independently at such time.

22.4. Other than pursuant to the preceding paragraph, to protect Company's legitimate business interests, no Party may participate in any business or activity that is directly or indirectly competitive with the business operated by Company, whether as an employee, advisor, consultant, officer, director, shareholder, owner, sole proprietor, investor, partner or otherwise. The abovementioned shall apply to any Party so long as he has shares in the Company, and for a period of 2 (two) years thereafter, including but not limited to contacting services providers, clientele and such.

22.5. For clarity purposes, it is hereby agreed that no Party may open any business which would compete directly or indirectly with the Company in its activity in any geographic location where the Company has significant presence in, has intents to market its products or services to, and/or has made substantial investments.

**23. Non-Disclosure.**

By signing this Agreement, each of the Parties undertakes towards the Company and the other Parties, without time limitation, to maintain full confidentiality and not to disclose or divulge to any third party, directly or indirectly, any information relating to the Company's technology, Intellectual Property (as defined hereunder), products, employees, business situation, financial situation, business plan or commercial engagements, unless such disclosure was authorized by the Board in writing and in advance, such information is in the public knowledge, is independently developed by such party, is already known or received by such party from a third party legally entitled to disclose same, or such disclosure is required by applicable law.

**24. Intellectual Property**

24.1. The Parties hereby acknowledge that any copyrights, patents, patent applications, trademarks, service marks, trade names, designs, logos, information, data, technology, processes or practices, whether or not in tangible form, discoveries, innovations, improvements, concepts and ideas, whether patentable or not, including but not limited to methods, devices, formulas and techniques, improvements thereon and know how related thereto, and any other intellectual property and industrial property of any kind relating to the Activity, whether currently in existence or that will be developed in the future (the "**Intellectual Property**"), is, and shall remain, the sole and exclusive property of the Company.

24.2. Intellectual Property will not include any inventions or copyright which were developed by a Party entirely on such Party's own time, without using Company's equipment, supplies, facilities or trade secret information, unless the invention was intended by him to be used by the Company.

**25. Fiduciary-out**

Other than as explicitly provided herein, no Party will have any duty to the other Party or Company, including any fiduciary duty, except as explicitly mandated by law.

**26. Full Disclosure**

Parties agree and undertake to fully disclose to each other at all times any information regarding or related to the Company, and to inform one another of any event and/or information regarding Company or the execution of this Agreement, promptly, truthfully and fully. Parties shall be entitled to request and receive any information related to the Company, and anyone acting on Parties' behalf shall assist and comply with such requests, with reasonable limitations.

**27. Arbitration**

27.1. This section sets an exclusive arbitration agreement between Parties.

27.2. The Parties will attempt in good faith to amicably negotiate a settlement to any claim or dispute between them arising out of or in connection with this Agreement or the Company.

27.3. In case the claim or dispute is incapable of being resolved by negotiation and in case no other means of resolving such deadlock can be found, either one of the Parties may submit the dispute exclusively to confidential arbitration proceedings by a sole arbitrator according to the Israel Institute of Commercial Arbitration Rules.

27.4. Proceedings will take place by a sole arbitrator, to be agreed upon by both parties or a neutral third party, whose decision shall be final and binding.

- 27.5. The arbitration proceedings shall be conducted in Hebrew, in the State of Israel or another place agreed by the conflicting Parties. This clause explicitly sets exclusive jurisdiction to such arbitration process, and neither Party shall be entitled to submit any dispute to the courts of its domicile prior to the exhaustion of said arbitration process.
- 27.6. The proceedings shall be per the laws of the State of Israel, and the arbitration ruling shall be reasoned and explained.
- 27.7. The arbitration ruling shall be appealable in Israeli courts.

28. **Miscellaneous**

- 28.1. Relationship of the Parties. Nothing contained in this Agreement shall be construed to place either the Parties in partnership relation or joint venture. Neither Party shall have any authority to create or assume in the name of or on behalf of the other Party any obligation, whether express or implied, or to act or purport to act as such Party's agent or legally empowered representative for any purpose whatsoever.
- 28.2. Governing Law; Jurisdiction. This Agreement shall be construed in accordance with and governed in all respects by the laws of the State of Israel, without giving effect to its choice of laws provisions. The Parties hereby irrevocably and unconditionally submit to the exclusive jurisdiction of the competent courts of Tel Aviv for the purpose of any suit, action or other proceeding arising out of or based upon this Agreement
- 28.3. Assignment. No Party may assign or otherwise transfer any rights or obligations under this Agreement without the prior written consent of the other Parties. Any assignment not in accordance with this Agreement shall be void.
- 28.4. Severability. If any term, covenant or condition of this Agreement or the application thereof to any Party or circumstance shall, to any extent, be held to be invalid or unenforceable by a court or administrative agency of competent jurisdiction, then (a) the remainder of this Agreement, or the application of such term, covenant or condition to any Party or circumstance other than those as to which it is held invalid or unenforceable, shall not be affected thereby and shall be valid and be enforced to the fullest extent permitted by law, and (b) the Parties agree to renegotiate any such term, covenant or application thereof in good faith in order to provide a reasonably acceptable alternative to the term, covenant or condition or the application thereof that is invalid or unenforceable - it being the intent of the Parties that the basic purposes of this Agreement are to be effectuated.
- 28.5. Survival. Provisions which, by their nature, extend to the relationship between the Parties in connection with the subject matters hereof notwithstanding any termination or expiration of this Agreement, including, but without limiting to the provisions 16, 22, 23, 24 and 27 shall survive any such termination and/or expiration of this Agreement.
- 28.6. Delays or Omissions. No delay or omission to exercise any right, power, or remedy accruing to any party upon any breach or default under this Agreement, shall be deemed a waiver of any other breach or default theretofore or thereafter occurring. Any waiver, permit, consent, or approval of any kind or character on the part of any Party of any breach or default under this Agreement, or any waiver on any provisions or conditions of this Agreement, must be in writing and shall be effective only to the extent specifically set forth in such writing. All remedies, either under this Agreement or by law or otherwise afforded to any of the Parties, shall be cumulative and not alternative.



- 28.7. Entire Agreement; Amendments. This Agreement was equally prepared and finalized by both Parties. This Agreement sets forth all promises, agreements, representations, conditions and understandings between the Parties hereto and supersedes and terminates all prior and contemporaneous agreements and understandings between the Parties. There are no covenants, promises, agreements, warranties, representations, conditions or understandings, either oral or written, between the Parties other than as set forth herein. No subsequent alteration, amendment, change or addition to this Agreement shall be binding upon the Parties hereto unless reduced to writing and signed by the Parties or the respective authorized representatives of the Parties, and was confirmed by a mutual written consent of the other Parties.
- 28.8. Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed to be on original, and together shall constitute one and the same instrument.
- 28.9. Notices. All notices required or permitted to be given under this Agreement shall be deemed given if delivered personally or by any form of writing to any of the Parties.
- 28.10. Recitals. Recitals at the beginning of this Agreement constitute a material and integral part of this Agreement. Section headings and capitalized terms are for convenience only and may not be relied upon in the interpretation and/or performance of any provision herein.
- 28.11. English and Understanding. Each Party represents and warrants that they master the English language, they have read this Agreement and fully understand its provisions.

*[remainder of this page intentionally left blank]*

IN WITNESS WHEREOF the Parties have executed this Agreement as at the date first above written.

  
\_\_\_\_\_  
**Founder 1**

Roei Schwartz

  
\_\_\_\_\_  
**Founder 2**

Ben Vilder

  
\_\_\_\_\_  
**Mentor**

Guy Bar

*[Signature page – Simtex ltd. – Founders Agreement]*

IN WITNESS WHEREOF the Parties have executed this Agreement as at the date first above written.

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**Founder 1**  
Roei Schwartz

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**Founder 2**  
Ben Vilder



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**Mentor**  
Guy Bar

*[Signature page – Simtex ltd. – Founders Agreement]*

**Annex A**  
**Shareholders Capitalization Table**

Founder	Role and Responsibilities	Number of Ordinary Shares	Percentage in Company's I&O Share Capital	Options
<b>Founder 1 Mr. Roei Schwartz</b>	CEO	12,875	55.67%	-
<b>Founder 2 Mr. Ben Vilder</b>	Technology CEO	10,000	43.24%	-
<b>Mentor Mr. Guy Bar</b>	Advisor	250	1.08%	-
<b>Employees</b>	-	-	-	
	<b>Total</b>	<b>23,125</b>	<b>100%</b>	<b>100%</b>

**Annex B**  
**Deed of Assignment - sample**



**Annex C**  
**Roles and Responsibilities**

**Founder 1**

Founder 1 shall serve as CEO, and shall be responsible for any on-going affairs of the Company, including fundraising, procuring and managing employees, finances, dissemination and public relations, retaining service providers, etc.

Founder 1 shall also serve as a director.

Founder 1 shall devote all necessary time and attention to take care of his duties towards the Company, but not less than 60 hours a month. Notwithstanding, Founder 1 shall be available 24/7 to attend to all matters related to Founder 1's responsibilities. It is hereby acknowledged and agreed that Founder 2's responsibilities are deemed crucial and require a special degree of trust, all which does not enable the Company to supervise all duties by Founder 1.

**Founder 2**

Founder 2 shall serve as Technology CEO (as defined hereinabove) and shall be responsible for all on-going development, supervision, auditing, quality control and care of the Company's products, including managing employees, service providers or outsourcing of any kind related to the technology, etc.

Founder 2 shall also serve as a director.

Founder 2 shall devote all necessary time and attention to take care of his duties towards the Company, but not less than 60 hours a month. Notwithstanding, Founder 2 shall be available 24/7 to aid the Company CEO in all matters related to Founder 2's responsibilities. It is hereby acknowledged and agreed that Founder 2's responsibilities are deemed crucial and require a special degree of trust, all which does not enable the Company to supervise all duties by Founder 2.

**Mentor**

Mentor shall be a passive founder and shall not take active part in the Company's activities or decisions. Mentor shall not be responsible or liable for its ongoing operation, except as explicitly or mandatorily provided under applicable law.

Mentor shall provide consulting for Founder 1, Founder 2 and the Company on an ongoing basis, will answer questions to the best of his knowledge.

Mentor will make his knowledge, expertise, connections and Skills, related to startups, fully available to the Company. Mentor shall devote a reasonable amount of his time for the provision of the consulting.

Terms on this annex can be amended, added to or cancelled, partially or wholly, by a written consent of all Parties.