



# HERITAGE PENSIONS

## APPLICATION FOR INVESTING IN UNQUOTED SHARES

Name of SSAS \_\_\_\_\_

**PLEASE RETURN THIS FORM TO:**

Heritage Pension Administration Limited  
6 Doolittle Mill  
Froghall Road  
Amphill  
Bedfordshire  
MK45 2ND

# 1 Scheme Details

All requests for unquoted equities will be considered on an individual basis, we do not accept any individual unquoted equities for overseas companies. (We reserve the right to ask for further information if we feel we need it to help us make an informed decision).

Heritage Pension Administration Limited will treat shares held in companies registered on the Alternative Investment Market (AIM) in the same way as for unquoted trading companies. AIM is a recognised stock exchange but securities held would not meet the HMRC definition of “listed” for purposes of HMRC Legislation.

Company name	<input type="text"/>	
Contact name	<input type="text"/>	
Email address	<input type="text"/>	
Telephone numbers	Office <input type="text"/>	Mobile <input type="text"/>

# 2 Funding

Please provide details below of how this investment is to be funded, e.g. existing funds, employer contribution, cash transfer from a registered pension scheme.

**Note** your pension scheme can invest in an unquoted UK registered trading company only if it meets ALL of the “taxable property” exemption conditions (please see definitions on the last page).

**Please answer all the questions below.**

Is the company’s main activity the carrying on of a trade, profession or vocation?    Yes     No

Please explain below how the trustees became aware of this investment opportunity.

How many shares are the trustees looking to purchase and at what price?

Number of shares     Price per share £



Please confirm how the share price has been set. (We will require confirmation of the share price by an accredited accountant. The value must not be more than three months old. All transactions between connected parties need to be conducted at an evidenced commercial value).

It is important that Heritage Pension Administration Limited is aware of the percentage holdings of the main shareholders as we need to ensure that the pension scheme, either alone or together with associated persons (see definitions on last page), would not have control of the company with more than 50% of the shares. Therefore, we either look for diversification of ownership where the SSAS or parties connected with it and a combination of four or more other shareholders cumulatively hold less than 50.01% of the shares or there is already a unconnected single shareholder with outright control, i.e. holds over 50.01% of the company.

If the trustees are able to purchase the shares as outlined, please provide a FULL list of the company shareholders post purchase and their shareholdings.

FULL NAME OF SHAREHOLDER	POSITION OF SHAREHOLDER I.E. DIRECTOR, EMPLOYEE, NON-EMPLOYEE	SHAREHOLDING %	IS THE SHAREHOLDER A CONNECTED OR ASSOCIATED PERSON?

*If there is insufficient space please provide full details on a separate sheet of paper.*

*Please provide the latest three years trading accounts for this company.*

Are any members or trustees, or any connected person, a controlling director (please see definitions on last page)?    Yes     No

Will the pension scheme, directly or indirectly, hold an interest in the company for the purposes of enabling any member or trustee, or a connected person, to occupy or use any taxable property owned by the company?    Yes     No



# 3 Members and Trustees Declaration

## I confirm that

- The information provided in this form is accurate and complete.
- I have taken financial advice before confirming that the proposed share purchase will not constitute an indirect investment in 'taxable property' for tax purposes and have completed this form in accordance with that advice.
- Neither Heritage Pension Administration Limited or Heritage Trustees Limited have provided me with any investment, financial, legal or any other advice whatsoever as to the suitability of the transaction.
- No liabilities attached nor will attach to Heritage Pension Administration Limited or Heritage Trustees Limited in any way as a result of carrying out my investment instructions to purchase these shares. This covers the eventuality of any unauthorised payments charge or unauthorised payments surcharge I/we become liable for.
- I have taken all reasonable steps to ascertain whether the company whose shares I am to buy shares in or the vendor is 'connected' to me for the purposes of section 819 of the Income and Corporation Taxes Act 1988.
- I have reviewed and accept the terms and restrictions imposed in relation to the ownership of the shares as described in the application form.
- This investment may not be readily realisable and that this could impact on my ability to take pension benefits from the SSAS if there are not sufficient other liquid assets held by the SSAS. I also fully understand that in the event of my death Heritage Trustees Limited may need to encash the investment to pay death benefits to my beneficiaries and that the price they obtain may not reflect the full value of the shares.
- Heritage Pension Administration Limited and Heritage Trustees Limited reserve the right to insist on the sale of shares if they have reasonable information to suggest the information in this application form is incorrect.

## I undertake to inform Heritage Pension Administration Limited immediately if I become aware

- That the valuations undertaken to support the share price either actually or may cease to be accurate or valid in any way.
- That the investment in unquoted shares constitutes an indirect investment in 'taxable property' for tax purposes.
- That any rights or entitlements attributed to the shares purchased are altered in any way.
- Of a proposed restructuring, acquisition, public offering or rights issue in respect of the company whose shares are being purchased.

## I understand and accept that

- If Heritage Trustees Limited become liable to any tax charge including without limitation a scheme sanction charge or de-registration charge, either in relation to the purchase of shares, or due to any subsequent event that takes place, that the charge due can be deducted from the funds held in the SSAS and where need be will sell any asset held in that fund to meet that tax charge due. Further, if there are insufficient assets to meet such liability, nothing shall prevent Heritage Pension Administration Limited and/or Heritage Trustees Limited from pursuing any claim as is appropriate to recover the sums concerned from me directly.
- Heritage Trustees Limited will not exercise any voting rights associated with the shares and will not normally attend shareholder meetings.

In consideration to Heritage Pension Administration Limited completing the purchase of shares as Trustee(s) of the SSAS, I agree to indemnify Heritage Pension Administration Limited and Heritage Trustees Limited on a continuing basis against any costs, fees, charges, claims, proceedings, damages, loss or any other liability whatsoever which are incurred as a result of or in respect of investment or purported investment in unquoted shares by my SSAS.

In particular and without prejudice to the generality of the foregoing, I agree to indemnify Heritage Pension Administration Limited and Heritage Trustees Limited on a continuing basis against any unauthorised payments charge, scheme sanction charge, unauthorised payment surcharge, de-registration charge and/or any other tax charge or penalty which may be imposed on the SSAS. Heritage Pension Administration Limited and/or Heritage Trustees Limited under the Finance Act 2004, the Income Tax (Earnings and Pensions) Act 2003 or otherwise in respect of the investment by my/our SSAS investment in unquoted shares.



**I agree to meet all costs in connection with the proposed share purchase whether**

- or not the purchase proceeds to completion;
- the costs are by way of fees incurred by or on behalf of Heritage Pension Administration Limited or Heritage Trustees Limited or are other expenses of the purchase.

Signature

Name

Dated

## 4 Special Conditions & Risk Warnings

**1** The shares will be purchased in the name of the SSAS trustees and will not be held by you in your personal capacity.

**2** A 'close company' (please see description under definitions on last page).

There are other ways a company can be viewed as a 'close company' and there are also exceptions. If in doubt, please consult the company accountant.

Whether or not the company is a 'close company' can be crucial in establishing whether or not the proposed investment is a 'genuinely diverse commercial vehicle' for the purposes of the 'taxable property' provisions of the tax legislation.

For general tax purposes, a company must be resident in the UK to be a 'close company'. However, for the purposes of the 'taxable property' provisions it catches a non-UK resident company that would meet the 'close company' definition if it were resident in the UK.

**3** The SSAS trustees may not invest more than 50% of the SSAS net fund value in unquoted shares. This is an aggregate limit on all unquoted shareholdings.

**4** Unless this is a new subscription, stamp duty will be due on the purchase of shares at the rate of 0.5%. This will be paid from your SSAS.

**5** A 'connected person' (please see description under definitions on last page).

**6** It is possible for your SSAS to purchase unquoted shares from you, or a person or company 'connected' with you. But any transaction must be undertaken on an 'arms' length basis at an open market value. Otherwise you will become liable to penalty tax charges. Heritage Pension Administration Limited and Heritage Trustees Limited may also become liable to a tax charge. In such an event we will insist a deduction for such a charge is made from the SSAS fund. If there are insufficient liquid funds to meet this charge we will insist the other assets held in the SSAS are sold (including the unquoted shares) to meet this

tax liability. If there are insufficient assets to meet such liability, we reserve the right to pursue any claim appropriate to recover the sums concerned from you directly.

**7** We are obliged to report all transactions between your SSAS and either yourself and either a person or company 'connected' to you to HMRC.

**8** If the shares are being purchased from you direct, the purchase will represent a chargeable event for capital gains tax purposes. Heritage Pension Administration Limited and Heritage Trustees Limited cannot and will not give you advice on your personal tax position relating to this share transaction. We would strongly advise that you seek independent financial advice before undertaking any such investment.

**9** Determining the 'market value' (in accordance with section 272 Taxation of Chargeable Gains Act 1992) of unquoted shares can be both complex and subjective. The appropriate methods to employ will depend on the particular circumstances of the valuation. Factors that may influence the valuation include the financial position and performance of the company, the information about the company that is deemed to be available and the level of influence conferred by the shareholding being valued.

**10** In order to ensure a 'market value' is paid we require the shares be valued by an independent professional who specialises in valuing unquoted shares for tax purposes where the shares are

(i) *to be bought from you or a person 'connected' to you (this includes a company 'connected' to you);*

or

(ii) *in a company that you or a person 'connected' to you are either a director of or are involved in the management of (or you or such other person 'connected' to you have such a role within another company that holds an interest in the company whose shares are to be acquired).*



The valuation must not be older than three months at the time of acquisition. We would either expect the valuation to be addressed to us and specifically related to the proposed transaction involving the SSAS (as the value of the shares may be lower, if a minority shareholding) or for the valuation to be accompanied by a letter from the valuer confirming that, in their professional opinion, the valuation is valid for the number of shares being purchased by the SSAS in this instance. We would expect the valuer to confirm there is no conflict of interest in them providing this opinion.

In all other circumstances, we will require full details of the valuation which has been adopted in respect of the unquoted shares, verified by an accountant where appropriate.

If the company is an arms' length investment vehicle we will accept written confirmation of the 'market value' of the shares from the operator of that vehicle. If you are purchasing the shares in a company quoted on the PLUS primary market we will only require an independent valuation if the deal is not done through the market.

If an independent valuation is required and not provided (or a valuation is provided without specific reference to the proposed transaction) we will appoint an independent firm specialising in unquoted share valuations to provide an opinion on whether the proposed purchase price represents a 'market value' for tax purposes. We will let you know the likely charge for this before proceeding.

Your SSAS will then be liable for this charge whether the transaction goes ahead or not. You must agree to this charge and have sufficient funds in your SSAS to meet this cost.

#### **Our valuer will require the following information:**

- *Details of the existing share structure of the company, with details of share rights and names of shareholders.*
  - *Details of any previous transactions in shares of the company (dates, price, basis on which price was agreed).*
  - *Details of any previous valuations agreed with HMRC.*
  - *Forecast profit and loss account for the current financial year.*
  - *Confirmation as to any immediate plans to sell or float the company.*
- 11** Given that the valuation of shares is both complex and subjective, there is a risk that HMRC will challenge the basis of any independent valuation obtained. This could lead to tax charges and significant costs.

- 12** Under HMRC legislation there are certain occasions when we are obliged to obtain a current market value of any unquoted shares held under your SSAS e.g. when you wish to draw benefits. This means we will need a current valuation which could be costly.
- 13** HMRC legislation imposes tax charges in most circumstances where post 5th April 2006, a SSAS invests directly or indirectly in residential property or most forms of 'tangible moveable property' (what HMRC collectively calls 'taxable property'). The term 'tangible moveable property' (anything you can touch and move) will catch virtually all of the moveable assets held by a trading company (including trading stock).

If the company you are investing in is not what HMRC call a 'genuinely diverse commercial vehicle' (GDVC) then your SSAS's investment in that company will trigger tax charges on both yourself and your SSAS in relation to the 'taxable property', held by that company. The definition of a GDVC varies depending on whether or not the company is a 'close company'. Where the company is not a 'close company' the investment by the SSAS will generally be in a GDVC if the aggregate interest you, your SSAS and any persons (including any companies) 'connected' to you have in the company is less than 10%. Where the company is a 'close company' the conditions are more complicated.

Heritage Pension Administration Limited and Heritage Trustees Limited will not give you financial advice on whether the proposed share purchase will lead to the above tax charges. We strongly recommend that you seek professional independent advice on whether the above will be an issue in this circumstance before going ahead with the transaction. Where you are investing in a 'close company' that either you or a person or company 'connected' to you already have an interest in, we require that you take professional advice on the above before proceeding.

- 14** Once shares have been purchased in the above company, Heritage Pension Administration Limited must be informed immediately if you become aware that the company either holds or invests in 'taxable property'.
- 15** Heritage Trustees Limited will not normally attend AGMs, although they reserve the right to attend such meetings (with their lawyers, if they feel appropriate). Heritage Trustees Limited will charge for attending such meetings.
- 16** Heritage Trustees Limited shall not provide any indemnities or warranties to any future vendor on the sale of the company or its business.
- 17** Heritage Trustees Limited and Heritage Pension Administration Limited must be informed of any proposed restructure of the shares in the company, prior to that restructure taking place.



- 18** Tax charges will also arise if ‘value-shifting’ for the purposes of section 174 of Finance Act 2004 (as amended) occurs in the future in relation to the rights associated to the above shares. ‘Value shifting’ would occur if the rights or value attributed to the shares held by the SSAS were effectively reduced or diluted for the benefit of you, the member. e.g. if the dividend rights attributed to the class of shares the SSAS holds were removed, but retained in a different class of shares which you hold, then value would be deemed to be shifted to you from your SSAS, and tax charges would be due.
- 19** If you are investing in a ‘close company’ you must transfer all your existing SIPP and SSAS funds to the SSAS purchasing the shares.
- 20** The following points raise awareness to some of the other risks, considerations and costs associated with purchasing unquoted shares through your SSAS. These points are not an exhaustive list and are for guidance only.
- *Consideration needs to be given to what the Memorandum and Articles of Association of the company (and any existing shareholder agreements) say about the sale of shares (and whether they can be sold to your SSAS).*
  - *The transaction may have an impact on future share transactions relating to the company by crystallising a value for that company.*
  - *There is a greater risk associated with unquoted share investments, as they are not readily realisable. You may have difficulty in selling the shares at a reasonable price. Accordingly, you should carefully consider whether such investments are suitable for you in the light of your personal circumstances and the financial resources available to you.*
- *You may want to consider whether ‘Key-man Insurance’ should be entered into to protect your SSAS’s investment. Heritage Pension Administration Limited and Heritage Trustees Limited will not give you advice on this issue.*
  - *At the outset of any proposed unquoted share purchase you will incur legal and professional charges, irrespective of whether the proposed purchase is completed. Professional costs for valuing unquoted shares can be high, reflecting the specialist nature of the valuation and the associated costs.*
  - *There will be times when Heritage Pension Administration Limited is obliged under the tax legislation to obtain a current market value of the shares. The costs for undertaking this up to date valuation will be deducted from the funds held under your SSAS.*
  - *Heritage Pension Administration Limited and Heritage Trustees Limited can provide no assurance that any proposed unquoted share purchase will be acceptable under the SSAS. We will only complete when we are satisfied to our own requirements that everything is in order.*
  - *Heritage Pension Administration Limited and Heritage Trustees Limited reserve the right not to proceed with an unquoted share purchase if at any time they or their advisers are unable to satisfy themselves as to the documentation provided or that the proposed investment will not cause an unauthorised payment to be made by or in respect of the SSAS and will in all other respects comply with HMRC requirements.*





# 5 Definitions

## Taxable Property

**UK pension schemes are not permitted to invest in taxable property, directly or indirectly (apart from some very specific exceptions). Taxable property consists of:**

- Residential property
- Tangible moveable assets (e.g. art, antiques, fine wines, vintage cars, stamps, office equipment etc.)

If taxable property is involved, the investment becomes an unauthorised payment and penal tax charges will apply on both the Member and the Administrator. These charges are applied to the initial investment, income received and on any gain made on disposal.

This is a complicated area. Please refer to the HMRC website <https://www.gov.uk/hmrc-internal-manuals/pensions-tax-manual/ptm125000> for further information; alternatively contact us.

## Associated Person

An 'associated person' is:

- any member of the pension scheme
- any person connected with the member
- any arrangement (under that or another pension scheme) relating to the member
- any arrangement (under that or another pension scheme) relating to a person connected to the member
- any associated pension scheme

## Connected Person

A 'connected person' is defined in section 1122 and 1123 of the Corporation Tax Act 2010. In summary, a person is connected with a pension scheme member if that person is:

- the pension scheme member's spouse or civil partner
- a relative of the pension scheme member, or the spouse or civil partner of such a relative (note: relative means brother, sister, ancestor or lineal descendant; it does not cover all family relationships and, in particular, it does not include nephews, nieces, uncles and aunts)
- a relative of the pension scheme member's spouse or civil partner or the spouse or civil partner of such a relative
- a partner of the pension scheme member (i.e. they are in a partnership together), or the spouse, civil partner or a relative of such a partner
- a person or persons who together with you or your family members own and control the company.

## Close Company

A 'close company' is defined in section 414 onwards of Income & Corporation Taxes Act 1988 (ICTA88). In summary, it is a limited company which is under the 'control' of five or fewer 'participators' (a 'participator' is defined in section 417 of ICTA88, and includes any person who possesses, or is entitled to acquire, share capital or voting rights in a company, any loan creditor of the company and any person who possesses, or is entitled to acquire, a right to receive or participate in distributions of the company), or by any number of participators who are also directors of the company.

## Controlling Director

A 'controlling director' is defined in section 452(2) (b) and (3) of the Corporation Tax Act 2010. The controlling director owns or controls 20% or more of the voting capital of a company either directly or indirectly. This 20% includes shares held by the director's family and associates.

## For Heritage Pension Administration Limited's Use

Approved

Yes

No

Comments/additional requirements

