

All provisions are subject to addition, elimination, or revision by either party. All communications and discussions are tentative until execution of a written agreement by both parties.

Sample Term Sheet for Carnegie Mellon Spin-off Company

Carnegie Mellon University to < Newco Company Name>

<Description of Technology>

Term Sheet – Draft version <#> and <Date>

Licensors	Carnegie Mellon University – “CMU”
Licensee	<Insert Company Name>- “Licensee”
"License Agreement" or "Agreement"	Shall mean the license agreement to be executed based upon this term sheet
"Licensed Technology"	Shall mean the technology, Patents, Copyrights, trade secrets, know-how and other information.
"Patents"	Shall mean any patent which issues to CMU which (1) is related to Licensed Technology, (2) is based on intellectual property in existence on the Effective Date, and any related application, continuation, continuation-in-part, divisional, or reissue thereof in the USA or in any other country.
"Copyrights"	Shall mean CMU copyrights in the Licensed Technology.
"Derivative"	Shall mean computer software or other intellectual property developed by Licensee, which includes, or is based in whole or in part on, the Licensed Technology, including, but not limited to, translations of the Licensed Technology to other foreign or computer languages, adaptation of the Licensed Technology to other hardware platforms, abridgments, condensations, revisions, and software incorporating all or any part of the Licensed Technology which may also include Licensee-created modifications, enhancements or other software. Licensee shall be entitled to establish all proprietary rights for itself in the intellectual property represented by Derivatives, whether in the nature of trade secrets, copyrights, patents or other rights, provided that Licensee shall promptly notify CMU of Licensee-originated bug fixes to the Licensed Technology, which shall be part of the Licensed Product and owned by CMU. Any copyright registration by Licensee for Derivatives shall give full attribution to CMU's Copyrights. CMU shall have the right to use Derivatives for research, educational, academic and administrative purposes.
"Licensed Product"	Shall mean products or services which are based on or utilize, wholly or in part, Licensed Technology, and/or any and all Derivatives.
"Dispose" or "Disposition"	Shall mean the manufacture, use, sale, lease, or other transfer of Licensed Products.
"Revenue"	Shall mean the U.S. Dollar value of all consideration realized by Licensee for the Disposition of products and services related to Licensed Technology.

All provisions are subject to addition, elimination, or revision by either party. All communications and discussions are tentative until execution of a written agreement by both parties.

"Net Sales" Shall mean the total Revenues received by Licensee less the total of all:

- (1.) discounts allowed in amounts customary in the trade;
- (2.) sales tariffs, duties and/or taxes imposed on the Licensed Products;
- (3.) outbound transportation prepaid or allowed; and
- (4.) amounts allowed or credited on returns.

No deduction shall be made for commissions paid to individuals whether they be individual sales agents or persons regularly employed by Licensee.

"Royalties" Shall mean Disposition royalties which are calculated as a percentage of Net Sales and will be payable by Licensee to CMU under the provisions of the Agreement.

No Royalties shall be due or payable to CMU (and/or any of the creator-founders) for a period of three (3) years following the effective date of the License Agreement or until the closing of a Change of Control Event, whichever may occur sooner. As a result of the equity, Royalties will be significantly less than market rates, typically 1% of Net Sales if Nonexclusive and 2% of Net Sales if Exclusive.

After three (3) years, Royalties to CMU for the remaining term of the License Agreement shall be payable quarterly.

Terms of License Either Exclusive or Nonexclusive, world-wide, for specific Field of Use.

Sub-Licensing Rights None. Except - (1) to direct customers of Licensee, as required to enable such customers to use and practice Licensed Technology, or (2) with the specific agreement by CMU.

"Field of Use" <<Define Field>>

CMU Equity Ownership 5.0% for a non-exclusive license, and 6.0% if the License is exclusive (Note: The 1% difference represents the premium for exclusivity) at the time of (1) the First Major Financing or (ii) a Change of Control Event, whichever comes first. Such ownership percentages are to be accomplished by issuance to CMU, on the effective date of (i) shares in the Licensee and (ii) a warrant for the acquisition of additional shares by CMU designed to accomplish CMU's equity ownership as defined above.

"First Major Financing": Infusion of equity capital in the Licensee which brings the total equity infusion in to the Licensee to at least \$2 million – cash or other tangible assets.

"Qualified IPO" shall mean an underwritten initial public offering by Licensee under the Securities Act of 1933, as amended, for its own account pursuant to a registration statement on Form S-1 or its equivalent where the valuation of Carnegie Mellon's initial x% equity interest in Licensee immediately preceding such offering (and without giving effect thereto) is at least Four Million Dollars (U.S. \$4,000,000).

CMU Equity Ownership "Qualified Sale" shall mean (i) a cash merger of Licensee with another entity in which, based

All provisions are subject to addition, elimination, or revision by either party. All communications and discussions are tentative until execution of a written agreement by both parties.

(continued)

upon the aggregate cash consideration delivered to Licensee's Shareholders, the valuation of Carnegie Mellon's x% equity interest in Licensee is at least Four Million Dollars (U.S. \$4,000,000) or (ii) a sale of substantially all the assets of Licensee to a third party in which, based upon the net proceeds from such sale distributed to the Shareholders of Licensee, the valuation of Carnegie Mellon's initial equity interest in Licensee is at least Four Million Dollars (U.S. \$4,000,000).

"Change of Control Event" shall mean (i) a Qualified IPO, (ii) a Qualified Sale, or (iii) an event after which the Shareholders of Licensee other than the Creator-Founders own 50% or more of Licensee.

Due Diligence

Licensee shall use its best efforts to effect introduction of Licensed Technology into the commercial market as soon as possible; thereafter, until the expiration of the Agreement, Licensee shall keep Licensed Technology reasonably available to the public. Reasonable milestones are to be proposed by the founders of a startup and must cover at least the following key events and their respective expected completion dates:

- (1.) Completion of an acceptable business plan
- (2.) Initial management team in place
- (3.) Initial product development and market testing
- (4.) Initial rounds for financing
- (5.) Commercial product introduction
- (6.) Minimum revenue targets during the first five years

"Investor Rights"

Shall mean the rights of an investor in the startup that are neither more than nor less than those of other investors in the startup.

1. Preemptive rights: The right of current shareholders to maintain their fractional ownership of a company by buying a proportional number of shares of any future issue of common stock at the current strike price; such rights are also called "Subscription Privilege" or "Subscription Right".
2. Piggyback Registration Rights: The rights of an investor to register and sell his/her unregistered stock in the event that the company conducts an offering.
3. Co-Sale Rights: The right of a shareholder to participate in any proposed sale of the company's stock to third parties

All provisions are subject to addition, elimination, or revision by either party. All communications and discussions are tentative until execution of a written agreement by both parties.

Reporting

Licensee shall report Quarterly to Carnegie Mellon its Net Sales and Revenues, which are subject to Royalty payments.

Licensee shall report to Carnegie Mellon the date of first commercial Disposition of a Licensed Product within sixty (60) days of occurrence in each country.

Within sixty (60) days after the end of each of Licensee's fiscal years, Licensee shall furnish Carnegie Mellon with a written report on the progress of its efforts during the immediately preceding calendar year to develop and commercialize Licensed Products. The report shall also contain a discussion of intended efforts and sales projections for the year in which the report is submitted.

Within sixty (60) days after the end of Licensee's fiscal year, Licensee shall provide Carnegie Mellon with Licensee's financial statements for the preceding fiscal year including, at a minimum, an income statement, a statement of cash flows and a balance sheet that has been certified by Licensee's treasurer, chief financial officer or an independent auditor.

Improvements and Collaborations

CMU shall own all IP rights that are developed jointly by agents or employees of CMU and Licensee which result in Patents or Licensed Technology and such IP rights shall be subject to the License Agreement. Licensee may utilize such CMU owned IP rights pursuant to the terms of the License Agreement. CMU may issue licenses to others as long as such licenses do not violate any exclusive license to Licensee.

Licensee will own all of the right, title and interest (including patents, copyrights, mask work rights, trade secrets and any other intellectual property rights, but excluding Patents) in and to the results of the collaboration between the parties that are developed solely by Licensee employees or agents.

Carnegie Mellon will own all of the right, title and interest (including patents, Patents, copyrights, mask work rights, trade secrets and any other intellectual property rights) in and to the results of the collaboration between the parties that are developed solely by Carnegie Mellon employees or agents.

All intellectual property which result in Patents or Licensed Technology developed jointly by employees or agents of Carnegie Mellon and Licensee shall be owned by Carnegie Mellon. Licensee may utilize such jointly developed property pursuant to the terms of the License Agreement. Carnegie Mellon may issue licenses to others regarding such jointly developed property which result in Patents or Licensed Technology, as long as such licenses do not violate any exclusive license to Licensee then existing. If any other property rights are developed jointly by employees or agents of Carnegie Mellon and Licensee which would not constitute a Patent or Licensed Technology and which are not subject to another agreement between Carnegie Mellon and Licensee, Carnegie Mellon and Licensee shall jointly own (without any duty to account to the other for profits) all right, title and interest (including patents, copyrights, mask work rights, trade secrets, and other intellectual property rights) in and to the results of such joint development. If any patentable invention which would not constitute a Patent or Licensed Technology arises out of such joint development by employees or agents of Carnegie Mellon and Licensee, Carnegie Mellon and Licensee will engage in good faith efforts to mutually agree on whether and how to pursue patent, copyright or mask work protection of the invention in the U.S. and elsewhere.

Patents and Expenses

- CMU maintains the right to apply for and prosecute.
- Licensee to reimburse CMU for Patent expenses and fees in designated countries including the United States.

All provisions are subject to addition, elimination, or revision by either party. All communications and discussions are tentative until execution of a written agreement by both parties.

Indemnification of
CMU, Warranties,
Insurance Coverage

- CMU terms for indemnification and no warranties.
- Adequate insurance coverage; the amount of insurance to be discussed.

"Incubation Services"

Shall mean the services that may be offered by CMU and requested by the founders as follows:

A. Legal Document Package

CMU will assist the startup in the development of the initial corporate documents and will see to their completion at no cash expense to the startup, typically, the Articles of Incorporation, Corporate By-Laws, and the Shareholders' Agreement. Price: 1% additional equity – to be issued by the startup to CMU.

B. Space and other Physical Incubation Services

The founders may request permission for the use of "incubation" space, equipment and certain other physical services (such as computer resources and computer networks) on CMU premises. After review of the business plan, such services may, be made available to the startup if (i) reasonably available and (ii) approved by the relevant Department Head(s) or Dean, for a period not to exceed two years. Price: For more than minimal use, up to 400 square feet of space including utilities and certain other services: Approximately 1% additional equity for up to 1 year's services; 2% for up to 2 years.

C. Deferral of Reimbursement of Patenting Expenses

Patenting expenses must normally be reimbursed by the licensing entity as incurred, payable quarterly. If requested by the creator/founders, CMU may agree to the deferral of such patenting expenses (i) for up to 3 years from the effective date or (ii) until the closing date of a Change of Control Event or (iii) for international patents, until the start of expenses for the "national phase" of patenting outside the USA -- whichever may occur sooner. After such a date the Startup will be responsible for reimbursing CMU for all additional expenses in the normal manner. Price – per patent application filed:

- US patenting – 1% additional equity for CMU; proportionately more for more than 1 patent;
- International patenting through the PCT phase (but not including the "National" phase) - .4% additional equity for CMU; proportionately more for more than 1 patent