

To: jeffrey E.[jeevacation@gmail.com]
From: Richard Joslin
Sent: Mon 8/4/2014 3:46:36 PM
Subject: FW: Update
ArtSpace - TS-v2.docx
Change-Pro Redline - ArtSpace - TS-v1 and ArtSpace - TS-v2.pdf

fyi

-----Original Message-----

From: Eileen Alexanderson
Sent: Monday, August 04, 2014 11:46 AM
To: Richard Joslin
Subject: FW: Update

-----Original Message-----

From: Larsen, Sonia [REDACTED]
Sent: Monday, August 04, 2014 11:41 AM
To: Eileen Alexanderson; Lakhdhir, David K
Subject: RE: Update

Eileen,

Attached please find a revised term sheet (clean and marked against the last draft).

We inserted an exclusivity provision forcing Artspace to terminate any existing negotiations with other buyers once the deposit has been paid (i.e. upon signing of the term sheet). We're not sure this is the deal but thought this was appropriate.

Let me know if you made any progress on the structure (merger vs. asset deal). As David mentioned, I started drafting the definitive agreement but will need to be sure about the final structure but progressing it further.

Best,

Sonia Larsen | Associate
Paul, Weiss, Rifkind, Wharton & Garrison LLP Alder Castle, [REDACTED]

-----Original Message-----

From: Eileen Alexanderson [REDACTED]
Sent: Monday, August 04, 2014 4:56 AM
To: Lakhdhir, David K; Larsen, Sonia
Subject: Re: Update

I think we should do the work on it given Jeffrey's labeling the one they have presented as 'sloppy'. In the paragraph related to the deposit we discussed removing the term 'non-refundable' and referring to a cash deposit of \$500,000 into escrow to be made by the buyer concurrently... Add (b) due diligence reveals that any of the Seller's database, balance sheet liabilities, or technology platform is materially different to how it has been represented to the Buyer in writing prior to the date of this term sheet, and (c) we would refer to all necessary shareholder approvals and their ability to close. Please tighten up and make any additions you see fit.

Regarding whether we want to do a merger or asset purchase, I will next forward Catherine's feedback. Our bid is lower than the competing bid to begin with but originally I was told their's was for equity. I don't know that we have enough details to know whether an asset sale structure could prompt the board to take the other bid. if an asset purchase, we would want all assets but technology would be most important. I will speak with Keith on this in the morn and give you his thoughts.

Most importantly, please give your read on the Series A and B docs and whether we are clear on whether the investors that are coming out of all this with nothing, in fact, have no voice. I will forward what we have gotten related to the loan docs too.

Thanks.

> On Aug 3, 2014, at 6:49 PM, "Lakhdhir, David K" [REDACTED] wrote:

>

> Thanks for this. Where does the term sheet stand? Is Catherine's lawyer supposed to come back with a redraft? Or is there any chance we could simply move straight to a short acquisition agreement? Sonia has already started an agreement that contemplates a merger but could be flipped easily into an asset sale as the approvals, most of the representations, etc are the same. It does appear that it would not be too difficult to effect the transaction as an asset sale, and this would to some extent insulate us from any seller-related liabilities that Jeffrey appears to be worried about. If we go this route it will be important for you to let us know which are the assets that have real value to you, so that we can confirm that they can be transferred without a problem.

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> ----- Original Message -----

> From: Eileen Alexanderson [mailto:EAlexanderson@elysllc.com]

> Sent: Sunday, August 03, 2014 08:46 PM

> To: Lakhdhir, David K; Larsen, Sonia

> Subject: Update

>

> After the call Friday morning I followed up with Catherine to assure her we really want to get the deal done. I also specifically requested more color on why an asset sale is not practical instead of a merger. Early in the dialog we had been told it was because of all the contracts that would have to be reassigned. On the call it sounded like that was not necessarily a huge issue. She said it reflected the board's sentiment but she was not really sure of the rationale. She has not come back on this yet. Secondly, I stressed the importance of our seeing complete chronological detail on sources (principally loans) and uses of cash. She has supplied the detailed info on flow from loans. There were additional bridge loans taken post July 25 balance sheet we had. this has been a real lesson for me on how these vc firms take care of themselves! She has used some of

the loan money to pay off liabilities like legal and banking bills mainly because the other offer has set a limit on the liabilities they can have at the close at \$500k. But she had implied this was done with the June loan money. John Murphy is now also checking 2013 cash flow to be sure we completely understand what the true cash burn rate has been. Model is pretty simple since salaries are the biggest piece besides rent and marketing spend.

> So , I am just checking in to see if you have any updated thoughts in structure. If we come away with comfort in the #s I just want to be ready with deal structure and LOI.

> Thanks, Wileen

>

> Sent from my iPhone

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