

Sale of Series A Preferred Stock Company XYZ

SUMMARY OF TERMS (17/03/2010)

THIS TERM SHEET SUMMARIZES THE PRINCIPAL TERMS OF A PROPOSED PRIVATE PLACEMENT OF EQUITY SECURITIES IN XYZ (THE "COMPANY"). EXCEPTING ARTICLE "VI.A." THIS TERM SHEET IS FOR DISCUSSION PURPOSES ONLY; THERE IS NO OBLIGATION ON THE PART OF ANY NEGOTIATING PARTY UNLESS A DEFINITIVE STOCK PURCHASE AGREEMENT IS SIGNED BY ALL PARTIES. THIS TERM SHEET IS SUBJECT TO SATISFACTORY COMPLETION OF DUE DILIGENCE.

I. SECURITIES

A. AMOUNT AND INVESTORS:	VC Fund II, LP	\$500,000
	Intel Capital	\$300,000
	Other Series A Investors	\$210,647
	Convertible Note/Warrants	\$489,353
		=====
	Total investment	\$1,500,000

B. TYPE OF SECURITY: Series A **Preferred Stock** (the "Preferred Stock")

C. PRICE PER SHARE: \$0.5243 (the "Series A Original Purchase Price")

D. CAPITALIZATION: VC Fund II understands the capitalization of the Company to be 2,892,000 total pre-financing **fully-diluted Common shares and options**, including:

Founder 1	1,000,000
Founder 2	1,000,000
Founder 3	700,000
Consultants	100,000
Advisors	92,000
	=====
SUB-TOTAL	2,892,000

This financing consists of the issuance of up to 2,770,429 shares of Preferred Stock and 1,415,607 shares of Common Stock as follows:

<u>Preferred Stock</u>	
VC Fund II, LP	923,476
Intel Capital	554,086
Other Series A Investors	389,055
Angel Convertible Shares/Warrants	903,811
	=====
FINANCING TOTAL	2,770,429
 <u>Common Stock</u>	
Employee Option Pool	1,415,607
	=====
GRAND TOTAL	7,078,036

The post-money valuation of the company is \$3,832,278, and \$1,500,000

purchases 39.1% of the company in Preferred Stock.

The unallocated employee pool will be approximately 20% of the fully diluted capitalization of the company.

E. LIQUIDATION PREFERENCE:

In the event of any liquidation or winding up of the Company, the holders of Preferred Stock will be entitled to receive in preference to the holders of Common Stock an amount equal to **up to 3x the Original Purchase Price per share**, plus all declared but unpaid dividends, if any. Any remaining proceeds shall be allocated between the Common and the Preferred on a pro-rata basis, treating the Preferred on an as if converted basis.

A merger, acquisition or sale of substantially all of the assets of the Company in which the shareholders of the Company do not own a majority of the outstanding shares of the surviving corporation shall be deemed a liquidation.

F. CONVERSION:

The holders of Series A Preferred will have the right to convert Series A Preferred shares at the option of the holder, at any time, into shares of Common Stock at an initial conversion rate of 1-to-1. The conversion rate shall be subject from time to time to anti-dilution adjustments as described below.

All Series A Preferred shares will be automatically converted into Common upon (i) the closing of an underwritten public offering of shares of Common Stock of the Company at a public offering price per share (prior to under-writing commissions and expenses) that values the Company at least \$100 million in an offering of not less than \$30 million, before deduction of underwriting discounts and registration expenses or (ii) approval of 60% of the Preferred Stock.

G. ANTIDILUTION:

Proportional antidilution protection for stock splits, stock dividends, combinations, re-capitalizations, etc. The conversion price of the Preferred shall be subject to adjustment to prevent dilution, on a weighted average basis, in the event that the Company issues additional shares of Common or Common equivalents (other than reserved employee shares) at a purchase price less than the applicable conversion price.

H. DIVIDENDS:

The holders of **Preferred Stock shall be entitled to receive dividends at a rate of 8% per annum** in preference to any dividend on Common Stock, whenever funds are legally available, when, if and as declared by the Board of Directors. Dividends shall be non-cumulative.

I. VOTING RIGHTS:

Holders of Preferred Stock will have a right to that number of votes equal to the number of shares of Common Stock on an as if converted basis.

II. BOARD OF DIRECTORS RIGHTS

A. COMPOSITION

The Board of Directors will consist of 3 seats. VC Fund II shall be entitled to elect 1 member to the Company's Board of Directors (initially Aidar Kaliev). The company's Chief Executive Officer will also serve as a Director. The additional Director will be a representative mutually agreeable to the Company's existing Directors and the Preferred Stock investors. VC will also have board visitation rights for its other partners. The Company shall reimburse outside Directors for all reasonable expenses related to board meetings.

B. INDEMNIFICATION:

The bylaws and any other charter documents of the Company shall limit

the liability and exposure to damages of members of the Board of Directors to the broadest extent permitted by applicable law, using a form of indemnification acceptable to the Investors.

III. REGISTRATION RIGHTS:

A. DEMAND RIGHTS:

If investors holding at least 50% of Series A Preferred (or Common issued upon conversion of the Preferred or a combination of such Common and Preferred) request that the Company file a Registration Statement for at least 20% of their shares (or any lesser percentage if the anticipated gross receipts from the offering exceed \$2,000,000) the Company will use its best efforts to cause such shares to be registered; provided, however, that the Company shall not be obligated to effect any such registration prior to earlier of JULY 15th, 2014 or within one year following the effective date of the company's initial public offering. The Company shall not be obligated to effect more than two registrations under these demand right provisions.

B. PIGGY-BACK RIGHTS:

The Investors shall be entitled to "piggy-back" registration rights on registrations of the company or on demand registrations of any later round investor subject to the right, however, of the Company and its underwriters to reduce the number of shares proposed to be registered pro rata in view of market conditions. No shareholder of the Company shall be granted piggyback registration rights superior to those of the Series A Preferred without the consent of the holders of at least 50% of the Preferred Stock (or Common issued upon conversion of the Preferred Stock or a combination of such Common and Preferred).

C. S-3 RIGHTS:

Investors shall be entitled to an unlimited number of demand registrations on form S-3 (if available to the Company) so long as such registration offerings are in excess of \$500,000; provided, however, that the Company shall only be required to file two Form S-3 Registration Statements on demand of the Preferred every 12 months.

D. EXPENSES:

The Company shall bear registration expenses (exclusive of underwriting discounts and commissions and special counsel of the selling shareholders) of all demands, piggy-backs, and S-3 registrations. The expenses in excess of \$15,000 of any special audit required in connection with a demand registration shall be borne pro rata by the selling shareholders.

E. OTHER PROVISIONS:

The registration rights may be transferred provided that the Company is given written notice thereof and provided that the transfer a) is in connection with a transfer of all securities of the transfer or, b) involves a transfer of at least 500,000 shares, or c) is to constituent partners or shareholders who agree to act through a single representative.

Other provisions shall be contained in the Purchase Agreement with respect to registration rights as are reasonable, including cross-indemnification, the period of time in which the Registration Statement shall be kept effective, standard standoff provisions, underwriting arrangements and the ability of the Company to delay demand registrations for up to 90 days (S-3 Registrations for up to 60 days).

IV. STOCK PURCHASE RIGHTS:

A. RIGHT OF FIRST REFUSAL:

The **Preferred Stock Investors shall have the right in the event the Company proposes an equity offering** of any amount to any person or entity (other than for a strategic corporate partner, employee stock grant, equipment financing, acquisition of another company, shares offered to

the public pursuant to an underwritten public offering, or other conventional exclusion) **to purchase up to a pro rata portion of such shares**. If a Preferred Stock investor chooses not to exercise their right of first offer, the other Preferred Stock investors and/or their affiliated funds have the right to expand their investment to fill the gap.

The Company has an obligation to notify all Preferred Investors of any proposed equity offering of any amount.

If the affiliated groups of Preferred Investors do not respond within 15 days of being notified of such an offering or decline to purchase all of such securities, then that portion which is not purchased may be offered to other parties on terms no less favorable to the Company for a period of 120 days. Such right of first offer will terminate upon an underwritten public offering of shares of the Company.

In addition, the Company will grant the Preferred shareholders any rights of first refusal or registration rights granted to subsequent purchasers of the Company's equity securities to the extent that such subsequent rights are superior, in good faith judgment of the Company's Board of Directors, to those granted in connection with this transaction.

B. COMMON STOCK:

The Company's Bylaws shall contain a right of first refusal on **all transfers of Common Stock**, subject to normal exceptions. If the Company elects not to exercise its right, the Company shall assign its right to the Investors.

C. CO-SALE AGREEMENT:

The shares of the Company's securities held by the Founders shall be made subject to a co-sale agreement (with certain reasonable exceptions) with the Investors such that the **Founders may not sell, transfer or exchange their stock unless each Investor has an opportunity to participate in the sale on a pro-rata basis**. This right of co-sale shall not apply to and shall terminate upon a Qualified IPO.

D. RIGHT OF ASSIGNMENT:

Each of the **Investors shall be entitled to transfer all or part of its shares of Preferred purchased by it to one or more affiliated partnerships or funds managed by it or any or their respective directors**, officers or partners, provided such transferee agrees in writing to be subject to the terms of the Stock Purchase Agreement and related agreement as if it were a purchaser thereunder.

V. COVENANTS

A. VESTING:

Unless the board determines otherwise, **all employees' Common Stock and options shall vest** as follows: **25% at the end of the first year of full-time employment** following the closing of the financing contemplated by this term sheet **and at a rate of 1/36th of the remaining amount per month thereafter** such that the entire stock option grant vests in its entirety **over a period of four years**. In general, there shall be **no accelerated vesting of Common stock in the event that the Company is acquired or merged**. All unvested Common shares shall be re-purchasable at cost by the Company upon the termination of employment for any reason. Company founders' vesting schedule shall remain unchanged.

B. COMPENSATION:

No Company employee shall receive annual compensation in excess of \$100,000 (except those receiving commissions from approved compensation plans) without consent of the Board of Directors or Compensation Committee, if any, until the company is merged, sold, or completes an IPO. Any and all accruals shall be forgiven by the founders

and employees prior to this financing.

All employees are employed by the Company “at will” – **no employment contracts will be granted without the unanimous consent of the Board** of Directors.

C. PROPRIETARY INFORMATION & INVENTIONS AGREEMENT:

Each officer, director, and employee of the Company shall have entered into a proprietary information and inventions agreement in a form reasonably acceptable to the Company and the Investors. Each key technical employee shall have executed an assignment of inventions acceptable to the Company and Investors. Each Founder will have made appropriate representations and warranties as to no-conflict with prior employers.

D. INFORMATION RIGHTS

So long as an Investor continues to hold at least 500,000 shares of Preferred Stock or Common (a “Major Investor”), the **Company shall deliver to the Investor the Company’s annual budget, as well as audited annual and unaudited quarterly and monthly financial statements.** Furthermore, as soon as reasonably possible, the Company shall furnish a report to each Major Investor comparing each annual budget to such financial statements. Each Major Investor shall also be entitled to standard inspection and visitation rights. These provisions shall terminate upon a Qualified IPO.

E. PUBLIC RELATIONS

The Company agrees to include, at minimum, an approved one-sentence mention of VC Fund II as the lead institutional investor in the Company in each of its press releases, until the company is sold or completes an initial public offering.

F. RESTRICTIONS & LIMITATIONS:

So long as Series A Preferred Stock remains outstanding, the Company shall not, without the vote or written consent of at least a majority of the Preferred shareholders, take any action that would: (i) **alter or change the rights, preferences or privileges of the Series A Preferred,** (ii) **authorize or issue any equity security senior to or on a parity with the Series A Preferred** as to dividend rights or redemption rights or liquidation preferences, (iii) **amend or waive any provision of the Company’s Articles of Incorporation or By-laws** in a manner that would alter or change the rights, preferences or privileges of any Preferred Stock without the approval of at least a majority of the Preferred shareholders, (iv) **increase or decrease the authorized number of shares of Common or Preferred Stock,** (v) **result in the redemption or repurchase of any shares of Common Stock** (other than pursuant to equity incentive agreements with service providers giving the Company the right to repurchase shares upon the termination of services), (vi) **result in any merger, consolidation, or other corporate reorganization, or any transaction or series of transactions in which in excess of 50% of the Company's voting power is transferred or in which all or substantially all of the assets of the Company are sold,** (vii) **increase or decrease the authorized size of the Company’s Board of Directors, except with the approval of the Board, including the Series A Preferred representatives,** (viii) **result in the payment or declaration of any dividend on any shares of Common or Preferred Stock,** or (ix) **issuance of debt in excess of \$100,000, except with approval of the Board, including the Series A Preferred representatives.**

G. INSURANCE:

The Company will obtain **key person life insurance, payable to the Company for \$1 million. The Company will also maintain D&O insurance acceptable to the Investors.**

H. REPS & WARRANTIES:

The investment shall be made pursuant to an Investment Agreement reasonably acceptable to the Company and the Investors, which agreement shall contain, among other things, **appropriate representations and warranties of the Company, with respect to patents, litigation, previous employment, and outside activities**, covenants of the Company reflecting the provisions set forth herein, and appropriate conditions of closing, including an opinion of the counsel for the Company.

VI. CLOSING

A. NO SHOP AGREEMENT:

For a period of thirty (30) days following acceptance of this term sheet, the Company shall not solicit other potential investors nor disclose the terms of this Term Sheet to other persons (other than in connection with consummation of this transaction) nor engage in any discussions or execute any agreements related to the sale or transfer of a significant portion of the Company’s assets or securities to any other party other than the Investors until after the signing of definitive documents memorializing the provisions herein. Should both parties agree that definitive documents shall not be executed pursuant to this term sheet, the Company shall have no further obligations under this section.

B. CLOSING:

Subject to the satisfactory completion of due diligence, the closing of this transaction will be on or before Tuesday, July 15th, 2010.

C. LEGAL FEES & EXPENSES:

The Company shall bear its own fees and expenses and shall pay at the closing the reasonable fees and expenses (not to exceed \$12,500) of the Preferred Investors' respective legal firms if any transactions contemplated by this term sheet are actually consummated. In addition, **the legal fees and expenses of the Company shall not exceed \$20,000.**

The foregoing Summary of Terms sets forth the good faith agreement of the parties set forth below. This offer expires on Tuesday, June 17th, 2010 at 5:00pm.

On behalf of:

VC Fund II, LP

Company XYZ, Inc.

By: _____

By: _____

Date: _____

Date: _____