

## Aligning Term Sheets with Investor Concerns



## Term Sheets Reflect Investor Concerns

Real or Perceived Flaw	Like Term Sheet Provision
Weak management team	Fill gaps after closing
Inexperienced advisors	Hire CPA/Legal counsel prior to close
Narrow market breadth/depth	Expand product/global focus
Customer concentration	Covenant to expand base
Lack of IP protection	Hire IP counsel after close
Cap table widows/orphans	Redeem prior to next round
3 <sup>rd</sup> party/regulatory dependence	Legal opinion/3 <sup>rd</sup> party commitment on close



## Term Sheets Reflect Investor Concerns

Real or Perceived Flaw	Like Term Sheet Provision
Excessive compensation	Adjust comp. post close
Key employee(s) risk	Key-person life insurance
Inexperienced management	Board control/advisors/mentors
Technology immaturity	Fund in tranches
Investor wants to spread risk	Co-investors/syndicate
Technology uncertainties	Co-investors/industry experts
Balance sheet obligations	Forced conversions of issues



## Term Sheets Reflect Investor Concerns

Real or Perceived Flaw	Like Term Sheet Provision
IP licensed to company	Assignment of IP
Rapidly changing environment	Investor approval of key items
Management history of short term employment	Covenants not to compete, employment commitments
Inability to secure long term customer commits	Periodic updates to competitive/SWOT analyses



## Summary

- If investors have concerns, term sheets will reflect “cures” to address those concerns
- Entrepreneurs must look at the term sheet by “walking a mile in the investors’ shoes”
- If concerns exist for one investor, likely to exist for most sophisticated investors
- Negotiate in good faith

