

# International JV Formation Negotiation Exercise

## Case Background:

A Portuguese professor has invented a new technology for viewing 3D movies. The invention is a new type of 3D glasses that are cheaper to manufacture than existing glasses and results in a better viewing experience. The professor has disclosed his invention to his Portuguese University TTO. The TTO has filed a PCT patent application and applied for national patents in the US, Canada and most EU countries. These patents are all pending and are a minimum of two years away from being issued. The TTO has an arrangement with its professors that has it paying them 25% of the royalties or any other income from technology that the TTO commercializes.

An American company, 3D Vision, Inc. (based in Hollywood, California) has heard of the new Portuguese technology and wants to form a JV to build the glasses since it doesn't have enough capital to do the project on its own. 3D Vision estimates that it will take €5 million Euros in upfront cash to launch a JV, and it thinks the new company - codenamed "NewCo" - will be cash flow positive in three years and profitable in five years.

3D Vision has some cash it can invest in the JV, along with ten issued US patents, key personnel and a mature sales channel for 3D glasses. 3D Vision has also been hearing from its current customers that they are eager to buy the new Portuguese 3D glasses and are ready to place orders as soon as they can be manufactured.

The Portuguese TTO office wants to license its technology and is reluctant to enter into a JV arrangement. The standard TTO licensing terms involve a 10% licensing fee (on gross revenues).

## Negotiation Exercise Participants:

1. TTO Director of the Portuguese University
2. CEO from American Private Equity Group
3. CEO of 3D Vision, Inc
4. President of Portuguese Angel Investment Group
5. Portuguese Professor (Inventor)
6. President of International Theater Association

## Exercise Objectives:

- Each exercise participant will receive and review a separate set of instructions that will explain your motivations, expectations and objectives from the negotiations. Do not show your sheet to any other exercise participant or tell them what it says!
- As a group, negotiate an agreement that all parties believe is fair and is within their range of acceptable outcomes.
- Fill in the provided Capitalization Table with the outcomes of your negotiations.

# **TTO Director of the Portuguese University**

## **Motivations:**

- You believe that this is the best commercialization opportunity in your current portfolio.
- The University President has taken a personal interest in this opportunity and has told you to get a deal done no matter what it takes.
- The University President has introduced you to the President of a Portuguese Angel Investment Group. This group has invested in other University spinouts, and they have lost money. The University President wants you to get this Angel Group some equity in this deal so they have a chance to make up for their losses in other University deals.

## **Objectives:**

- You are willing to give NewCo an exclusive worldwide license to the pending patents for the 3D glasses technology.
- You correctly determine that without this technology, there can be no NewCo or JV.

## **Expectations:**

- The University president has told you to ask for 25% ownership of the company, plus the standard royalty agreement of 10% of gross sales.
- You have been instructed that under no circumstances can you accept less than 5% of the company AND your standard 10% royalty agreement.

# CEO of 3D Vision, Inc.

## **Motivations:**

- You believe that NewCo will bring a game-changing disruptive technology to the 3D glasses market, and you are eager to do a deal.
- You also believe that this deal is impossible to do without 3D Vision's cooperation, and that 3D Vision should own a very large amount of the equity in NewCo because of that fact.

## **Objectives:**

- You can contribute anywhere from zero to €1 million Euros in cash. You can't afford more than that.
- You will license to NewCo your ten issued US patents which you believe are essential to make the 3D glasses based upon the new Portuguese technology.
- You will support NewCo by giving it access to 3D Vision's mature sales channels and by allowing some key 3D Visions employees to join NewCo from day one.
- You will support NewCo by giving it access to 3D Vision's mature sales channels and by allowing some key 3D Visions employees to join NewCo from day one.

## **Expectations:**

- You want 80% ownership of NewCo in exchange for any money you may contribute, patent licenses, personnel and sales channel access.
- Under no circumstances will you accept less than 51% ownership of NewCo.
- The max in royalties that will you allow NewCo to pay out is 15% of gross sales.

# CEO from American Private Equity Group

## **Motivations:**

- You think this is a very promising deal with a risk/reward profile that suits your private equity group's investment criteria.
- You are behind in your deal flow this quarter, so you'd very much like to do this deal but you're prepared to walk away if you have to do that.
- You recognize that they only thing you bring to the table is cash.

## **Objectives:**

- You can invest up to €4 million Euros into NewCo.

## **Expectations:**

- You believe that NewCo's pre-money valuation is somewhere between €4 million and €10 million Euros
- You want to own 50% of NewCo after your investment
- In the worst case, you are willing to take as little as 5% of NewCo for a €500 thousand Euro investment

# President of Portuguese Angel Investment Group

## Motivations:

- You think this is a very promising deal with a risk/reward profile that suits your angel group's investment criteria.
- You have invested in a number of University spinouts and you've lost money on them.
- The University President thinks NewCo is their best deal to date and want you to invest in order to earn back some of the money you've lost in other TTO spinouts.

## Objectives:

- You can invest up to €3 million Euros into NewCo

## Expectations:

- You want 60% ownership of NewCo after this investment round
- In the worst case, you are willing to take as little as 10% of NewCo for a €1 million Euro investment

# Portuguese Professor (Inventor)

## **Motivations:**

- You want to act as a consultant to the NewCo and help them improve your invention.
- Although you get 25% of whatever the TTO office gets (in equity and royalties), you want additional equity in exchange for your further participation and for continuing to invent and license your inventions to NewCo (through the TTO office).
- You know that NewCo is eager to have you help as a consultant.

## **Objectives:**

- You ask for 10% of the post-money equity in exchange for your ongoing consulting services.

## **Expectations:**

- Under no circumstances will you accept less than 2% of the post-money equity for your consulting services.

# **President of International Theater Association**

## **Motivations:**

- As President of International Theater Association (world's largest association theater owners in over 100 countries), you have heard of the new Portuguese 3D glasses technology and believe that theater owners worldwide will want to buy these glasses.
- The members of your association are prepared to make NewCo's new 3D glasses the international standard, thus guaranteeing the success of NewCo in international markets.

## **Objectives:**

- You want to invest money in NewCo so your theater owner members will financially benefit from standardizing on the NewCo 3D glasses.
- You are prepared to invest up to €1 million USD in exchange for 25% of the post-money company.

## **Expectations:**

- Under no circumstances will you accept less than 10% of the post-money company for your €1 million investment.