



Term Sheets for Private Placement Offerings: Basic Overview and Sample

When shaping the terms of a private placement offering or “testing the waters” with investors, rather than going the full blown route of putting offering documents together, often a basic term sheet is used. A term sheet is a bullet-point summary that lays out material terms and conditions of the offering, the securities sold, management, rights, etc. Once the terms in the term sheet are finalized and match up with the investor’s needs, the offering documents (e.g., operating agreement, subscription agreement, etc.) are drafted to match and reflect those terms.

The below sample private placement offering term sheet sets out a core series of terms designed to give the investor a robust portrait of what he or she is getting into. In this case, the term sheet makes clear that there is a preferred series of units being offered for a total raise of \$500,000. Moreover, the nature of the preference relative to the non-preferred series of units is also laid out. Finally, certain other core terms are set forth, such as the management structure and voting rights the investor will be subject to.

Clearly not all terms sheets are identical. However, the below sample provides a good overview of what a term sheet typically looks like in an offering context. Indeed, the format of transaction term sheets tend to match the sample (i.e., a title subheading, coupled with a paragraph or two explaining the concept in plain non-legalese English).

Summary of Terms of Proposed Private Placement Offering Of ABC Industries, LLC

Issuer:	ABC Industries, LLC (the “ <i>Company</i> ”), a New York limited liability company
Purchasers:	Accredited Investors
Amount of Offering:	\$500,000
Securities Offered:	Two Million XXX (XXX) Preferred LLC membership units of the Company (the “ <i>Units</i> ”).
Capitalization:	<p>If all of the Units offered are purchased, the Purchasers will own the following percentages of all LLC membership units, on a fully-diluted basis, as of the Closing as follows:</p> <p>Existing Members: XXX%</p> <p>Reserved for Employees/Consultants: XXX %</p> <p>Investors: XXX %</p>



Purchase Price:	\$ XXX per Unit with an expected purchase of Two Million XXX (XXX) Units (\$500,000); provided however, that the Company reserves the right to accept less than the \$XX,000 minimum purchase amount from one or more investors.
Payment of Purchase Price:	Upon execution of the Subscription and Securities Purchase Agreement (the " Purchase Agreement "), Investor Questionnaire and Signature Pages to the Company's Amended and Restated Operating Agreement, the total purchase price which is non-refundable, subject to applicable state law.
Membership in the Company:	No investor shall become a member of the Company until such investor pays the full amount of the purchase price.
Preference of Preferred Units:	Owners of the Units will be entitled to payment of a preferred distribution and return of their capital contribution (i.e., the purchase price) in respect of the Units before owners of the Company's common membership units will be entitled to return of their capital contributions in respect of the common membership units. After the owners of common membership units have received a return of their capital contributions, all owners of the Company's membership units (i.e., preferred and common membership units) will share in the remaining proceeds of the Company pro rata based on the number of units owned.
Liquidation Preference:	Owners of the Units will be entitled to return of their capital contribution (i.e., the purchase price) in respect of the Units before owners of the Company's common membership units will be entitled to return of their capital contributions in respect of the common membership units. Upon a liquidation event and after the owners of common membership units have received a return of their capital contributions, all owners of the Company's membership units (i.e., preferred and common membership units) will share in the remaining proceeds of the Company pro rata based on the number of units owned.



Transferability of Units:	Transfer of the Units are subject to restrictions based on (a) federal and state securities laws, (b) a right of first refusal in favor of the Company and the other Members (as described in the Company’s Amended and Restated Operating Agreement (the “ <i>Operating Agreement</i> ”) and (c) the other terms and conditions of the Operating Agreement.
Preemptive Rights:	Owners of the Units will have certain preemptive rights to purchase certain new issuances of equity by the Company, subject to certain exceptions and the terms and conditions of the Operating Agreement.
Information Rights:	Owners of the Units will have the right to receive Company information and reports as described in the Operating Agreement.
Voting Rights:	The Units will be non-voting membership units of the Company.
Conversion:	The Company has the right to convert into a corporation should its Manager deem it advisable. In such event, owners of Units would receive capital stock substantially economically equivalent to the Units as described in the Operating Agreement.
Operating Agreement:	The Units will be subject to the terms and conditions of the Operating Agreement for the Company which should be reviewed thoroughly by each prospective investor prior to purchasing any Units of the Company.
Expiration Date:	The offering will expire on XXX, unless extended by the Company.
Use of Proceeds:	For general corporate purposes.
Placement Agent:	The Company may elect to sell Units through placement agents who are registered broker dealers with customary commission payments paid out of the proceeds of the offering.



<p>No Minimum Offering Size</p>	<p>The Company is conducting this offering on a “best efforts” basis and is not setting any minimum subscription requirements by investors as a whole. The Company intends to accept subscriptions as and when received by accredited investors (and approved by the Company).</p>
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