

CONVERTIBLE NOTE TERM SHEET (COLIBRI HEART VALVE LLC)

_____ **Convertible Note** **Term Sheet**

This term sheet summarizes key terms of a proposed convertible note issuance, for discussion purposes only. It is non-binding and is not self-executing. No party has any obligation with respect to the proposed note issuance unless and until it signs a definitive agreement governing such transaction. Any party may end discussions at any time for any reason or no reason at all.

[Notwithstanding the foregoing, the parties hereto agree to be bound by the provisions contained in the paragraphs entitled “Confidentiality”, “Governing Law”, “Exclusivity”, and “Expenses”.]

Issuer: _____, a _____ (the “Issuer”)

Purchaser: _____, a _____ (the “Purchaser”)

Issuance: Convertible promissory note due _____ (the “Note”)

Principal: Up to \$_____; amounts of \$250,000 can be drawn monthly for a maximum period of six consecutive months subject to meeting the drawdown conditions.

Target Closing Date: On or before _____, or as soon as practicable after satisfaction or waiver of all closing conditions to occur simultaneously with signing the definitive documentation.

Interest: _____% per year, capitalized into the Note’s principal.

Payment Dates: All payments of interest and or principal are due at maturity.

Maturity: Unless converted, the Note matures on _____.

Use of Proceeds: Proceeds from the Note issuance must be used for general corporate purposes.

Ranking: Senior/Secured.

Permitted Indebtedness: (i) Mechanics’ liens and obligations to trade creditors, (ii) existing indebtedness _____, and (iii) Unsecured indebtedness from a commercial bank or comparable lender for working capital purposes in an amount not to exceed \$_____.

Security: The Note will be secured by a first priority lien on all the Issuer's assets and business including all real property, assets, accounts receivable, intellectual property (including all patents awarded and applied for), securities, commercial tort claims, contract rights and insurance claims.

Guaranty: The Issuer's obligations will be fully and unconditionally guaranteed on a joint and several basis by the Issuer.

Mandatory Conversion: The outstanding principal and interest on the Note will convert automatically into shares of the Issuer's _____ upon any of the following events:

- The Issuer accepts a third-party cash investment in an aggregate amount of at least \$_____ in which case the Purchaser will receive equity of the same type as it currently holds without suffering dilution; or
- The issuer achieves annual EBITDA of at least \$1,500,000, in which case the Purchaser will receive shares of the Issuer's common stock; or
- The Issuer agrees to a change-of-control or sale of substantially all the Issuer's business and assets to a third party.

Redemption: If the Issuer agrees to a change-of-control or sale of substantially all the Issuer's business and assets to a third party, the Issuer must redeem the Note in cash or in liquid securities mutually agreed by the Issuer and Purchaser, at _____% of the outstanding principal and interest on the Note.

Conversion Price: Upon conversion due to a third-party investment or change-of-control, the Purchaser will receive new equity in an amount that values the Issuer's total outstanding equity pre-money valuation of \$4.89 per share as established in the B round.

Board Seat / Info Rights: The Issuer's Board of Directors will add _____ member as defined by the Purchaser . The Purchaser will have customary information and inspection rights, including receipt of all periodic financial and investor information reports that the Issuer prepares for its stockholders. While the Note remains outstanding the Issuer will prepare and deliver to the Purchase an annual budget, annual _____ financial statements within _____ days of each fiscal year end, quarterly unaudited financial statements within 30 days of each fiscal quarter end.

Reps and Warranties: The Issuer will make standard representations and warranties for a financing of this type.

Covenants: The Note will contain standard affirmative and negative covenants for a financing of this type, including but not limited to the following covenants. Covenant waivers will require the consent of Note holders representing a majority (51%) of the outstanding principal and interest on the Notes.

Affirmative covenants will require the Issuer to:

- continue its corporate existence
- maintain insurance policies on real property, inventory, vehicles, key man life, etc.
- comply with all applicable laws
- continue to execute the business plan as set forth in the official business plan as well as any changes agreed during the ongoing due diligence discussions
- protect its intellectual property including filing applications for viable patent claims as well as proper registration of copyrights of trademarks to enable perfection of any security interest in the them under the Note on an ongoing basis
- prepare financial reports in accordance with _____ on a _____ basis and annual reports audited reports prepared by an outside accountant.

Negative covenants will forbid the Issuer to:

- change its business or enter a new line of business without prior written approval
- dispose of its assets other than in the ordinary course of business and in an amount not to exceed \$_____ in the aggregate
- enter into any agreement to merge or combine with another company without prior written approval
- make any acquisition of another company, its business or assets, except for certain purchases of inventory in the ordinary course of business
- issue dividends, stock repurchases or redemptions, make payments with respect to subordinated debt, or make other restricted payments in an aggregate amount exceeding \$_____
- Make any loans or investments in an aggregate amount exceeding \$0 other than in the ordinary course of business
- incur any lien or make any negative pledge, other than mechanics' liens in favor of suppliers incurred in the ordinary course of business
- incur any additional indebtedness, including guaranties, sale-leasebacks, and other contingent obligations [in an aggregate amount exceeding \$_____]

Events of Default: The Note will include events of default customary for financings of this type, including but not limited to the following.

Automatic events of default will give rise to a default upon their occurrence:

- failure to pay interest or principal when due
- the Issuer's voluntary or involuntary bankruptcy or insolvency
- any default by the Issuer under other material indebtedness

The following events of default trigger the Purchaser's right of Note holders representing 51% of the outstanding principal and interest on the Notes to declare a default:

- covenant violation

- inaccurate reps and warranties
- material legal judgment against the Issuer, including final and unappealable invalidation of key patent claims by a court of law
- default under a material contract

Closing Conditions: The parties' obligation to close will be contingent on customary conditions for a financing of this type, including satisfactory completion of the Purchaser's due diligence, third party consents, and any board approvals required to effect the foregoing.

Registration Rights: The holder(s) of shares of stock issued upon the Note's conversion will have customary registration rights, including the right to piggyback on any registration of shares from the same class of equity by the Issuer

Transferability: The Purchaser may not transfer the Note, except in compliance with applicable terms of the underlying Shareholders Agreement

Documentation: The {Issuer's} counsel will prepare initial drafts of definitive legal documentation for review and comment by the [Purchaser's] counsel. The definitive documentation will combine all of the pertinent elements combined in a single document to be executed on closing.

Governing Law and Jurisdiction: This term sheet and the definitive documentation shall be governed by and construed in accordance with the laws of the state of Colorado.

Confidentiality: Except as otherwise required by law, the Issuer will not disclose the existence or terms of this term sheet or any of the matters referred to herein ("Confidential Information") to any persons other than its executive officers, directors, accountants and attorneys, and shall inform all recipients of Confidential Information that they may not disclose it to third parties. The Purchaser is responsible for all such recipients' conduct with respect to the Confidential Information.

Exclusivity: During the period commencing on the date hereof and continuing until the term sheet has been mutually agreed neither the Issuer, nor any of its respective affiliates, agents, principals, attorneys, or other representatives shall directly or indirectly contact, solicit, encourage or negotiate with any person or entity other than Purchaser with respect to any transaction involving the purchase of equity interests of the Company, or substantially all of its business and assets (a "Competing Transaction"). If Seller receives or becomes aware of any offer to engage in a Competing Transaction, he will promptly notify Purchaser of such offer, its terms, and the offeror's identity.

Immediately after signing this term sheet, the Issuer shall offer the exact term and conditions defined herein to all of its' existing shareholders and members without limitation and pursuant to section 2.8 and 2.9 of its First Amendment To First Amended And Restated Limited Liability Company Agreement For Colibri Heart Valve LLC, [dated 1/16/2011].

Expenses: The parties will pay their own expenses in connection with this transaction.

Amendment: The Notes may only be amended by a written instrument signed by Note holders representing a majority of the outstanding principal and interest on the Notes. Any such amendment will be binding on all Note holders.

