

EXERCISE**COMMITMENT LETTERS AND OTHER PRELIMINARY DOCUMENTS***Background*

Your firm represents Venus Inc., a confectionary manufacturer that's preparing for its first acquisition. They've been shopping around for financing, and they've narrowed it down to two term sheets. Before they make their final decision, they want to talk over a few points. You've scheduled a call, and before you talk, they tell you the following information:

- They want to move quickly past the term sheet stage, so they're considering continuing to negotiate several open issues during the final documentation stage, and they suggested using placeholder language for the conditions precedent, covenants, most of the reps & warranties, and Events of Default sections.
- The financial covenants have been ironed out.
- They have a hard commitment letter from one of the banks, but the other bank hasn't provided a draft letter yet.

Instructions

Come prepared to discuss these questions:

- Are there any risks involved with accepting a term sheet with placeholder language? If so, what are they?
- How does a hard commitment letter from the bank change/mitigate that risk?
- Are there any points your client should push to nail down now?
- Anything else your client should look out for in the preliminary documents?