

Table of Contents

1. Overall policy

(1) Outline

(2) Essential matters

2. Policy for individual issue

A. Pricing

B. Officers

C. Representations and Warranties about Land Contamination

D. Dealings with Zeta

E. Breakup Fee

Glossary

1. “contract” refers to the final stock purchase agreement
2. “agreement” refers to the overall outcome of this round of negotiation (i.e. MOU)
3. “consensus” refers to an agreement on specific issues/details

1. Overall policy

(1) Outline

There are many variable elements in this round of negotiation, therefore our goal is to make a basic agreement. In each issue, except for the sales price, we start the negotiation by mutually confirming each party’s priorities and the points in dispute. With this in mind, we make a concession where appropriate, so that we can draw out concessions from Blue as well, and reach an agreement flexibly.

(2) Essential matters

We think the following three points to be particularly important :

- Concluding the contract in April, 2015
- Ensuring that the sales price does not fall below US\$90million even when various fees and charges are taken into consideration (except for land contamination)
- Setting a maximum on the amount that Red pays in relation to decontamination

The agreement including the three points above will be in a form of a Memorandum of Understanding without any legally binding power. We will also specify that no exclusive right to negotiation will be given to Blue. However, as for the fees that must be paid before the conclusion of the contract such as land survey, we will make them legally binding.

On the other hand, if Blue submits good conditions and possibility of cancellation of the contract is low, we consider an agreement with legally binding power. As long as the agreement has no legally binding power, we continue considering other buyers than Blue.

Since Red is going to publicly announce its investment plan in the new educational projects in May 2015, we would like to conclude the agreement to finalize this deal by April 2015 at the latest.

(3) Position of each issue

Our top priority is (A)pricing. The enterprise value may drop depending on the outcome of the other issues, leading to a fall in the sales price, or Red may have to shoulder some of the additional charges/fees, but we will not make an agreement that leaves the possibility of the sales

price falling below US\$90million. However, decontamination fee of the land is not included in the condition above because it is an expense shouldered by the owner of the land under the Negoland Law. The priorities of (B)officers and (E)breakup fee are lower than the other issues for Red, so we will use these issues as a bargaining chip to draw out concessions from Blue.

2. Policy for individual issues

A. Pricing

(1) Goal

To agree on a price as high as possible.

(2) Strategies

Pricing is the most important issue. Since we have information that it would not be difficult to find a buyer willing to pay US\$90million for Red Chocolate, we cannot make a deal below US\$90million.

We will present why we think US\$120million is appropriate from the Financial Condition of Red shown in Exhibit 20 and 21. We will also show our doubts on Blue's reasoning for the price they claim, so that we can decide on a higher sales price.

However, there is no solid reasoning for any of the indices, and if Blue seems unsatisfied with the arguments, we will move on and propose a different way of determining the price. In the case that the price does not exceed US\$90million and the negotiation comes to a deadlock, we will emphasize that we will not come to an agreement if the price falls below US\$90million and aim for a concession by Blue.

(3) Bottom Line

Ensuring that the sales price does not fall below US\$90million even when various fees and charges (notably from the treatment of officers [B] and the dealings with Zeta [D]) are taken into consideration.

B. Officers

(1) Goal

Maintain the same level of salary (i.e. US\$1million) and post as before purchase for both Ms. Chen and Mr. Sullivan over a certain period.

(2) Strategies

As this issue is not so closely related to other issues, we will propose sharing each other's circumstances and seek a solution together, and spend as little time on this issue as possible.

Moreover, as we can settle this issue by adjusting the pricing in the end, we hope to make use of this issue as a leverage to draw out Blue's concessions in other issues.

Regarding Ms. Chen, it is unlikely that there is any critical disparity between the intentions of Red and Blue, thus we will confirm Ms. Chen's treatment first.

Regarding Mr. Sullivan, we will argue his importance as CEO and aim to maintain his salary and post for a limited period. If not CEO, we will make new proposals to maintain a post where he can unleash his potential.

In the case that the salary cannot be maintained, we will propose supplementation for the first year, so that the two will receive the same salary in the end. From the second year, we will agree to a performance-related pay with a minimum.

(3) Bottom Line

- For the first year, maintain the same level of salary for both officers (it will be acceptable to have substantially maintained the salary by making a supplementation)
- Secure a post where both officers can make use of their abilities.

If a consensus cannot be reached concerning the two points above, we will not conclude on this issue at this round of negotiation, and confirm the two officers if they will accept the conditions Blue has presented. If the two officers do not accept, Red will employ them.

C. Representations and Warranties about Land Contamination

(1) Goal

- ① Survey: Red will not conduct a thorough survey. Even if Red does, the survey fee will be paid by Blue.
- ② Representations and warranties: Red will limit the extent to which it represents and warrants, and the period of representations and warranties.
- ③ Decontamination fee: we will limit the amount of payment and make the amount as small as possible.

(2) Strategies

As the current owner of the land is responsible for decontamination, we can agree to represent and warrant to a certain extent. If no survey is to be done, the most important thing is to limit the warrant to the extent that Red knows and lay down a limit on the amount of the costs that Red will pay for when any contamination is found. We hope to lead the negotiation so that Red will not have to conduct a thorough survey, but we will respond flexibly to Blue's reactions. Even if a thorough survey is to be done, we would like Blue to pay some of the decontamination fee, and if possible, to promise that it would not leave the negotiation when any contamination is found.

As Red is not obliged to conduct a thorough survey, we will require Blue to pay the survey fee and the decontamination fee, and will gradually make a compromise. We will avoid shouldering the entire decontamination fee.

There are other expenses that Blue may require us to pay, such as decontamination fee that exceeds US\$30million, risk of lawsuit, harm to the company's reputation, production stoppage during decontamination. In that case, there is a possibility of conceding on the maximum amount Red will pay. However, we will avoid shouldering the entire amount.

(3) Bottom Line

① If a survey is to be conducted

- Representations and warranties: represent and warrant to the best of our knowledge based on the survey. We will also set a limit on the contents and the period of the representation and warranties.

- Decontamination fee: Blue shall pay for some amount if any contamination is found.

② If no survey is to be conducted

- Representations and warranties: represent and warrant for the 15 years that Red has owned the land.

- Decontamination fee: for any contamination caused by the previous owner, we will set a limit on the amount that Red will pay. Even if we are to consider risks other than decontamination, such as lawsuit, charges and fees may exceed US\$30million, but we will still set a limit to the amount shouldered by Red.

D. Dealings with Zeta

(1) Goal

① About the inquiry

Red will make an inquiry in response to Blue's demand.

② Fee of inquiry

Blue shall pay for the fee of inquiry.

③ Representations and warranties

Red will only represent and warrant for the results of the inquiry. In the case that the representations and warranties are violated, Red shall bear responsibilities only for a year.

④ Damages that are not included in Red's representation and warranties

When a transaction with Zeta is found after the closing, even if Red is to compensate for a part of the damages, Red will set a limit.

(2) Strategies

Since there are many points in this issue and the negotiation may become complicated, we shall take initiative in the negotiation and sort out the points one by one.

First we will tell Blue that Red can represent and warrant that there are no direct transactions with Zeta. Since we do not know about indirect transactions, even if we are to represent and warrant for them, we must set a limit on the scope of the representations and warranties.

Even if we are to conduct a survey, we will aim for the conclusion and the closing of the contract by April. As the survey lasts for about 6 months, there is a possibility of concluding the contract in April and closing the contract after the survey.

By proposing to partially compensate for the drop in the enterprise value or penalties after the conclusion of the contract, we aim to obtain Blue's agreement on the date of the conclusion and the closing of the contract as well as to reduce the danger of cancellation between the conclusion and the closing.

(3) Bottom Line

- If Red is to represent and warrant, Red is going to limit the contents of the representations and warranties, and limit the period for making a claim on damages
- Even if the risk of harm is reflected on the purchase price, we must not fall short of the bottom line of (A) pricing.

E. Breakup Fee

(1) Goal

To agree on a breakup fee for reasons not attributable to Red.

(2) Strategies

As this is an issue of low priority, we will respond flexibly on the amount of the breakup fee and the conditions that it accrues, and utilize it as a bargaining chip for other issues. However, if the period until closing becomes long with regard to issues such as transactions with Zeta, and there is a high probability that Blue nullifies this agreement, it will be important to set a breakup fee.

(3) Bottom Line

We will not set a breakup fee.