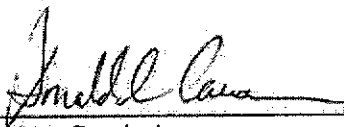


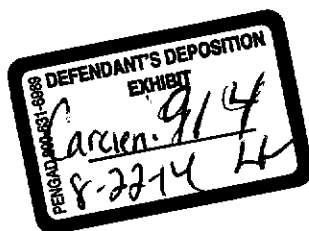
AFFIDAVIT OF DONALD L. CARCIERI

Donald L. Carcieri, being duly sworn, states as follows:

1. In my capacity as Governor of Rhode Island during 2010, I served as the Chairman of the Board of Directors of the Rhode Island Economic Development Corporation ("EDC").
2. In that capacity, I was present at the July 26, 2010 EDC Board meeting, at which the Board passed the resolution attached hereto as Exhibit 1 (the "Resolution"), a draft of which had been provided to me and which I had reviewed prior to the meeting.
3. I understood based on Exhibit A to the Resolution and the presentation and representations by the staff of the EDC that the proceeds of the EDC loan authorized by the Resolution, together with other cash available or to become available to 38 Studios, as set forth in the 38 Studios financial projections, would be sufficient to fund the so-called MMOG game (Project Copernicus) to completion.
4. I also reviewed and relied upon a July 22, 2010 memorandum that I received from the EDC's Executive Director, Keith W. Stokes, a true copy of which is attached hereto as Exhibit 2.
5. I do not recollect receiving at any time prior to or during the July 26 meeting, or subsequent thereto and prior to the closing of the loan on November 2, 2010, any information to the contrary from any employee of, attorney for, or advisor to the EDC, or from any representative of 38 Studios.



Donald L. Carcieri



Subscribed and sworn to before me this

14th

day of October, 2012.

Robert G. Bentley
Notary Public

My Commission Expires:

11/10/2013

ROBERT G. FLANDERS, JR.
NOTARY PUBLIC OF RHODE ISLAND
My Commission Expires 11/10/2013

**RHODE ISLAND ECONOMIC DEVELOPMENT CORPORATION
RESOLUTION AUTHORIZING THE ISSUANCE AND SALE OF
JOB GUARANTY PROGRAM TAXABLE REVENUE BONDS
(38 STUDIOS, LLC PROJECT), SERIES 2010**

WHEREAS, the Rhode Island Economic Development Corporation (the "Issuer") was constituted as a public corporation and public instrumentality of the State of Rhode Island ("State") pursuant to the provisions of Chapter 64 of Title 42 of the General Laws of Rhode Island, 1956 (2006 Reenactment) as amended (the "Act") and is authorized pursuant to the Act (i) to undertake the planning, development, construction, financing, management and operation of any project, including all activities in relation thereto, (ii) to enter into agreements of lease, conditional sales contracts, loan agreements, mortgages, construction contracts, operation contracts and other contracts and instruments entered into to finance its projects, (iii) to sell, mortgage, exchange, transfer or otherwise dispose of any or all of its projects and properties, and (iv) to issue its negotiable bonds and notes for the purpose of providing funds to pay all or any part of the cost of any project or for the purpose of refunding any bonds theretofore issued and to mortgage and pledge any of its projects or parts thereof as security for such bonds; and

WHEREAS, in order to finance the establishment of a video gaming studio in the State, including, but not limited to, the development of assets associated with role playing video gaming and multi-media online games, including the development of specific products and intellectual property to be used for such purposes for the benefit of 38 Studios, LLC (the "Obligor") (the "Project") the Issuer desires to issue its \$75,000,000 Rhode Island Economic Development Corporation Job Creation Guaranty Program Taxable Revenue Bonds (38 Studios, LLC Project), Series 2010 (the "Bonds"), all as more specifically set forth in a Loan and Trust Agreement to be entered into by and among Obligor, Issuer and a Trustee to be designated by the Issuer; and

WHEREAS, pursuant to the Jobs Creation Guaranty Program, as hereinafter defined, the Issuer is authorized and empowered to guaranty payments for the Bonds issued for the Project and the Issuer will issue a guaranty secured by a capital reserve fund for such bonds as hereinafter specified; and

WHEREAS, the financing of the Project is an authorized project under the Act; and

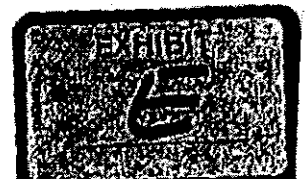
WHEREAS, the Issuer has made all of the findings required by § 42-64-10 of the General Laws of Rhode Island, 1956 (2006 Reenactment), as amended as to the Project; and

WHEREAS, the Issuer shall prior to the issuance of the Bonds, complete and release the analysis specified by § 42-64-10(2); and

WHEREAS, the Issuer is now desirous of proceeding with the proposed financing of the Project; and

WHEREAS, the Issuer intends to sell the Bonds to the underwriter or underwriters as

EXHIBIT 1



specified at this meeting (the "Underwriter") or to privately place the Bonds, upon such terms and conditions as any Authorized Representative may determine in his/her sole discretion, pursuant to a Bond Purchase Agreement or Private Placement Agreement (as herein defined) and, if required, to distribute in connection therewith a Preliminary Official Statement, Official Statement or Private Placement Memorandum, as provided below; and

WHEREAS, there shall be prepared and submitted on behalf of the Issuer, a form of Loan and Trust Agreement substantially incorporating the provisions of Exhibit A attached hereto, and made a part hereof and hereby incorporated by reference herein ("Exhibit A"); and

WHEREAS, there shall be prepared for and delivered by the Issuer and the other parties thereto forms of:

- (a) a Loan and Trust Agreement;
- (b) a Preliminary Official Statement (in the event the Bonds are publicly offered);
- (c) a Final Official Statement (in the event the Bonds are publicly offered) or a Private Placement Memorandum;
- (d) the Bond Purchase Agreement or Private Placement Agreement or Investor Letter;
- (e) such other instruments and documents as the Executive Director of the Issuer with the advice of Legal Counsel shall deem appropriate or desirable; and

WHEREAS, all of the foregoing documents referenced in (a) through (e) above shall be in substantial conformity with and shall incorporate the provisions of Exhibit A attached hereto.

NOW, THEREFORE, be it resolved by the Rhode Island Economic Development Corporation as follows:

Section 1. It has been found and determined that:

- (a) The acquisition, undertaking, carrying out and operation of the Project will prevent, eliminate or reduce unemployment or underemployment in the State and will generally benefit economic development of the State; and
- (b) That adequate provision has been made or will be made for the payment of the cost of the construction, rehabilitation, operation and maintenance and upkeep of the Project; and
- (c) The Project and the Premises are in conformity with the applicable provisions of Chapter 23 of Title 46, to the extent applicable; and
- (d) The Project is in conformity with the applicable provisions of the State Guide Plan.

Section 2. A Loan and Trust Agreement, to be entered into by the Issuer, to be substantially in conformity with and to substantially incorporate the provisions of Exhibit A, is hereby approved, with such changes, insertions and omissions as may be approved by any

Authorized Representative (as hereinafter defined). Any Authorized Representative, acting singly, is hereby authorized to execute, acknowledge and deliver the Loan and Trust Agreement with such changes, insertions and omissions as may be approved by such Authorized Representative, including, without limitation, the establishment of various reserve accounts and funds thereunder.

Section 3. The Issuer acting through its Authorized Representative shall appoint a Trustee based on receipt of bids for such engagement as Trustee.

Section 4. To accomplish the purposes of the Act and to provide for the financing of the Project, the issuance of the Bonds is hereby authorized, subject to the provisions of this Resolution and the aforesaid Loan and Trust Agreement. The Bonds shall be dated as provided in the Loan and Trust Agreement, shall be in the aggregate principal amount of up to \$75,000,000 and shall be issued as fully registered bonds, unless otherwise determined by any Authorized Representative. The Bonds shall mature, bear interest, be subject to redemption prior to maturity and bear such other terms as set forth in the Loan and Trust Agreement consistent with Exhibit A. The form of the Bonds, and the provisions for signatures, authentication, payment, prepayment and number shall be set forth in the Loan and Trust Agreement.

Section 5. The Bonds shall be special revenue obligations of the Issuer payable solely from the revenues pledged therefore pursuant to the Loan and Trust Agreement. Neither the State nor any municipality or political subdivision thereof (other than the Issuer) shall be obligated to pay the principal of, premium, if any, or interest on the Bonds except as hereinafter authorized and as permitted pursuant to Chapter 026 and Chapter 029 of the Public Laws of 2010 (also known as H8158, as amended and S2923, as amended) (the "Jobs Creation Guaranty Program"). Neither the faith and credit nor the taxing or taking power of the State or any municipality or political subdivision thereof shall be pledged to the payment of the principal of, premium, if any, or interest on the Bonds.

Section 6. The execution and delivery of a Bond Purchase Agreement or a Private Placement Agreement or an Investor Letter as appropriate, is hereby authorized. The Bond Purchase Agreement or Private Placement Agreement or Investor Letter shall be in substantial conformity and substantially incorporate relevant provisions of Exhibit A, with such changes, insertions and omissions as may be approved by any Authorized Representative (the "Bond Purchase Agreement"). Each Authorized Representative, acting singly, is hereby individually authorized to negotiate, execute and acknowledge the Bond Purchase Agreement, or Private Placement Agreement or Investor Letter and attest the same. The execution of the Bond Purchase Agreement by any Authorized Representative shall be conclusive evidence of such approval.

Section 7. The Bonds are hereby authorized to be sold as shall be provided in the aforesaid Bond Purchase Agreement or Private Placement Agreement or Investor Letter. The Authorized Representatives are each hereby individually authorized to reduce the principal amount of the Bonds to be sold and to alter the maturity date (but in no event to exceed 20 years from date of issuance) and prepayment provisions and to alter terms of the Bonds to make the Bonds conform to the Bond Purchase Agreement, Private Placement Agreement or Investor

Letter and the Loan and Trust Agreement, as each may be amended. The maximum interest rate on the Bonds shall be eight percent (8.00%) per annum. The Bonds shall be executed in the manner provided in the Loan and Trust Agreement and the Authorized Representative of the Issuer are hereby authorized and directed to execute the same and the same shall be delivered as required by the Bond Purchase Agreement, Private Placement Agreement or Investor Letter.

Section 8. Any assignment to the Trustee of the Bond of the Issuer's interest in certain revenues, receipts, funds, moneys and other property in the Loan and Trust Agreement (as the same may be amended) is hereby authorized and approved and any Authorized Representative is hereby authorized to execute and deliver all documents necessary to give effect to such assignment.

Section 9. The Issuer hereby approves and authorizes the distribution of a Preliminary Official Statement, Final Official Statement or Private Placement Memorandum, to the extent the Authorized Representative deems appropriate, and relating to the issuance of the Bonds substantially in conformity with the provisions of Exhibit A, with such amendments, supplements, changes and insertions thereto as may be approved by any Authorized Representative in connection with the issuance of the Bonds consistent with the provisions of the Loan and Trust Agreement and in accordance with applicable legal requirements. Any Authorized Representative is hereby authorized, empowered and directed to execute one or more final Official Statements to be delivered to the Underwriter. Any such approval shall be conclusively evidenced by such Authorized Representative's execution and delivery of the Official Statement.

Section 10. All covenants, stipulations, obligations and agreements of the Issuer contained in this Resolution, the Loan and Trust Agreement, the Bond Purchase Agreement, the Private Placement Memorandum and any Preliminary or Final Official Statements of the Issuer shall be deemed the covenants, stipulations, obligations and agreements of the Issuer to the full extent authorized or permitted by law, and such covenants, stipulations, obligations and agreements shall be binding upon any board or body to which any powers or agreements shall be transferred by or in accordance with law. Except as otherwise provided in this Resolution, all rights, powers and privileges conferred and duties and liabilities imposed upon the Issuer or the members thereof by the provisions of this Resolution, the Loan and Trust Agreement, the Bond Purchase Agreement, the Private Placement Memorandum shall be exercised or performed by the Issuer or by such members, officers, board or body as may be required by law to exercise such powers and perform such duties.

Section 11. The Authorized Representatives, acting singly, are each hereby authorized to pay costs relating to the issuance of the Bonds, if any, (including providing such funds as may be required by the national credit rating agencies) from the proceeds of the issuance of the Bonds.

Section 12. The Issuer agrees to issue a guaranty incident to the issuance of the Bonds, to the extent permitted under the Jobs Creation Guaranty Program, whereby a Capital Reserve Fund will be established under the Loan and Trust Agreement and, consistent with the Jobs Creation Guaranty Program, the Executive Director of the Issuer shall annually on December 1 of each year, make and deliver to the Governor of the State a certificate stating the minimum amount, if

any, required for the Issuer to make payments on the Bonds and to replenish the Capital Reserve Fund and to request the Governor to include such amount in the Governor's State budget.

Section 13. Each of the Officers of the Issuer are hereby further individually authorized and directed to proceed to cause the proceeds of the sale of the Bonds to be distributed to fund the Project or otherwise as specified in the Loan and Trust Agreement.

Section 14. The Executive Director, any Deputy Director, Treasurer, Secretary, Assistant Secretary, Chairman and Vice-Chairman, (the "Authorized Representatives") of the Issuer are each, acting singly, hereby individually authorized, empowered and directed to select all fiduciaries under the Loan and Trust Agreement; and together with any other proper officers or agents of the Issuer, to execute and deliver any and all papers, instruments, agreements, opinions, certificates, affidavits and any other documents and to do and cause to be done any and all acts and things necessary or proper for carrying out this Resolution, the Loan and Trust Agreement, the Bond Purchase Agreement and the Private Placement Memorandum, the sale of the Bonds and any Preliminary or Final Official Statement of the Issuer in the issuance of the Bonds, including, without limitation, giving all required notices and conducting all necessary hearings in connection with the issuance of the Bonds.

Section 15. The Authorized Representatives are each, acting singly, hereby individually authorized, empowered and directed to take such other actions as they deem necessary, desirable or prudent to effectuate the purposes of this Resolution and the issuance of the Bonds and to execute and deliver any and all papers, documents or instruments said Authorized Representatives, acting singly, deem appropriate to effectuate issuance of the Bonds, including, but not limited to, a Continuing Disclosure Agreement.

Section 16. This Resolution shall be effective upon its adoption and shall expire within one year of the date of the adoption of this Resolution unless the Bonds are issued prior to that date.

Adopted: July 26, 2010.

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EXHIBIT A



State of Rhode Island and Providence Plantations
315 Iron Horse Way, Suite 101
Providence, RI 02908
401-278-9100

Keith W. Stokes
Executive Director

July 26, 2010

Mr. Curt Schilling, Chairman
38 Studios, LLC
5 Clock Tower Place, Suite 140
Maynard, MA 01754

Ms. Jon MacLean, CEO
38 Studios, LLC
5 Clock Tower Place, Suite 140
Maynard, MA 01754

Re: 38 Studios/Rhode Island

Dear Mr. Schilling and Ms. MacLean:

We are pleased to present this outline of terms and conditions based on our ongoing discussions pursuant to which the Rhode Island Economic Development Corporation ("RIEDC") will issue bonds and provide credit enhancement on behalf of 38 Studios, LLC (hereafter "38 Studios" or the "company") to assist 38 Studios relocation to and expansion of its business in Rhode Island.

We appreciate the value your company brings in helping Rhode Island expand its video gaming and interactive digital media industry. We have been impressed with your company's management team and the industry partners and visionaries currently working with 38 Studios on its games in development. We view 38 Studios as aligning perfectly with other key Rhode Island knowledge economy assets that will help us accelerate high wage job growth.

We understand your capital needs to bring project Copernicus to completion to be approximately \$75,000,000. Based on our understanding to date of your financial projections, subject to the terms and conditions set forth herein and required legal procedures, the RIEDC is willing to issue \$75,000,000 of revenue bonds pursuant to its newly created Jobs Creation Guaranty Program, the net proceeds of which would provide the necessary financing to relocate 38 Studios to Rhode Island, complete production of Copernicus, and capitalize the company's growth and expansion in Rhode Island.

We anticipate that bonds would be underwritten or privately placed by a securities firm or firms selected by the RIEDC. As your company is in the position of having pipeline product and

contractual commitments for product publishing and distribution, but as yet is "pre-revenue", we recognize the market for these bonds would be limited without credit enhancement. Accordingly, we would utilize our statutory authority to issue bonds with a capital reserve mechanism by which the General Assembly must consider on an annual basis funding any shortfall of any debt service payments necessary to pay the bondholders, thereby creating for this issue what is commonly called a "moral obligation" guaranty for the bondholder(s). The moral obligation mechanism is reflected in the RIEDC's enabling legislation and the resolutions of the legislature authorizing the RIEDC to enter into these types of obligations. That legislation and the related authorizing resolutions require the Governor to submit to the legislature by January of every year a budget request for the legislature to appropriate in the following fiscal year's budget any shortfall on debt service that otherwise is not adequately reserved by the RIEDC.

The bond documents would reflect the following terms and conditions and be subject to the following general parameters and all of which are subject to and conditioned upon a Final Authorizing Resolution approved by the RIEDC board that includes all final agreed upon terms and conditions. In addition all bond documentation must be satisfactory to RIEDC and the company in their sole discretion prior to any bond closing:

Borrower (s): 38 Studios and any affiliates or subsidiaries necessary to secure a first position in all the company's assets (see collateral more fully described below). At the discretion of the RIEDC, such affiliates and subsidiaries may act as guarantors of the bonds rather than as co-borrowers.

Amount: \$75,000,000

Bond Net Proceeds Disbursement Schedule: The net proceeds from the issuance of the bonds will be released to the company upon the following schedule in conjunction with the referenced economic development milestones and compliance with the bond documents:

- a) Upon the closing estimated to be by August 31, 2010 (should any delays in the closing occur, the parties anticipate the estimated target dates will be adjusted accordingly): \$15,000,000.
- b) Upon the public announcement by the company of a relocation date to Rhode Island estimated to be by November 30, 2010: \$10,000,000.
- c) Upon the relocation of the company's headquarters and current project Copernicus studio to Rhode Island, and the creation of at least 80 Full Time Jobs in Rhode Island, estimated to be by February 28, 2011 (such relocation date being subject to: (i) a closing by August 31, 2010; (ii) the relocation of the company's headquarters and studio to Rhode Island occurring within six months of the closing; and (iii) the company may extend such relocation by three periods of 30 days each due to delays in landlord's completion of the company's new offices, with each such extension, the administrative approval of the RIEDC which approval shall not be unreasonably withheld or delayed): \$20,000,000.
- d) Upon the creation by the company of an additional 45 Full Time Jobs in Rhode Island estimated to be August 31, 2011: \$5,000,000.

- c) Upon the entry by the company into a satisfactory distribution agreement for its Project Copernicus estimated to be by November 30, 2011: \$5,000,000.
- d) Upon the creation by the company of at least an additional 125 Full Time Jobs in Rhode Island estimated to be by December 31, 2011: the balance of the net proceeds.

"Full Time Jobs" shall mean "full time jobs with benefits" as defined in RIGL 42-64-20(d)(2); provided that the average annual wage for qualifying full time jobs shall be no less than \$67,500.

Purpose: Expenses related to relocation and expansion of corporate office and all studio operations to Rhode Island and for all associated business expenses related to product development and deployment by 38 Studios in conjunction with its video games in development.

Rate: Market for bond issues of this type as negotiated with bond purchaser and otherwise acceptable to each of the RIEDC and the company in their sole and absolute discretion.

Term: Not to exceed 10 years.

Amortization: Not to exceed 20 years.

Collateral: first security interest and collateral assignment of all assets of company now owned and hereafter acquired including but not limited to intellectual property, licenses, licensing fees, distribution and publishing contracts, receivables, equipment, hardware and software and work product. We recognize that a portion of the company's assets are held in a wholly owned subsidiary, the ownership interest of which will be pledged to the RIEDC, and that such assets are otherwise currently pledged in connection with the publishing agreement with Electronic Arts (EA) and currently are unavailable as collateral for this bond financing, but such assets will be pledged as subordinate collateral for this bond financing and upon completion of the EA publishing agreement RIEDC will step into a first secured position on these assets. The RIEDC will reasonably consider requests of the company to subordinate its collateral position to routine and ordinary course of business equipment leases and purchase money financings secured solely by the equipment so financed.

State Guaranty Fee: Initial fee of one half percent (1/2%) payable at closing at closing (\$375,000) and one and one half percent (1.5%) annually of the outstanding bond balance minus the principal balance of the Balloon Payment Account defined below payable on the bond closing anniversary.

Deferred Fee: Starting in fiscal year 2014, based upon the company's audited GAAP financial statements of the prior fiscal year (2013), the Company shall pay annually a deferred fee equal to 25% of its Excess Operating Income, as defined below, up to an amount not to exceed \$5.0 million per year until an aggregate deferred fee amount of \$15,250,000 has been paid. If the \$15 million aggregate deferred fee has not been achieved by the company's fiscal year end 2017, the aggregate deferred fee shall be increased to \$18,800,000. In the event the deferred fee has not been paid in full when the bonds become due, then the unpaid balance of the

deferred fee shall be due when the bonds become due regardless of the company's Excess Operating Income. "Excess Operating Income" shall be the fiscal year operating income of the Company as contained in its audited GAAP financial statements less the fiscal year operating income for the same period contained in the Company's six year financial projection furnished RIEDC (which shall be either attached to the bond documents or otherwise adequately described therein based upon 38 Studios 6 year Plan - In-State Loan View - DRAFT - 04.01.10).

Dividends and Distributions; and Excess Operating Income not otherwise Distributed: The company shall only make dividend payments or other distributions to equity holders out of Excess Equity Balance Available for Dividend or Distribution to Equity Holders, as defined below, except for distributions to cover income tax related matters of the equity holders. The company's repurchase of equity interests into treasury stock under a right of first refusal or otherwise shall be made only after satisfying the Minimum Equity Requirement, as defined below, and shall: (1) be made only from Excess Operating Income as defined in the preceding paragraph; (2) be made only after any deferred fees owed to the RIEDC pursuant to the preceding paragraph are paid; (3) not occur in any event with respect to Mr. Schilling's or his family's equity or ownership interest in the company; and (4) be subject to such other terms, conditions and restrictions as may be agreed upon by the parties. The dollar amount of the "Minimum Equity Requirement" shall mean the outstanding principal balance on the bonds minus any amounts reserved in or paid to the RIEDC to be dedicated as a balloon payment sinking fund account established with respect to this paragraph and to be used when the bonds become due (the "Balloon Payment Account").

The "Excess Equity Balance Available for Dividend or Distribution to Equity Holders" shall mean that amount calculated from the company's GAAP financial statements and calculated as total equity contributions plus total additional paid-in-capital plus the fiscal year 2011 and forward years amounts recorded by the company to retained earnings (loss) less the Minimum Equity Requirement. If any payment of the Excess Equity Balance Available for Dividend or Distribution to Equity Holders is paid out, it shall be paid out as 50% of the amount going to equity holders and 50% being paid to the RIEDC to be placed in the Balloon Payment Account.

In the event that the company does not declare a dividend or make distributions but has Excess Equity Balance Available for Dividend or Distribution to Equity Holders, then 25% of Excess Equity Balance Available for Dividend or Distribution to Equity Holders shall be deposited in the Balloon Payment Account. All earnings on the Balloon Payment Account may be used by the company toward the next amortized bond payment due from the company, and the principal shall accumulate and be applied toward the balloon payment due on the bonds when they become due. In the event the principal balance of the Balloon Payment Account equals the sum of all remaining payments due on the bonds, at that time, the company may prepay the balance of the deferred fee owed pursuant to the preceding paragraph at an amount discounted to the then present value of the balance of the deferred fee owed by the company to the RIEDC.

Specific Conditions and Covenants:

- (a) The debt will not be assignable or assumable without RIEDC consent which will not be unreasonably withheld.
- (b) The bond documents shall reflect that the company may implement compensation strategies consistent with the industry; provided however that any compensation in any form paid by the company to Mr. Schilling shall be for services rendered, within industry norms and capped at amounts to be agreed upon between the company and the RIEDC.
- (c) The bond documents shall reflect the development and implementation of a third party monitoring, reporting and response process regarding the development schedule and budget for project Copernicus to assure that the company's development of project Copernicus remains on time and on budget pursuant to costs, terms and conditions satisfactory to the parties in their sole and absolute discretion.
- (d) 38 Studios will provide 125 Full Time Jobs in Rhode Island within twelve (12) months of the bond closing (the "closing").
- (e) 38 Studios will add an additional 175 Full Time Jobs in Rhode Island within twenty-four (24) months of the closing.
- (f) 38 Studios will add an additional 150 Full Time Jobs in Rhode Island within thirty-six (36) months of the closing.
- (g) Should 38 Studios fail to meet any Full Time Jobs requirements, it shall pay to the RIEDC an amount equal to \$7,500 per year for each Full Time Job not so added until such shortfall is cured.
- (h) 38 Studios will provide 2010 and annually thereafter during the term of the bond a certification that the borrower has met the requirements of (d), (e) and (f) above and certifying the calculations required in the Equity and Dividend section above. All such certifications shall be performed by independent public accountants selected by the company. The RIEDC may at the cost and expense of the company have such certifications audited by its independent public accountants.
- (i) 38 Studios will develop internship programs for students at Rhode Island design and educational institutions pursuant to programs and policies to be agreed upon with such institutions.
- (j) During the term of the bonds, and upon relocating the company to Rhode Island, 38 Studios shall not relocate the company or any substantial portion of its operations outside of Rhode Island which would be an event of default in which case the company's obligations with respect to the bonds would become immediately due and payable, including without limitation any balances due to the bonds, any costs and expenses of the RIEDC incurred with respect to the bonds that have not already been reimbursed or paid for, and an acceleration of the job penalty fees owed to the RIEDC pursuant to paragraph (g) above for the balance of the term of the bonds.

Conditions Precedent: Conditions to closing the bonds will include documentation and legal requirements typical of bond transactions of this size and scope including but not limited to completion of security and collateral due diligence and the review of material operating and personnel contracts and policies of the company and:

- (a) The execution and delivery of an enforceable lease for the company's corporate offices and studio operations in a geographic location in Rhode Island satisfactory to each of the RIEDC and the company in their sole and absolute discretion, such lease reflecting valid commercially reasonable terms and conditions for transactions of the type and nature of the RIEDC's enhancing the credit for the company's relocation to Rhode Island (e.g., term, deposit, renewal options, collateral assignment to tenant's lender permitted, etc.).
- (b) The selection of bond underwriters and/or managers acceptable to the RIEDC.
- (c) Final Authorizing Resolution adopted by the RIEDC Board of Directors.
- (d) At the time of the Final Authorizing Resolution, a \$75,000 deposit is due. Should a closing not occur the deposit will be refunded less reimbursement to the RIEDC for any out of pocket expenses.

Upon the earlier of the execution and delivery of this letter by both parties, or the adoption by the RIEDC of a Final Authorizing Resolution, this letter reflecting the proposed terms of the bond financing and the relocation of 38 Studios to Rhode Island shall not be discussed, negotiated or otherwise utilized by either party hereto with third parties and shall remain confidential.

Should you agree and desire us to commence the process of obtaining the Final Authorizing Resolution for the issuance of the bonds, please indicate so by signing below.

Sincerely yours,



Keith W. Stokes,
Executive Director

Agreed and accepted as of the date first above written:



38 Studios LLC

By: Jennifer MacLean
Its: President + CEO

Daria Souza

From: Penta, Sharon <spenta@riedc.com>
Sent: Thursday, July 22, 2010 10:59 PM
To: Alfred Verrecchia; Cheryl Snead; Daniel Sullivan; David Dooley, Ph.D.; Donna Cupelo; George Nee; Governor Donald Carcieri; Karl Wadensten; Lynn Singleton; Paul Choquette; Shivan Subramaniam; Stephen Lane; Timothy Babineau, M.D.
Cc: Stolzman, Rob; Stokes, Keith; Saul, Michael; aafonso@mosesafonso.com; Cherly Costantino (Paul Choquette); Clare Sedlock; Cynthia Goldsmith (Lynn Singleton); Heidi Adler (Daniel Sullivan); Karen Rowland (Alfred Verrecchia); Linda Kleineberg (Karl Wadensten); Maggie North (Timothy Babineau, M.D.); Michelle Currier (David Dooley, Ph.D.); Nancy Neri (Donna Cupelo); Pam Vieira (Donna Cupelo); Robin Andreozzi (Shivan Subramaniam)
Subject: 38 Studios Memo For Review
Attachments: 0581_001.pdf
Importance: High

Dear EDC Board Members,

Attached please find a confidential memo regarding 38 Studios from Keith, which needs to be reviewed as soon as possible. As the memo states, please contact Keith directly with any questions or concerns.

Thank you,
Sharon

RIEDC

Rhode Island
Economic Development Corporation
Building the 21st Century Innovation Economy

Sharon Penta
Executive Assistant
Rhode Island Economic Development Corporation
315 Iron Horse Way, Suite 101, Providence, RI 02908
401.278.9100x103 | 401.273.8270 fax
email spenta@riedc.com | web www.riedc.com

This e-mail message may contain confidential information belonging to the sender. If you are not the intended recipient, the disclosure, dissemination, distribution, copying, or use of the information contained in this e-mail message or any attachment is strictly prohibited. If you are not the intended recipient please notify the Rhode Island Economic Development Corporation at 401.278.9100, and purge this e-mail from your computer system immediately.

EXHIBIT 2

Memorandum

CONFIDENTIAL NEGOTIATION UPDATE/ THIS IS NOT PUBLIC RECORD

To: RIEDC Board of Directors
From: Keith W. Stokes, Executive Director
Date: July 22, 2010
Re: RIEDC/38 Studios

At your July 15, 2010 meeting, you authorized me to proceed with the execution and delivery of the proposed Term Letter between the RIEDC and 38 Studios, subject to some language adjustments regarding the calculation of jobs being added in Rhode Island and further subject to implementing either a completion bond or some type of satisfactory monitoring process to assure the on-time and on-budget completion of Project Copernicus (the MMOG game).

We have conducted due diligence on the availability of completion bonds and associated completion bond monitoring of the development of MMOG games, and conducted a due diligence specifically with respect to 38 Studios and Project Copernicus.

Unfortunately, a commercially available performance bond for an MMOG game does not exist in the marketplace. We discussed this matter with several sources and at length with International Film Guarantors, LLC ("IFG") the entity that guaranteed the completion of Project Mercury for 38 Studios in connection with the Electronic Arts, Inc./Big Huge Games transaction for 38 Studios with City National Bank.

The reason a completion bond is not available for an MMOG game but is available for a specific console based game is primarily because of the time and investment required to develop an MMOG game. The longer lead time and the lack of industry experience in determining the exact variables associated with the timing of completion of an MMOG game creates risk for which the market has not yet developed a product for such guaranties.

The good news is that IFG indicated that they believed that either they or other consultants could develop a protocol that will replicate to some reasonable degree a budget and development timeline monitoring and reporting system that could create appropriate safeguards for an investor or lender to accompany developing an MMOG game.

With that in mind, we have modified the Term Letter reflecting that the deal will not close unless and until we have reached a satisfactory agreement with 38 Studios and a third-party monitoring entity on a cost and protocol for such monitoring. While we have not yet been able to outline the details of that monitoring, I am comfortable that we can develop something satisfactory in that

regard, or, in the alternative, I will not proceed to closing the transaction without consulting with you if such a mechanism cannot be achieved to our reasonable satisfaction.

In light of this issue to some degree being unresolved, I ask that you call me as soon as possible if you have any concerns about proceeding on Monday, July 26, 2010 with the final authorizing resolutions.

Should you desire to continue to proceed toward the authorizing resolutions on July 26, 2010, we anticipate the following to occur at the meeting in public session:

1. I will give a brief background on the jobs creation guaranty program authorized by the General Assembly and a brief background on the opportunity presented by 38 Studios and the videogame industry.
2. Mike Saul will review briefly the terms and conditions of the transaction and the analysis presented to you over the course of the past couple of months leading to the resolutions presented to you authorizing the transaction.
3. Tony Afonso, bond counsel, will walk through the authorizing resolutions (attached to which will be the signed Term Letter).
4. Board discussion and consideration of the resolutions.

Attached hereto for your review are the following documents:

1. An updated Term Letter marked to reflect the changes from that which you reviewed on July 15, 2010 (a clean copy of the Term Letter shall be Exhibit A to the authorizing resolutions you will consider on Monday).
2. A set of draft slides which we anticipate using in the public session presentation on Monday.
3. A draft of the authorizing resolutions (there may be some additional changes to this as a result of comments from underwriters and other lawyers, but we will identify any such changes for you prior to your consideration of them on Monday).

As always, thank you for all of the hard work and diligent efforts you have exerted with respect to this transaction. Again, call me if you have any questions, comments or concerns with respect to proceeding on Monday, July 26, 2010. Otherwise, I look forward to seeing you on Monday and taking the next step toward implementing this exciting opportunity for Rhode Island.

| July 1322, 2010 Draft

RIEDC Letterhead

July __, 2010

Mr. Curt Schilling, Chairman
| 38 Studios, LLC
5 Clock Tower Place, Suite 140
Maynard, MA 01754

Ms. Jen MacLean, CEO
| 38 Studios, LLC
5 Clock Tower Place, Suite 140
Maynard, MA 01754

Re: 38 Studios/Rhode Island

Dear Mr. Schilling and Ms. MacLean:

We are pleased to present this outline of terms and conditions based on our ongoing discussions pursuant to which the Rhode Island Economic Development Corporation ("RIEDC") will issue bonds and provide credit enhancement on behalf of 38 Studios, LLC (hereafter "38 Studios" or the "company") to assist 38 Studios relocation and expansion of its business in Rhode Island.

We appreciate the value your company brings in helping Rhode Island expand its video gaming and interactive digital media industry. We have been impressed with your company's management team and the industry partners and visitors currently working with 38 Studios on its game development. We view 38 Studios as aligning perfectly with other key Rhode Island knowledge economy assets that will help us accelerate high wage job growth.

We understand your capital needs to bring project Copernicus to completion to be approximately \$75,000,000. Based on our understanding to date of your financial projections, subject to the terms and conditions set forth herein and required legal procedures, the RIEDC is willing to issue \$75,000,000 of revenue bonds pursuant to its newly created Jobs Creation Guaranty Program, the net proceeds of which would provide the necessary financing to relocate 38 Studios to Rhode Island, complete production of Copernicus, and capitalize the company's growth and expansion in Rhode Island.

| We anticipate that bonds would be underwritten or privately placed by a securities firm or firms selected by the RIEDC. As your company is in the position of having pipeline product and contractual commitments for product publishing and distribution, but as yet is "pre-revenue", we recognize the market for these bonds would be limited without credit enhancement. Accordingly, we would utilize our statutory authority to issue bonds with a capital reserve mechanism by which the General Assembly must consider on an annual basis funding any

shortfall of any debt service payments necessary to pay the bondholders, thereby creating for this issue what is commonly called a "moral obligation" guaranty for the bondholder(s). The moral obligation mechanism is reflected in the RIEDC's enabling legislation and the resolutions of the legislature authorizing the RIEDC to enter into these types of obligations. That legislation and the related authorizing resolutions require the Governor to submit to the legislature by January of every year a budget request for the legislature to appropriate in the following fiscal year's budget any shortfall on debt service that otherwise is not adequately reserved by the RIEDC.

The bond documents would reflect the following terms and conditions and be subject to the following general parameters and all of which are subject to and conditioned upon a Final Authorizing Resolution approved by the RIEDC board that includes all final agreed upon terms and conditions. In addition all bond documentation must be satisfactory to RIEDC and the company in its sole discretion prior to any bond closing:

Borrower (s): 38 Studios and any affiliates or subsidiaries necessary to secure a first position in all the company's assets (see collateral more fully described below). At the discretion of the RIEDC, such affiliates and subsidiaries may act as guarantors of the bonds rather than as co-borrowers.

Amount: \$75,000,000

Bond Net Proceeds Disbursement Schedule: The net proceeds from the issuance of the bonds will be released to the company upon the following schedule in conjunction with the referenced economic development milestones and compliance with the bond documents:

- a) Upon the closing estimated to be by August 31, 2010 (should any delays in the closing occur, the parties anticipate the estimated target dates will be adjusted accordingly): \$15,000,000.
- b) Upon the public announcement by the company of a relocation date to Rhode Island estimated to be by November 30, 2010: \$10,000,000.
- c) Upon the relocation of the company's headquarters and current project Copernicus studio to Rhode Island, and the creation of at least 80 Full Time Jobs in Rhode Island, estimated to be by February 28, 2011 (such relocation date being subject to (i) a closing by August 31, 2010; (ii) the relocation of the company's headquarters and studio to Rhode Island occurring within six months of the closing; and (iii) the company may extend such relocation by three periods of 30 days each due to delays in landlord's completion of the company's new offices, with each such extension, the administrative approval of the RIEDC which approval shall not be unreasonably withheld or delayed): \$20,000,000.
- d) Upon the creation by the company of 125-an additional 45 Full Time-Time Jobs in Rhode Island estimated to be August 31, 2011: \$5,000,000.
- e) Upon the entry by the company into a satisfactory distribution agreement for its Project Copernicus estimated to be by November 30, 2011: \$5,000,000.
- f) Upon the creation by the company of at least 250-an additional 125 Full Time Jobs in Rhode Island estimated to be by December 31, 2011: the balance of the net proceeds.

"Full Time Jobs" shall mean "full time jobs with benefits" as defined in RIGL 42-64-20(d)(2); provided that the average annual wage for qualifying full time jobs shall be no less than \$67,500.

Purpose: Expenses related to relocation and expansion of corporate office and all studio operations to Rhode Island and for all associated business expenses related to product development and deployment by 38 Studios in conjunction with its video games in development.

Rate: Market for bond issues of this type as negotiated with bond purchaser and otherwise acceptable to each of the RIEDC and the company in their sole and absolute discretion.

Term: Not to exceed 10 years.

Amortization: Not to exceed 20 years.

Collateral: first security interest and collateral assignment of all assets of company now owned and hereafter acquired including but not limited to intellectual property, licenses, licensing fees, distribution and publishing contracts, receivables, equipment, hardware and software and work product. We recognize that a portion of the company's assets are held in a wholly owned subsidiary, the ownership interest of which will be pledged to the RIEDC, and that such assets are otherwise currently pledged in connection with the publishing agreement with Electronic Arts (EA) and currently are unavailable as collateral for this bond financing, but such assets will be pledged as subordinate collateral for this bond financing and upon completion of the EA publishing agreement RIEDC will step into first secured position on these assets. The RIEDC will reasonably consider requests of the company to subordinate its collateral position to routine and ordinary course of business equipment leases and purchase money financings secured solely by the equipment so financed.

Stipulated Fee: Initial fee of one half percent (1/2%) payable at closing at closing (\$375,000) and one and one half percent (1.5%) annually of the outstanding bond balance minus the principal balance of the Balloon Payment Account defined below payable on the bond closing anniversary.

Deferred Fee: Starting in fiscal year 2014, based upon the ~~Company's~~ company's audited GAAP financial statements of the prior fiscal year (2013), the Company shall pay annually a deferred fee equal to 25% of its Excess Operating Income, as defined below, up to an amount not to exceed \$5.0 million per year until an aggregate deferred fee amount of \$15,250,000 has been paid. If the \$15 million aggregate deferred fee has not been achieved by the ~~Company's~~ company's fiscal year end 2017, the aggregate deferred fee shall be increased to \$18,800,000. In the event the deferred fee has not been paid in full when the bonds become due, then the unpaid balance of the deferred fee shall be due when the bonds become due regardless of the company's Excess Operating Income. "Excess Operating Income" shall be the fiscal year operating income of the Company as contained in its audited GAAP financial statements less the fiscal year operating income for the same period contained in the Company's six year financial projection furnished RIEDC (which shall be either attached to the bond documents or otherwise

adequately described therein based upon -38 Studios 6 year Plan - In-State Loan View - DRAFT - 04.01.10).

Dividends and Distributions; and Excess Operating Income not otherwise Distributed:
The Company shall only make dividend payments or other distributions to equity holders out of Excess Equity Balance Available for Dividend or Distribution to Equity Holders, as defined below, except for distributions to cover income tax related matters of the equity holders, or to cover the cost of repurchasing the company's repurchase of equity interests into treasury stock under a right of first refusal or otherwise (provided that any repurchases of equity interests into treasury stock under any right of first refusal shall be made only after satisfying the Minimum Equity Requirement, as defined below, and shall: (1) be made only from Excess Operating Income as defined in the preceding paragraph; (2) be made only after any deferred fees owed to the RIEDC pursuant to the preceding paragraph are paid; (3) not exceed \$2,000,000 in the aggregate during the term of the bonds for equity holders other than Mr. Schilling or his family; and (4) the company shall not redeem or purchase any of occur in any event with respect to Mr. Schilling's or his family's equity or ownership interest in the company; and (4) be subject to such other terms, conditions and restrictions as may be agreed upon by the parties, after satisfying a Minimum Equity Requirement, as defined in the next sentence. The dollar amount of the "Minimum Equity Requirement" shall mean the outstanding principal balance on the bonds minus any amounts reserved in or paid to the RIEDC to be dedicated as a balloon payment sinking fund account established with respect to this paragraph and to be used when the bonds become due (the "Balloon Payment Account").

The "Excess Equity Balance Available for Dividend or Distribution to Equity Holders" shall mean that amount calculated from the Company's GAAP financial statements and calculated as total equity contributions plus total additional paid-in-capital plus the fiscal year 2011 and forward years amounts recorded by the company to retained earnings (loss) less the Minimum Equity Requirement. If any payment of the Excess Equity Balance Available for Dividend or Distribution to Equity Holders is paid out, it shall be paid out as 50% of the amount going to equity holders and 50% being paid to the RIEDC to be placed in the Balloon Payment Account.

In the event that the company does not declare a dividend or make distributions but has Excess Equity Balance Available for Dividend or Distribution to Equity Holders, then 25% of Excess Equity Balance Available for Dividend or Distribution to Equity Holders shall be deposited in the Balloon Payment Account. All earnings on the Balloon Payment Account may be used by the company to pay the next amortized bond payment due from the company, and the principal shall accumulate and be applied toward the balloon payment due on the bonds when they become due. In the event the principal balance of the Balloon Payment Account equals the sum of all remaining payments due on the bonds, at that time, the company may prepay the balance of the deferred fee owed pursuant to the preceding paragraph at an amount discounted to the then present value of the balance of the deferred fee owed by the company to the RIEDC.

Specific Conditions and Covenants:

- (a) The debt will not be assignable or assumable without RIEDC consent which will not be unreasonably withheld.
- (b) The bond documents shall reflect that the company may implement compensation strategies consistent with the gaming studio industry; provided however that any compensation in any form paid by the company to Mr. Schilling shall be for services rendered, within industry norms and capped at amounts to be agreed upon between the company and the RIEDC.
- ~~(b)(c)~~ The bond documents shall reflect the development and implementation of a third party monitoring, reporting and response process regarding the development schedule and budget for project Copernicus to assure that the company's development of project Copernicus remains on time and on budget pursuant to costs, terms and conditions satisfactory to the parties in their sole and absolute discretion.
- ~~(e)(d)~~ 38 Studios will provide 125 Full Time Jobs in Rhode Island within twelve (12) months of the bond closing (the "closing").
- ~~(d)(e)~~ 38 Studios will add an additional 125 Full Time Jobs in Rhode Island within twenty-four (24) months of the closing.
- ~~(e)(f)~~ 38 Studios will add an additional 150 Full Time Jobs in Rhode Island within thirty-six (36) months of the closing.
- ~~(f)(g)~~ Should 38 Studios fail to meet any Full Time Jobs requirements, it shall pay to the RIEDC an amount equal to \$7,500 per year for each Full Time Job not so added until such shortfall is cured.
- ~~(g)(h)~~ 38 Studios will provide 2010 and annually thereafter during the term of the bond a certification that the borrower has met the requirements of ~~(b)~~, ~~(e)(d)~~, (e) and (d) above and containing the calculations required in the Equity and Dividend section above. Such certifications shall be performed by independent public accountants selected by the company. The RIEDC may at the cost and expense of the company have such certifications audited by its independent public accountants.
- ~~(h)(i)~~ 38 Studios will develop internship programs for students at Rhode Island design and educational institutions pursuant to programs and policies to be agreed upon with such institutions.
- ~~(i)(j)~~ During the term of the bonds, and upon relocating the company to Rhode Island, 38 Studios shall not relocate the company or any substantial portion of its operations outside of Rhode Island which would be an event of default in which case the company's obligations with respect to the bonds would become immediately due and payable, including without limitation any balances due to the bonds, any costs and expenses of the RIEDC incurred with respect to the bonds that have not already been reimbursed or paid for, and an acceleration of the job penalty fees owed to the RIEDC pursuant to paragraph (eg) above for the balance of the term of the bonds.

Conditions Precedent: Conditions to closing the bonds will include documentation and legal requirements typical of bond transactions of this size and scope including but not limited to completion of security and collateral due diligence and the review of material operating and personnel contracts and policies of the company and:

- (a) The execution and delivery of an enforceable lease for the company's corporate offices and studio operations in a geographic location in Rhode Island satisfactory to each of the RIEDC and the company in their sole and absolute discretion, such lease reflecting valid commercially reasonable terms and conditions for transactions of the type and nature of the RIEDC's enhancing the credit for the company's relocation to Rhode Island (e.g., term, deposit, renewal options, collateral assignment to tenant's lender permitted, etc.).
- (b) The selection of bond underwriters and/or managers acceptable to the RIEDC.
- (c) Final Authorizing Resolution adopted by the RIEDC Board of Directors.
- (d) At the time of the Final Authorizing Resolution, a \$75,000 deposit is due. Should a closing not occur the deposit will be refunded less reimbursement to the RIEDC for any out of pocket expenses.

Until executed and delivered by both parties hereto Upon the earlier of the execution and delivery of this letter by both parties, or the adoption by the RIEDC of a Final Authorizing Resolution, this letter reflecting the proposed terms of the bond financing and the relocation of 38 Studios to Rhode Island shall not be discussed, negotiated or otherwise utilized by either party hereto with third parties and shall remain confidential.

Should you agree and desire us to commence the process of obtaining the Final Authorizing Resolution for the issuance of the bonds, please indicate so by signing below.

Sincerely yours,

J. Michael Saul
Deputy Director
RIEDC

Keith W. Stokes,
Executive Director

Agreed and accepted as of the date first above written:

38 Studios LLC

By: _____

Its: _____

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AT

RIEDC

Rhode Island
Economic Development Corporation

Building the 21st Century Innovation Economy

RIEDC Board Meeting

July 26, 2010

**Video Game Industry &
38 Studios Opportunity**

Video Game Industry

- **Size & Growth...**
 - \$72 billion global industry including both hardware and software revenues
 - Global Revenues projected to reach \$124 billion by 2013.
- **Market...**
 - More than 2/3 of American Households play PC or video games.
 - Average gamer is 35 years old.
 - 42% of American households own a gaming console.
 - By 2014 60% of American households forecasted to play an "online" game
- **Dynamics...**
 - Online gaming industry has advantage of generations of loyal users
 - Increasing market penetration and rising average user age
 - Constantly evolving technology ensuring users fresh and exciting product
- **Clustering...**
 - Nearly 70% of US video game companies are in one of 7 metro regions
 - Boston ranks 6th and NYC ranks 5th in # of US companies
- **Jobs & Workforce...**
 - More than 1,200 jobs in Massachusetts' video game industry
 - Types of jobs include: Engineering, Artist, Game Designer, and Quality Assurance

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Rhode Island's Video Game Assets

- **RISD**
 - Majors: Film Animation Video, Graphic Design, Illustration, & Digital Media
 - Curriculum includes culture, story, media, art, design, and technology
 - Many RISD grads & interns currently work in the video game industry
 - Over 100 RISD graduates stay in RI each year & over 3000 RISD alum in MA and RI
- **URI**
 - Computer Science curriculum includes interactive and collaborative gaming track as well as computer programming, software engineering, & interactive 3D graphics research
 - Gaming track led by Dr. Jean Yves-Herve
- **Brown**
 - Computer Science & Visual Arts curriculum includes software engineering, 3D animation, & innovating game development
 - Strengths in machine decision and game theory, interfaces in virtual reality
 - Dr. Chad Jenkins author of "Creative Games: Mechanics, Content & Technology"
- **RI Companies Involved in Video Games, and Digital Animation**
 - Hasbro
 - GTECH

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38 Studios Project Review

- Relocation & Expansion – within 3 years 450 direct and 1,113 indirect jobs
- Two studios...38 Studios in Maynard, Ma (86 employees)...Big Huge Games (BHG) in Baltimore, Maryland (79 employees)
- Average wage ~ \$67.5k/yr
 - Programming, engineering, artist, designer, production, quality assurance
- Proposed transaction: \$75.0 million credit enhanced bond
- Kingdoms of Amalur: Reckoning...single player multi platform game for release in fall 2011. Publishing and Retail Distribution Agreement between EA & 38 Studios.
- Project Copernicus...38 Studios developing a Multi-player Online Game (MMOG)

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38 Studios

Management & Visionary Team

Management team includes 100+ years of industry specific executive and development experience with top tier companies such as EA, Sony Online, Comcast, Nintendo, etc.

- **Jennifer MacLean, CEO**
 - Comcast, VP of Games - products, strategy, and business development.
 - Chair Emeritus of the Board of Directors of the Int'l Games Developer Association
- **R.A. Salvatore, Executive Creator of Worlds**
 - Author on NY Times and WSJ best selling lists
 - Lucasfilm, New Jedi Order series of novels and Attack of the Clones.
 - Wrote 40 novels which have sold over 15 million copies worldwide
- **Todd McFarlane, Executive Art Director**
 - Creator of "Spawn" comic book and Emmy Award winning HBO series
 - Owner McFarlane Toys
 - Artist of Spider Man comic books for Marvel/Epic comics
- **Curt Schilling, Founder**

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Economic Development Corporation

38 Studios

Design & Production Team

**Extensive Expertise in RPG Genre, MMOG Design and Development:
over \$11B in Shipped Product Sales**

- **Lead Designers from:**
 - Morrowind, Oblivion, Fallout 3
 - World of Warcraft
 - EverQuest and EverQuest II
 - Rise of Nations, Rise of Legends, Catan, Civilization II
- **Selected Titles from other Team Members:**
 - Star Wars: The Force Unleashed
 - Fable
 - Half-Life

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Rhode Island's Economic Opportunity

- Job Creation
 - 450 direct jobs & 1,113 indirect jobs
 - Estimated income tax revenue in excess of \$5M per year
 - Spawning potential = 200 direct & 686 with multiplier – within ~ 5 years
 - Leverage video game industry growth and growth of industry jobs in Boston market
- Build Creative and Knowledge Industry
 - Develop a vertical market that intersects some of Rhode Islands best growth assets
 - Commercialization of ideas is faster than other knowledge economy industries
- Foster Entrepreneurial Activity
 - Spark starts within RI's most active entrepreneurial communities
 - Wide range of industry entry points given the breadth of platform opportunities
- Retain Talent
 - Provide compelling job opportunities for local college graduates
 - Develop feeder programs at RI universities

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Economic Development Corporation

Key Credit Structure Risk Mitigation

- Requirement to locate in RI's Knowledge Economy
- 10 year term; 20 year amortization – minimizes annual appropriation risk
- 1 year debt service reserve
- 25% of Excess Earnings placed into Balloon Payment Fund
- Funds drawdown schedule focused on relocation and job creation
- Initial draw requires a signed enforceable lease acceptable to RIEDC
- Job penalty fee of \$7,500 for each job short of 450 target
- Deferred Fee between \$15.25 - \$18.8 million
- Debt is not assignable or assumable
- Relocation outside of RI triggers debt acceleration...company bears all associated costs
- Documentation to include legal counsel with expertise in IP
- Bond Underwriter (s) acceptable to RIEDC

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Risk Analysis

Negatives

- Investment in Pre-revenue company
- Initially a binary revenue stream (Mercury and Copernicus) when games are released...licensing and other platform revenue potential follows successful launches
- Hit driven product
- Job Creation Guaranty Program concentration...60%

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Risk Analysis

Positives

- Experienced management team with track record of successful game development
- EA publishing agreement on Mercury
- Game development, specifically Mercury is on track
- Significant equity investment to date in company
- Favorable industry outlook
- Strong alignment with high potential RI assets
- Valuable connections to build strong public/private attraction effort
- Potential for 1500 high wage knowledge based jobs within 3 years
- Creates compelling opportunities for RI graduates
- Presence and spawning fosters increased entrepreneurial activity
- Total RI State ROI is 47% (financial plus economic return)

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Key Economic Metrics

10 Year Economic Return Metric

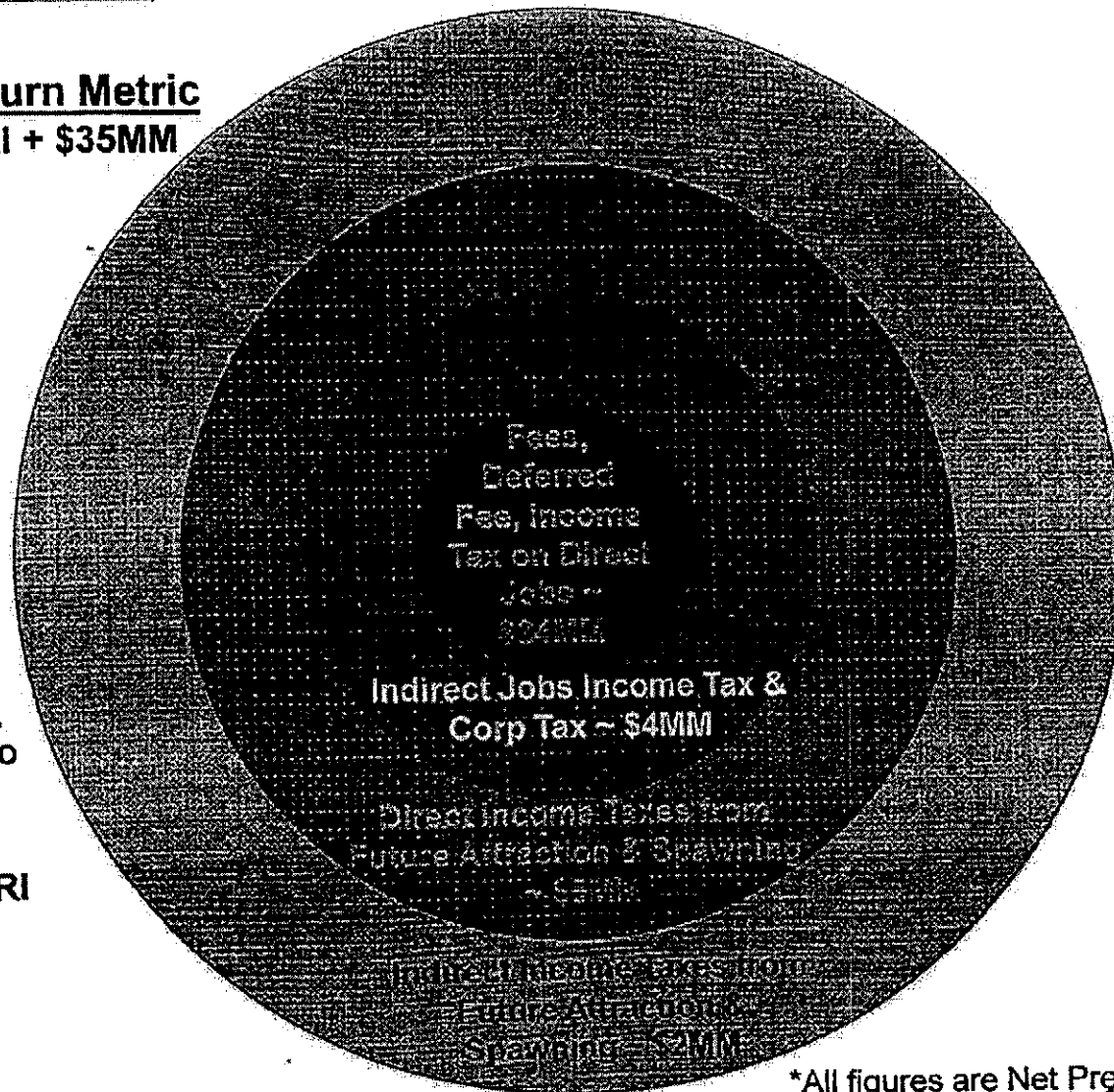
Recover \$75MM Principal + \$35MM
= 47% ROI

3 Year Job Creation

- 450 Direct Video Game Industry Jobs
- 1,113 Indirect Jobs

5-7 Year Job Creation

- Spawn 200 Direct Video Game Industry Jobs
- 486 Indirect Jobs
- Additional \$133MM in RI based payroll annually



*All figures are Net Present Value (NPV) of benefits over a 10 year repayment period

**RHODE ISLAND ECONOMIC DEVELOPMENT CORPORATION
RESOLUTION AUTHORIZING THE ISSUANCE AND SALE OF
JOB GUARANTY PROGRAM TAXABLE REVENUE BONDS
(38 STUDIOS, LLC PROJECT), SERIES 2010**

WHEREAS, the Rhode Island Economic Development Corporation (the "Issuer") was constituted as a public corporation and public instrumentality of the State of Rhode Island ("State") pursuant to the provisions of Chapter 64 of Title 42 of the General Laws of Rhode Island, 1956 (2006 Reenactment) as amended (the "Act") and is authorized pursuant to the Act (i) to undertake the planning, development, construction, financing, management and operation of any project, including all activities in relation thereto, (ii) to enter into agreements of lease, conditional sales contracts, loan agreements, mortgages, construction contracts, operation contracts and other contracts and instruments entered into to finance its projects, (iii) to sell, mortgage, exchange, transfer or otherwise dispose of any or all of its projects and properties, and (iv) to issue its negotiable bonds and notes for the purpose of providing funds to pay all or any part of the cost of any project or for the purpose of refunding any bonds theretofore issued and to mortgage and pledge any of its projects or parts thereof as security for such bonds; and

WHEREAS, in order to finance the establishment of a video gaming studio in the State, including, but not limited to, the development of assets associated with role playing video gaming and multi-media online games, including the development of specific products and intellectual property to be used for such purposes for the benefit of 38 Studios, LLC (the "Obligor") (the "Project") the Issuer desires to issue its \$75,000,000 Rhode Island Economic Development Corporation Job Creation Guaranty Program Taxable Revenue Bonds (38 Studios, LLC Project), Series 2010 (the "Bonds"), all as more specifically set forth in a Loan and Trust Agreement to be entered into by and among Obligor, Issuer and a Trustee to be designated by the Issuer; and

WHEREAS, the financing of the Project is an authorized project under the Act; and

WHEREAS, the Issuer has made all of the findings required by § 42-64-10 of the General Laws of Rhode Island, 1956 (2006 Reenactment), as amended as to the Project; and

WHEREAS, the Issuer shall prior to the issuance of the Bonds, complete and release the analysis specified by § 42-64-10(2); and

WHEREAS, the Issuer is now desirous of proceeding with the proposed financing of the Project; and

WHEREAS, the Issuer intends to sell the Bonds to the underwriter or underwriters as specified at this meeting (the "Underwriter") or to privately place the Bonds, upon such terms and conditions as any Authorized Representative may determine in his/her sole discretion, pursuant to a Bond Purchase Agreement or Private Placement Agreement (as herein defined) and, if required, to distribute in connection therewith a Preliminary Official Statement, Official Statement or Private Placement Memorandum, as provided below; and

WHEREAS, there shall be prepared and submitted on behalf of the Issuer, a form of Loan and Trust Agreement substantially incorporating the provisions of Exhibit A attached hereto, and made a part hereof and hereby incorporated by reference herein ("Exhibit A"); and

WHEREAS, there shall be prepared for and delivered by the Issuer and the other parties thereto forms of:

- (a) a Loan and Trust Agreement;
- (b) a Preliminary Official Statement (in the event the Bonds are publicly offered);
- (c) a Final Official Statement (in the event the Bonds are publicly offered) or a Private Placement Memorandum;
- (d) the Bond Purchase Agreement or Private Placement Agreement or Investor Letter;
- (e) such other instruments and documents as the Executive Director of the Issuer with the advice of Legal Counsel shall deem appropriate or desirable; and

WHEREAS, all of the foregoing documents referenced in (a) through (e) above shall be in substantial conformity with and shall incorporate the provisions of Exhibit A attached hereto.

NOW, THEREFORE, be it resolved by the Rhode Island Economic Development Corporation as follows:

Section 1. It has been found and determined that:

- (a) The acquisition, undertaking, carrying out and operation of the Project will prevent, eliminate or reduce unemployment or underemployment in the State and will generally benefit economic development of the State; and
- (b) That adequate provision has been made or will be made for the payment of the cost of the construction, rehabilitation, operation and maintenance and upkeep of the Project; and
- (c) The Project and the Premises are in conformity with the applicable provisions of Chapter 23 of Title 46, to the extent applicable; and
- (d) The Project is in conformity with the applicable provisions of the State Guide Plan.

Section 2. A Loan and Trust Agreement, to be entered into by the Issuer, to be substantially in conformity with and to substantially incorporate the provisions of Exhibit A, is hereby approved, with such changes, insertions and omissions as may be approved by any Authorized Representative (as hereinafter defined). Any Authorized Representative is hereby authorized to deliver the Loan and Trust Agreement with such changes, insertions and omissions as may be approved by such Authorized Representative, including, without limitation, the establishment of various reserve accounts and funds thereunder.

Section 3. The Issuer acting through its Authorized Representative shall appoint a Trustee based on receipt of bids for such engagement as Trustee.

Section 4. To accomplish the purposes of the Act and to provide for the financing of the Project, the issuance of the Bonds is hereby authorized, subject to the provisions of this Resolution and the aforesaid Loan and Trust Agreement. The Bonds shall be dated as provided in the Loan and Trust Agreement, shall be in the aggregate principal amount of up to \$75,000,000 and shall be issued as fully registered bonds, unless otherwise determined by any Authorized Representative. The Bonds shall mature, bear interest, be subject to redemption prior to maturity and bear such other terms as set forth in the Loan and Trust Agreement consistent with Exhibit A. The form of the Bonds, and the provisions for signatures, authentication, payment, prepayment and number shall be set forth in the Loan and Trust Agreement.

Section 5. The Bonds shall be special revenue obligations of the Issuer payable solely from the revenues pledged therefore pursuant to the Loan and Trust Agreement. Neither the State nor any municipality or political subdivision thereof (other than the Issuer) shall be obligated to pay the principal of, premium, if any, or interest on the Bonds except as hereinafter authorized and as permitted pursuant to Chapter 026 of the Public Laws of 2010 (also known as H8158, as amended) (the "Jobs Creation Guaranty Program"). Neither the faith and credit nor the taxing or taking power of the State or any municipality or political subdivision thereof shall be pledged to the payment of the principal of, premium, if any, or interest on the Bonds.

Section 6. The execution and delivery of a Bond Purchase Agreement or a Private Placement Agreement or an Investor Letter as appropriate, is hereby authorized. The Bond Purchase Agreement or Private Placement Agreement or Investor Letter shall be in substantial conformity and substantially incorporate relevant provisions of Exhibit A, with such changes, insertions and omissions as may be approved by any Authorized Representative (the "Bond Purchase Agreement"). Each Authorized Representative, acting singly, is hereby individually authorized to negotiate, execute and acknowledge the Bond Purchase Agreement, or Private Placement Agreement or Investor Letter and to affix the seal of the Issuer on the Bond Purchase Agreement or Private Placement Agreement or Investor Letter and attest the same. The execution of the Bond Purchase Agreement by any Authorized Representative shall be conclusive evidence of such approval.

Section 7. The Bonds are hereby authorized to be sold as shall be provided in the aforesaid Bond Purchase Agreement or Private Placement Agreement or Investor Letter. The Authorized Representatives are each hereby individually authorized to reduce the principal amount of the Bonds to be sold and to alter the maturity date (but in no event to exceed 20 years from date of issuance) and prepayment provisions and to alter terms of the Bonds to make the Bonds conform to the Bond Purchase Agreement, Private Placement Agreement or Investor Letter and the Loan and Trust Agreement, as each may be amended. The maximum interest rate on the Bonds shall be eight percent (8.00%) per annum. The Bonds shall be executed in the manner provided in the Loan and Trust Agreement and the Authorized Representative of the Issuer are hereby authorized and directed to execute the same and the same shall be delivered as required by the Bond Purchase Agreement, Private Placement Agreement or Investor Letter.

Section 8. Any assignment to the Trustee of the Bond of the Issuer's interest in certain revenues, receipts, funds, moneys and other property in the Loan and Trust Agreement (as the same may be amended) is hereby authorized and approved and any Authorized Representative is hereby authorized to execute and deliver all documents necessary to give effect to such assignment.

Section 9. The Issuer hereby approves and authorizes the distribution of a Preliminary Official Statement, Final Official Statement or Private Placement Memorandum, to the extent the Authorized Representative deems appropriate, and relating to the issuance of the Bonds substantially in conformity with the provisions of Exhibit A, with such amendments, supplements, changes and insertions thereto as may be approved by any Authorized Representative in connection with the issuance of the Bonds consistent with the provisions of the Loan and Trust Agreement and in accordance with applicable legal requirements. Any Authorized Representative is hereby authorized, empowered and directed to execute one or more final Official Statements to be delivered to the Underwriter. Any such approval shall be conclusively evidenced by such Authorized Representative's execution and delivery of the Official Statement.

Section 10. All covenants, stipulations, obligations and agreements of the Issuer contained in this Resolution, the Loan and Trust Agreement, the Bond Purchase Agreement, the Private Placement Memorandum and any Preliminary or Final Official Statements of the Issuer shall be deemed the covenants, stipulations, obligations and agreements of the Issuer to the full extent authorized or permitted by law, and such covenants, stipulations, obligations and agreements shall be binding upon any board or body to which any powers or agreements shall be transferred by or in accordance with law. Except as otherwise provided in this Resolution, all rights, powers and privileges conferred and duties and liabilities imposed upon the Issuer or the members thereof by the provisions of this Resolution, the Loan and Trust Agreement, the Bond Purchase Agreement, the Private Placement Memorandum shall be exercised or performed by the Issuer or by such members, officers, board or body as may be required by law to exercise such powers and perform such duties.

Section 11. The Authorized Representatives, acting singly, are each hereby authorized to pay costs relating to the issuance of the Bonds, if any, (including providing such funds as may be required by the national credit rating agencies) from the proceeds of the issuance of the Bonds.

Section 12. The Issuer agrees to issue a guaranty incident to the issuance of the Bonds, to the extent permitted under the Jobs Creation Guaranty Program, whereby a Capital Reserve Fund will be established under the Loan and Trust Agreement and, consistent with the Jobs Creation Guaranty Program, the Executive Director of the Issuer shall annually on December 1 of each year, make and deliver to the Governor of the State a certificate stating the minimum amount, if any, required for the Issuer to make payments on the Bonds and to replenish the Capital Reserve Fund and to request the Governor to include such amount in the Governor's State budget.

Section 13. Each of the Officers of the Issuer are hereby further individually authorized and directed to proceed to cause the proceeds of the sale of the Bonds to be distributed to fund the Project or otherwise as specified in the Loan and Trust Agreement.

Section 14. The Executive Director, any Deputy Director, Treasurer, Secretary, Assistant Secretary, Chairman and Vice-Chairman, (the "Authorized Representatives") of the Issuer are each, acting singly, hereby individually authorized, empowered and directed to select all fiduciaries under the Loan and Trust Agreement; and together with any other proper officers or agents of the Issuer, to execute and deliver any and all papers, instruments, agreements, opinions, certificates, affidavits and any other documents and to do and cause to be done any and all acts and things necessary or proper for carrying out this Resolution, the Loan and Trust Agreement, the Bond Purchase Agreement and the Private Placement Memorandum, the sale of the Bonds and any Preliminary or Final Official Statement of the Issuer in the issuance of the Bonds, including, without limitation, giving all required notices and conducting all necessary hearings in connection with the issuance of the Bonds.

Section 15. The Authorized Representatives are each, acting singly, hereby individually authorized, empowered and directed to take such other actions as they deem necessary, desirable or prudent to effectuate the purposes of this Resolution and the issuance of the Bonds and to execute and deliver any and all papers, documents or instruments said Authorized Representatives, acting singly, deem appropriate.

Section 16. This Resolution shall be effective upon its adoption and subject to the Bonds being issued within one year of the date of the adoption of this Resolution.

Adopted: July 26, 2010.