**Architecture of the Agreement Case Study**

OTBS owns 100% of Target, a service company with key contracts with three clients representing in the aggregate nearly 100% of Target profits ($30M). Each of the contracts are similar; they have a 3-years term but the counterparts have the right to terminate in the event of a material default, change of control or a material adverse change in the business of the counterpart.

BIAH has offered to purchase Target for a price equal to ten times profits. OTBS and BIAH are negotiating key terms of an SPA.

1. BIAH asks for a representation that the three key contracts are valid, enforceable and there has been no default under them.
2. BIAH proposes that if any of the contracts is terminated during the next three years, OTBS will refund to BIAH ten times the profits of the terminated contract.
3. BIAH asks for a closing condition that consent to the change of control from each of the counterparts has been obtained and demands that the closing occur within 30 days.
4. OTBS wants to cap its indemnity for the rep in (1) and the purchase price adjustment in (2). It proposes a cap equal to 1% of the Purchase Price.
5. The draft contract provides that either party may terminate the agreement at any time prior to closing.