Venture Speak

83(b) Election

If you've received restricted stock and you believe the value of the restricted stock will increase over time, you should talk to your accountant about filing an 83(b) election with the IRS. This election tells the IRS that, despite the risk of forfeiture, you are willing to take into account as income the difference between the price you paid for the stock (usually $0) and its fair market value *at the time the stock is granted to you*. Absent this election, you would need to recognize the stock as income as it vests. If the stock increases in value, this election may allow you to minimize your tax bill.

A

Accelerated Vesting

A vesting feature that provides for the immediate vesting of all or part of an employee's unvested shares, profits units or stock options upon the occurrence of a triggering event, such as a Change of Control. The most common forms of Accelerated Vesting are Single Trigger and Double Trigger acceleration—see below.

Accredited Investor

An individual or entity that, according to the SEC, is sophisticated enough to make investment decisions with regard to relatively risky private offerings of securities, like those of a startup company. This sophistication is inferred from the investor's net worth or income levels. Examples include banks, insurance companies, trusts worth more than $5 million, and individuals worth more than $1 million or who have realized income of more than $200,000 in the past two years.

Anti-dilution Provision

A provision generally requested by Preferred Stock investors, it protects them by preventing or minimizing a loss in their ownership percentage, usually as a result of a Down Round of financing. There are several types of Anti-Dilution mechanisms, including Broad Based Weighted Average Anti-dilution (current market standard and most company-favorable), Narrow Based Weighted Average Anti-dilution, and Full Ratchet (least company-favorable), as well as Anti-Dilution mechanisms specific to stock splits and reorganizations. The details of these provisions are typically spelled out in a company's Certificate of Incorporation.

Articles of Incorporation

Also known as a Certificate of Incorporation or Charter, the Articles of Incorporation is a constitutional document of a corporation that must be filed with the secretary of state in order to form the company as a legal entity. Articles of Incorporation contain the company's basic information, like the company name, address, and capital structure and stock series designations.

Articles of Organization

May also be referred to as the Certificate of Formation (depending on jurisdiction), the Articles of Organization is a constitutional document of a limited liability company that must be filed with the secretary of state in order to form the LLC as a legal entity.

As-Converted Basis

A term that describes the measurement of a company's convertible equity (e.g., preferred stock) by assuming it is converted into shares of common stock according to its conversion ratio.

Automatic Conversion

A common feature of a convertible security that provides for conversion on a stated triggering event. The conversion is said to be "automatic" because it occurs without the vote of the investor or the company.

B

Blue Sky Laws

Lawyer jargon for state securities laws, as opposed to the federal securities laws administered by the SEC. Each state has its own regulatory agency with specific rules and regulations governing a company's offering and issuance of securities to investors residing within that state. Blue Sky Law compliance can require various filings by a company, either before or after a stock sale.

Bootstrapping

Bootstrapping most often refers to co-founders self-funding a company with their own capital, eliminating the need for outside investment. Bootstrapping is a good practice for an early stage company as it requires a minimization of expenses.

Bridge Financing

Short term funding for a company that will support it (like a “bridge”) until it reaches its next financing round. Bridge financing usually takes the form of a short-term debt that may convert in the next financing round.

Broad Based Weighted Average Anti-dilution

A price-based Anti-Dilution method, Broad Based Weighted Average adjusts the conversion ratio of existing investors’ preferred stock upon the company’s issuance of new shares in a Down Round, at a weighted average rate (unlike Full Ratchet Anti-Dilution, which essentially reduces the conversion ratio of existing investors’ preferred stock on a one-for-one basis, preventing any dilution of ownership). The “broad-based” component of this method refers to the inclusion of all common stock outstanding on a Fully Diluted basis (including options, warrants, and other convertible securities) in applying the adjustment formula.

Bylaws

A constitutional document of the company describing the rules and procedures for corporate governance (i.e., internal administration and management of the company). Rules pertaining to board and stockholder meetings, director elections, and appointments and responsibilities of officers are covered by the bylaws. A company is not required to submit bylaws to the secretary of state.

C

Capital Account

An account that is maintained for each member of an LLC. A member’s beginning capital account balance reflects the member’s initial capital contribution (cash or fair market value of property). A member’s capital account is then increased by additional contributions of the member and allocations of profits and decreased by allocations of losses and cash distributions.

Certificate of Formation

May also be referred to as the Articles of Organization (depending on jurisdiction), the Certificate of Formation is a constitutional document of a limited liability company that must be filed with the secretary of state in order to form the LLC as a legal entity.

Certificate of Incorporation

Also known as the Articles of Incorporation or Charter, the Certificate of Incorporation is a constitutional document of a corporation that must be filed with the secretary of state in order to form the company as a legal entity. The Certificate of Incorporation contains the company's basic information, like the company name, address, and capital structure and stock series designations.

Charter

Also known as the Certificate of Incorporation or Articles of Incorporation, the Charter is a constitutional document of a corporation that must be filed with the secretary of state in order to form the company as a legal entity. The Charter contains the company's basic information, like the company name, address, and capital structure and stock series designations.

Capitalization Table

Often referred to as a "cap table" for short, a shows the amount of capital stock held by each stockholder, the percentage ownership in the company that their stock represents, and, typically, any relevant information on the company's outstanding convertible securities, including debt, warrants and options.

Change of Control

A change in the ownership and control of a company as a result of: (1) the acquisition of the stock of the company by another entity, where the amount of stock acquired represents at least 50% of the company (or of the voting control of the company), or (2) the acquisition of all or substantially all of the assets of the company by another entity. A Change of Control is a common triggering event for certain commitments and obligations (or the release of certain commitments and obligations) that a company agrees to in the course of its business and financing transactions.

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Cliff

A term used to describe the length of time before the initial portion of an employee's (or founder's) stock options, profits units or restricted stock vest. For example, if an employee is granted stock options that vest monthly over 4 years with a 1-year Cliff, no portion of the options would vest for 1 full year following the grant date. 25% of the option would vest on the first anniversary of the date of grant, with the remaining 75% vesting over the next 3 years in equal monthly installments. In this way, the employee is incentivized to stay with the company for at least a full year or they will lose all of their options and the company gets to "try out" the employee for a year without issuing them equity. The most common Cliff is 1 year, but longer and shorter Cliffs are used as well.

Closing Conditions

Conditions that must be satisfied before the parties can close a financing transaction. Examples include:

- Delivery of legal opinions to the relevant parties.
- Appointment of new members to the Board of Directors.
- Filing of an amended Certificate of Incorporation that includes the rights and privileges of the new investor's stock.

Conversion Discount

The right of a Convertible Note holder to convert the debt into those shares of stock that are issued to investors in a subsequent financing, but at a discounted price. A typical Conversion Discount is between 10% and 20% of the price per share paid by the new investors in the round triggering the conversion. For example, if a note holder who invests $100,000 in a company is given a Conversion Discount of 20%, and investors in the subsequent equity financing are issued stock at $1.00 per share, the note holder's debt would convert at $0.80 per share. Therefore, forgetting about interest for simplicity's sake, the $100,000 of debt would convert into 125,000 shares (100,000/.8), rather than 100,000 shares (10,000/1). In this way, a Conversion Discount can be thought of as compensation to an investor for taking earlier risk.

Convertible Promissory Note

A debt instrument that can be converted into equity at the option of the note holder or the issuing company, or automatically if certain conditions are met (i.e., a Qualified Financing). Convertible

Promissory Notes often carry incentive features like a Conversion Discount or Valuation Cap (or both) for the note holder, and usually earn between 2% and 8% interest.

Co-Sale Rights

Also known as Tag-Along Rights, Co-Sale Rights allow investors and other major stock holders to sell their shares of stock under the same terms and conditions and to the same buyer as a selling shareholder. These rights generally only become available after Rights of First Refusal have been declined.

Cumulative Dividends

Dividends on shares of preferred stock that accrue at a fixed rate until they are paid, typically on a liquidation event. Because holders of preferred stock receive their unpaid dividends before holders of common stock, Cumulative Dividends effectively increase preferred stockholders' Liquidation Preference over time. For example, if an investor invests $100,000 and receives preferred stock with Cumulative Dividends of 8% per annum, then the Liquidation Preference would grow by $8,000 each year. In this way, Cumulative Dividends on preferred stock are similar to interest on debt.

D

Demand Registration Rights

Rights given to investors in an equity financing that entitles them to demand that the company register shares of stock with the SEC, making the shares saleable in a public offering. The purpose of Demand Registration Rights is to give investors a means of liquidating their holdings. In order to exercise these rights, investors must hold enough shares to meet a minimum percentage of ownership and the public offering must yield a certain amount of money to the company.

Double Trigger Vesting Acceleration

A type of Accelerated Vesting that causes some or all of an employee's unvested shares or options to vest immediately upon the occurrence of two events, which are usually (1) a Change of Control of the company, and (2) termination of the employee without cause or resignation of the employee under circumstances that force them out (e.g., demotion, transfer to a different role) within a specified period following the Change of Control.

Down Round

A financing round in which the valuation of the company is lower than the valuation in the prior round. A Down Round typically triggers Anti-Dilution adjustments to the preferred stock issued in earlier rounds.

Drag-Along Rights

Rights typically granted to the majority shareholders of a company that obligate minority shareholders to vote in favor of the sale of the company if the majority shareholders want to sell. In this way, the minority shareholders are "dragged along" in the sale. Drag-Along Rights protect majority investors looking to exit the company from minority investors who would otherwise have the right to hold onto their shares and could prevent the full sale of the company. The minority shares are usually sold at the same price and on the same terms as the majority.

E

EBITDA

EBITDA stands for Earnings Before Interest, Taxes, Depreciation and Amortization. It is a way of measuring the cash flow of a company frequently used by potential investors. By excluding interest, taxes, depreciation and amortization from the equation, it is easier to see the amount of cash that a company actually generates.

F

Founders' Preferred Stock (FF Preferred Stock)

A special type of founder stock that is not common stock but rather preferred stock that is convertible into either common stock or the preferred stock issued in a subsequent financing.

Flat Round

A financing round in which the valuation of the company is the same as the valuation in the prior round.

Friends and Family Round

A round in which the financing is provided by the founders' friends and family, as opposed to angel investors or venture capital funds. A Friends and Family is commonly the first round of financing that a startup company receives.

Full Ratchet Anti-dilution

A price-based Anti-Dilution mechanism that is most favorable to investors, a Full Ratchet Anti-Dilution provision protects investors from any loss in their percentage ownership in the company resulting from a Down Round. When this new stock is issued, the Anti-Dilution mechanism adjusts the conversion price of the investors' preferred stock so that it converts into an amount of common stock equivalent to the same percentage ownership the investors held before the new issue.

Fully Diluted Basis

A term that describes how a venture capital investor calculates the number of shares outstanding (and thus the purchase price of shares of preferred stock it acquires). Fully Diluted Basis means that the all convertible securities (e.g., preferred stock, options, convertible debt) are treated as outstanding in addition to the shares of company stock that have been issued and are outstanding.

- ### Fully Participating Preferred Stock

This is an investor-favorable term referring to the Preferred Stock's right, on liquidation of a company, after receiving the stated Liquidation Preference, to share dollar for dollar with the common stockholders on an As-Converted Basis in the remaining sales proceeds.

H

Holdback Provision

A provision in the purchase agreement between a buyer and seller of a company that calls for a portion of the purchase price to be held in escrow. This is done in order to make sure that the buyer has a readily available supply of cash to offset against any breaches or problems that arise post-closing. For example, if the seller did not disclose to the buyer that the company was threatened with litigation prior to closing, the buyer could use the Holdback to settle such litigation.

I

Incentive Stock Option (ISO)

The most favorable type of stock option--it allows the option holder to exercise the option without tax liability. The option holder has a tax liability only on a later sale of the stock, which may be eligible for long-term capital gain, if the relevant holding periods are satisfied. An ISO can only be granted to company employees pursuant to a qualified Stock Option Plan and is subject to various other restrictions on both the option holder and the company.

Incubator

A broad term that describes various types of companies, programs, and/or facilities whose goal is to host startup companies and support their development. Incubators help companies grow while minimizing costs by offering networking opportunities, mentorship, and office resources. Incubators often invest a small amount of capital into their hosted companies in exchange for a small piece of equity.

Indemnity (or Indemnification)

The compensation, or the obligation to compensate, that one party to a contract provides to another for losses that the latter party incurs, typically because of an issue with the former's representations and warranties. Depending on the agreement, the losses can be a result of the action or inaction of the indemnifying party or of a third party. Indemnification provisions can be structured in various ways (e.g., using Indemnification Baskets and Caps) and have become standard in many contracts.

Indemnification Basket

The minimum amount of damage that one party to a contract must incur in order to trigger the other party's obligations under the terms of an Indemnification provision in a contract. Similar to an insurance deductible.

Indemnification Cap

The maximum amount that one party to a contract can seek from the other under the terms of an Indemnification provision in a contract.

Independent Contractor

An Independent Contractor, as distinct from an employee, is a person or business that provides goods or services to a company under the terms of a contract. Distinguishing between an Independent Contractor and an employee can be very important because of the different tax and legal consequences associated with each. However, someone's title as an employee or Independent Contractor is not the final word. Factors to look at when making the classification include the amount of control that the company has over the person, the nature and length of their work, and the terms of their contract, if any. If the Independent Contractor has a business card and an email address indicating an affiliation with the company, the person is more likely classified as an employee.

Information Rights

Rights given to investors and certain major shareholders to access and inspect the company's books, financial statements, budgets etc… This term may also refer to the rights an investor has to receive monthly, quarterly or annual financial statements.

In-Kind Distribution

A distribution to a company's stockholders in the form of additional stock or other property, as opposed to cash. For example, the payment of dividends in shares of stock rather than cash is an In-Kind Distribution.

Inside Round

A round of financing in which all investors have already invested in the company in an earlier round.

Inventions Assignment Agreement

An agreement by which a founder, developer, or other employee of a company assigns to the company all intellectual property that he or she has created while working for the company. An Inventions Assignment Agreement will acknowledge that all intellectual property developed, whether solely or jointly with others, is the property of the company and not owned by the individual.

Investors' Rights Agreement

One of the usual agreements in a standard venture funding round, it describes the customary rights of investors, like Registration Rights, Information Rights, and Pre-emptive Rights, as well as specific covenants made by the company, like purchasing insurance for its founders, directors, and officers.

K

Key Employee

An employee, typically a co-founder or early hire, who is crucial to the success of the company. Key Employees generally have management responsibility and are granted large portions of equity in the company. Investors may require that such Key Employees be covered by Key Person Life Insurance.

Key Person Clause

An investor-favorable clause designed to retain Key Employees or other essential personnel by providing financing on the condition that key persons stay with the company and devote adequate time to its development.

Key Person Life Insurance

An insurance policy that a company takes out on the life and capacity of Key Employees in order to protect the company against the potential losses and business disruption that would result from their death or incapacity. Typically, investors require that Key Person Life Insurance be taken out as a condition to financing.

L

Last in, First out (LIFO)

A term describing the Liquidation Preference given to investors who invested last. LIFO means that such investors receive their share of the proceeds of a liquidation before earlier investors. Later stage investors often have the leverage to condition their investment on a LIFO preference.

Lead Investor

The investor that oversees the documentation and closing of the financing round and that typically makes the investment in the round. The Lead Investor usually negotiates the valuation of the company and the terms of the investment.

Legal Opinion

A letter prepared by the company's attorney that provides certain assurances with respect to the representations and warranties that the company makes to investors in connection with a financing round.

Limited Liability Company (LLC)

A type of company that limits the liability of the company's owners and receives "pass through" tax treatment. This means that the company itself pays no tax, while the owners (aka members) pay tax on their share of the company's profits at their individual rates.

Lock-Up Provision (Market Standoff Provision)

A provision preventing holders of company securities from selling their securities for a specific time period following an IPO, usually 180 days. The goal is to help keep the stock price stable and protect against a dumping of shares after the IPO.

- ## Liquidation Preference

A feature of preferred stock that, in the event of a liquidation of the company (e.g., sale, dissolution), entitles the preferred stockholders to receive a preferential payment before other stockholders that consists, at a minimum, of the preferred stockholders' original investment plus any accrued dividends on their shares. That would be referred to as a 1x Liquidation Preference. If that is all they receive, it is termed a Non-Participating Liquidation Preference. If they receive additional money from the proceeds of the liquidation, it is called a Partially Participating Liquidation Preference or Fully Participating Liquidation Preference, depending on the terms of their investment.

M

Major Investor

A term that distinguishes certain investors from other "minor" investors based on the amount of stock they hold. Because Major Investors hold a greater amount of stock, they may be given additional rights (e.g., Information Rights). The term is typically used in financing documents.

Management Rights

Rights typically required by a Venture Capital fund in a financing round, Management Rights include the right to consult with the company, access company books and records, and attend board meetings. VC funds typically require Management Rights in order to satisfy certain ERISA requirements that they are subject to if a substantial portion of the dollars invested in their fund comes from pension funds. The VC fund will require the company to provide them with a Management Rights letter as a condition to closing their investment.

Mandatory Conversion Provision

A provision in the company's Certificate of Incorporation that mandates when preferred stock is automatically converted into common stock. The provision is typically triggered by an IPO of a threshold value or the vote of some percentage of preferred stockholders.

N

Narrow Based Weighted Average Anti-Dilution

A price-based Anti-Dilution method, the Narrow Based Weighted Average method adjusts the conversion ratio of an existing investor's preferred stock upon a Down Round. The investor's preferred stock is adjusted at a weighted average rate, which is a conversion formula *based on* the price of the new stock (unlike Full Ratchet Anti-Dilution, which essentially reduces the conversion ratio of the prior investor's preferred stock to be *equivalent to* the conversion ratio of the new stock, preventing any dilution of ownership whatsoever). The "narrow-based" component of this method refers to the inclusion in the adjustment formula of only the stock actually outstanding, on an As Converted to common stock basis (unlike Broad-Based Weighted Average, which includes all outstanding convertible securities, on an As-Converted Basis, as well).

Non-Competition Agreement

An agreement by which an employee of the company agrees not to work for a competing company or form their own competing company for a specified period of time following termination of employment.

Non-Cumulative Dividends

Unlike Cumulative Dividends, Non-Cumulative Dividends do not accrue and are only paid when declared by the company's Board of Directors.

Non-Participating Liquidation Preference

A feature of preferred stock that, in the event of a liquidation of the company (e.g., sale, dissolution), entitles the preferred stockholders to receive a payment equal only to the Liquidation Preference before holders of common stock receive proceeds from the liquidation. A Non-Participating Liquidation Preference is distinct from a Participating Liquidation Preference, which entitles the stockholder to additional payment. It is worth noting that the holder of preferred shares can opt instead to receive the value of their shares as if-converted into common stock if that amount is greater than the preference.

No Shop Provision

Also known as an "exclusivity" provision, a No Shop Provision is customary in a VC Fund investment term sheet as well as an acquisition term sheet. It prohibits the target or portfolio company from "shopping" the deal around to other possible investors or buyers. A No Shop typically ranges from 30-45 days.

Note Purchase Agreement

The agreement that outlines the terms of the exchange of a Promissory Note for cash. It contains the representations and warranties of the parties, the mechanics, place, and time of the sale, and the terms for conversion of the note into equity.

P

Paid-in Capital

The amount of capital raised by the company through the sale or issuance of common and preferred stock.

Par Value

The minimum price at which the company can sell its stock, often as low as $0.001.

Pari Passu

A phrase meaning with equal treatment and without preference. It refers to an arrangement in which assets or the parties to an agreement are all treated equally with respect to a certain term of the agreement. For example, if a company owes money to two different creditors, neither of which is senior to the other, they are pari passu.

Participation Rights

Also referred to as Preemptive Rights or Rights of First Offer, Participation Rights enable existing shareholders to maintain (or increase) their percentage ownership in the company by giving them the option to purchase shares in a future financing.

Pay to Play

Often termed a “Special Mandatory Conversion,” a “Pay to Play” provision makes it mandatory for certain stockholders to participate in a later financing. If they do not participate, they are subject to punitive measures, such as the loss of board seats or an Automatic Conversion of their preferred stock into common stock at an unfavorable ratio. Pay to Play provisions are typically utilized in a Down Round in order to incentivize participation by existing stockholders.

Partially Participating Preferred

A feature of preferred stock that, in the event of a liquidation of the company (e.g., sale, dissolution), entitles the preferred stockholders to receive a payment before holders of common stock receive proceeds from the liquidation. This payment consists of the preferred stockholders' original investment and any accrued dividends on their shares, ***plus*** their proportional share of the remaining proceeds based on their percentage ownership in the company (treating their preferred stock as if-converted into common stock). Unlike a Fully Participating Liquidation Preference, a Partially Participating Liquidation Preference has a cap that limits the amount of this proportional payment, typically based on some multiple of the preferred stockholders' original investment.

Piggy-Back Registration Rights

Rights that allow investors to include their shares in a public sale of shares by the company itself, thus "piggy-backing" off the company's registration of shares in order to access the public market. This right is often given to investors along with Demand Registration Rights.

Post-Money Valuation

The valuation of the company calculated after the investment under consideration. Post-Money Valuation typically equals Pre-Money Valuation plus the total investment.

Pre-emptive Rights

Also referred to as Participation Rights or Rights of First Offer, Preemptive Rights enable existing shareholders to maintain (or increase) their percentage ownership in the company by giving them the option to purchase shares in a future financing.

Pre-Money Valuation

The valuation of the Company calculated before the investment under consideration. Pre-Money Valuation is used to determine the price per share of stock sold in a financing round.

Promissory Note

A signed document in which the company promises to pay to the note holder a sum of money on some future date or upon demand. A Promissory Note is given in exchange for an investment and is considered a debt instrument.

Proprietary Information and Inventions Assignment Agreement (PIIA)

An agreement that employees and Independent Contractors of a company sign by which they agree to keep all company information confidential and assign to the company any intellectual property they create while employed.

Protective Provisions

Rights given to investors and typically tied to the preferred stock they receive, Protective Provisions require the company to get the investors' approval before undertaking certain corporate actions, like increasing the size of the Board of Directors, issuing new stock, or selling the company. These rights may be given to investors in their capacity as stockholders of the company or, if they're on the company's board, then in their capacity as directors.

Q

Qualified Financing

A term typically used in a Convertible Promissory Note, a Qualified Financing refers to the next equity financing of the company above a threshold dollar amount, upon which the Note (principal plus interest) is automatically converted into equity.

R

Redemption Rights

Rights given to preferred stockholders providing that, after a specified period of time, they can demand that the company repurchase their stock, usually according to a specified formula or at the original purchase price. Redemption Rights enable investors to obtain liquidity on shares that are otherwise not saleable.

Registration Rights

Rights given to investors by which they can cause the company to register shares of their stock with the SEC, making them saleable in a public offering. A Registration Rights Agreement is one of the agreements standard agreements in a VC funding round.

Rights of First Offer

Also referred to as Participation Rights or Preemptive Rights, Rights of First Offer enable existing shareholders to maintain (or increase) their percentage ownership in the company by giving them the option to purchase shares in a future financing.

Rights of First Refusal

Rights typically reserved by the company or given to investors and/or major stockholders that entitle them to buy the stock of a company founder or other stockholder looking to sell their stock to a third party. The company or investors are given the option to purchase or refuse the stock before the third party buyer gets the chance to buy.

S

Secured Note

A type of Promissory Note in which the debt is secured by collateral; In other words, the borrower (usually the company) promises to repay the lender the principal and interest on the loan. If the borrower defaults, the lender receives the collateral, which are typically specified assets of the company.

Series Seed Investment

An early angel or small VC funding round that is usually for common stock in the company (or preferred stock with limited rights). This is designed to be a quick, efficient funding round to save on time and legal fees and it satisfies an investor who would prefer a priced round to a Convertible Note.

Series A Preferred Stock

The first series of preferred stock designated in a company's Certificate of Incorporation, the Series A Preferred stock is often the first VC funding round of a company. It is usually followed by Series B, C, etc…

Shareholders' Agreement

The document that governs the relationship among the shareholders of the company. A Shareholders' Agreement generally includes terms that the shareholders agree to abide by upon taking ownership of company stock. These terms include share transfer restrictions, Rights of First Refusal on sales of company stock by a shareholder, redemptions of a shareholder's stock upon death or disability, Pre-Emptive Rights, Tag-Along Rights and Drag-Along Rights.

Single Trigger Vesting Acceleration

A type of Accelerated Vesting that causes some or all of an employee's unvested shares to vest immediately upon the occurrence of a single event, usually a Change of Control of the company. This is more favorable to the employee than Double Trigger Vesting Acceleration.

Stock Option Plan

The plan that governs the company's issuance of stock options to its employees, consultants, advisors, and other service providers.

Stock Purchase Agreement

Typically, an agreement that governs the purchase of shares of stock of a company by investors. The investors make their investment in the form of cash, and in exchange receive shares of stock (usually preferred) in the company. The core of the agreement is the representations and warranties that the parties make with respect to the sale.

T

Tag-Along Rights

Also known as Co-Sale Rights, allow investors and other major stock holders to sell their shares of stock under the same terms and conditions and to the same buyer as a selling shareholder. These rights generally only become available after Rights of First Refusal have been declined.

U

Unsecured Note

A type of Promissory Note in which the debt is not secured by any collateral; In other words, the borrower (usually the company) promises to repay the lender (usually an investor) the principal and interest on the loan. If the borrower defaults, the only recourse the lender has is to sue.

V

Valuation Cap (Capped Conversion)

A type of Conversion Discount used in Convertible Promissory Notes, a Valuation Cap is the maximum Pre-Money Valuation that can be used in determining the conversion ratio of the Note. Because a higher Pre-Money Valuation results in a less favorable conversion ratio for the Note holder, a Valuation Cap acts as a Conversion Discount that prevents the conversion ratio from exceeding a certain threshold (the Cap).

Venture Debt

Following one or two VC funding rounds, a company might seek Venture Debt from a bank that specializes in lending monies to venture backed companies. These banks typically understand the issues with investing in early stage businesses and, while they offer relatively favorable interest rates, they also take an equity kicker in the form of a warrant based on a percentage of the principal amount of the debt.

Vesting

The method by which a recipient of company stock options takes actual ownership of options, restricted stock or profits units Standard venture industry vesting is over four years, with a one year Cliff.

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