

Thoughts about Young Companies & Term Sheets

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Why a Company?

AMIG LAW

- חברה בהקמה?
- Limited Liability
- Piercing the Corporate Veil



• הון רשום/מוקצה

• Registered Share Capital

• Issued and Outstanding

• Share Capital

• ערך נקוב/מחיר למניה
(par value/price per share)

• סוגי מניות (classes of Shares)



Interested Party Transactions



אישורים נדרשים בעסקאות עם בעלי עניין (interested party transactions)



Economics & Control

- Return on investment
- Control mechanisms



Economics



Pre & Post, Flat & Down



- **Pre/Post Money Valuation**
 - **Flat/Down**
 - **Anti Dilution – Full Ratchet, Weighted Average (takes into account high/low price and applicable amounts of investment)**
 - **Option Pool – allocated/unallocated**
 - **Fully Diluted Basis**
 - **Dividends – NON-cumulative**
 - **Liquidation Preference 1 10X; participation (double dip)**
- I The Series A Preferred will have a liquidation preference of 2 times the original issue price per share (2X), plus accrued and unpaid dividends (if any) over all other shares and classes of the Company's capital stock.
 - II Any proceeds available for distribution to equity holders after the payment of the Series A Preferred liquidation preference will be distributed among holders of Ordinary Stock and Series A Preferred on a pro-rata basis (assuming the Series A Preferred is on an as-if-converted basis).



Liquidation preference and founders



Exit @ \$10M



Liquidation preference and founders



Exit @ \$10M

- Preferred A investor originally invested \$1M for 20% post money
- Liquidation Preference is 2X



Liquidation preference and founders



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- Calculating liquidation preference for investor:
 $(2 \times \$1M) + 20\% \times (\$10M - \$2M) = \$3.6M$

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- Total for investor \$3.6M
- Founders Share the Balance of \$6.4M ($\$10M - \$3.6M$)

Liquidation preference and founders



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Liquidation preference and founders



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Liquidation preference and founders



Exit @ \$2M

- Preferred A investor originally invested \$1M for 20% post money
- Calculating liquidation preference
 $(2 \times \$1M) + (20\% \times \$0M) =$

Liquidation preference and founders



Exit @ \$2M

- Preferred A investor originally invested \$1M for 20% post money
- Calculating liquidation preference
 $(2 \times \$1M) + (20\% \times \$0M) = \$2M$
- Investor gets \$2M

Liquidation preference and founders



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Liquidation preference and founders



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- Calculating liquidation preference $(2 \times \$1M) + (20\% \times \$0M) =$
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- Founders Share the Balance of \$0M



- **Control mechanisms**



Protective Provisions/Veto Rights



- **Board/GM**
- **Future Preferred Rounds/Conflicts with Existing Vetos**

As long as any Preferred Stock remains outstanding, consent of the holders of a majority of the Series A Preferred, voting together as a class (on an as-if-converted basis), shall be required for

- (i) any change in the rights, preferences or privileges of the Preferred Stock,
- (ii) increase or decrease the authorized number of shares of any class of capital stock,
- (iii) create (by reclassification or otherwise) any new class or series of shares having rights, preferences or privileges senior to, or on a parity with the Series A Preferred,
- (iv) any merger, other corporate reorganization, sale of control, or sale of all or substantially all of the assets of the Company,
- (v) amend or waive any provision of the Company's Articles of Association which may affect the Preferred Shares,
- (vi) any voluntary dissolution or liquidation of the Company, or
- (vii) pay or declare any dividend on any capital stock.



- **Forcing a sale on the minority**

In the event that, prior to the IPO, the holders of (i) **a majority of Preferred A Shares, and (ii) 65% of all shares of the Company on an as-converted basis** agree to an offer to sell all their shares to a third party, and such offer is conditional upon the sale of number of shares of the Company exceeding the number of shares held by such shareholders, all shareholders shall be required to participate in such sale on the same terms and conditions.

In the event that an amount of \$10,000,000 or more shall be distributed to the shareholders in such transaction, then the consent of the majority of Preferred A Shares shall not be required. Proceeds shall be distributed in accordance with liquidation preferences



א) הציע אדם לרכוש מניות או סוג מניות של חברה פרטית (בסימן זה - המציע), ובעלי מניות שבבעלותם **שמונים אחוזים** מן המניות העומדות העברה הסכימו בתוך חודשיים להצעה, רשאי המציע בתוך חודש לאחר תום החודשיים האמורים, להודיע, בדרך שיקבע השר, לכל בעל מניה שלא הסכים להצעה (בסימן זה - בעל מניה מתנגד), כי ברצונו לרכוש את מניותיו; במניין בעלי המניות האמורים לא יובאו בחשבון בעל שליטה במציע או מי מטעמו של בעל השליטה או של המציע, לרבות קרוביהם או תאגידים שבשליטתם.

סעיף 341 לחוק החברות, התשנ"ט - 1999



Doing Things with Shares



- **Pre-emptive Rights & Over Allotment**
- **First Refusal**
- **Co Sale**
- **No Sale**



- No Shop
- Non Binding Nature

Sorry We're
CLOSED



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