

FOUNDER SESSION

Early Financing Strategy

A practical guide to your first institutional raise

Presented by Binder Law & Strategy PLLC and Pulley



Pulley

**BINDER LAW &
STRATEGY PLLC**

Agenda

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Cap Tables and Pro Formas

The dilutive impact of raising capital.

3

Anatomy of a Priced Round

Documents maintained by the National Venture Capital Association.

5

Board, Governance & Process

Running an efficient capital raise.

2

Lead Investor Dynamics

What a strong Lead Investor does and expects.

4

Financial Impact and Control

Critically negotiated areas.

6

QSBS & Tax

Structuring for tax efficiency.

From Formation to Institutional Capital

1

Formation

- Likely Delaware C-corp.
- Founder stock issued.
- 83(b) filed.
- IP assigned.

2

SAFEs / Seed

- Fast, lightly documented capital, likely with a valuation cap, but no priced terms yet.

3

Series A

- Company issues shares of Series A Preferred Stock pursuant to a Stock Purchase Agreement.
- Lead investor receives board seat(s) and "protections" set forth in Amended and Restated Certificate of Incorporation, Investors' Rights Agreement, and Voting Agreement.

4

Scale

- Future financing rounds and exit transactions build on the governance and cap table that are established now.

The decisions that you make and definitive documents that the Company enters into will shape your Company's future.

The Clean Cap Table

- Keep the Company's cap table updated with each securities issuance and you can readily download an Excel file that is used to create a *pro forma* that illustrates the dilutive impact of the Company's capital raising activities.

Cap Table

Download
Actions

Ownership Shares (5) SAFEs (27)

Common Issued

9,075,000

Issued and Outstanding

9,075,000

Issued and Outstanding % Ownership

100.00%

Download Cap Table

Includes all cap table details (fully diluted).

All time

End Date

MM/DD/YYYY

Include Drafts

Cancel
Download

	Authorized	Issued and Outstanding	Available Shares	Capital Contribution	Issued and Outstanding % Ownership	Stock Options	Fully Diluted	Fully Diluted % Ownership
Stock								
Common Stock classes								
Common	10,000,000	9,075,000	925,000	\$ 90.00	100.00%		9,075,000	100.00%
Preferred Stock classes								
Total Stock	10,000,000	9,075,000		\$ 90.00	100.00%		9,075,000	100.00%
SAFES and Convertibles								
Outstanding				\$ 1,250,000.00				
Total SAFEs and Convertibles				\$ 1,250,000.00				
Total Fully Diluted Shares		9,075,000						

* Outstanding restricted stock is reflected in common stock outstanding (cell G7), but not double counted for fully diluted calculations

The *Pro Forma* - Modeling Economics

- Typically, a term sheet will be negotiated with the Lead Investor in the Series A round, which will set forth, among other things:
 - Amount invested by the Lead Investor
 - Size of the total raise
 - Valuation
 - Size of the option pool (post-closing market is 7.5-15% with 10% being most customary)
- From these inputs, your attorney will build a pro forma that models these economics and determines the share price.
- Convertible securities that are issued at a discount or valuation cap that is lower than the Series A valuation will have a lower “Original Issue Price” (as defined in the Charter, which will be amended as part of the financing).
- Work with your attorney to build a pro forma early in the process to model dilution (including the impact of each new SAFE).*

The *Pro Forma* - Modeling Economics

Pro Forma Capitalization for [Company], Inc.

Valuation	\$	25,000,000.00
Lead Investor	\$	2,000,000.00
Other Investors	\$	3,000,000.00
Total Investment	\$	5,000,000.00
Post-Closing Option Pool		10%
Option Shares		1,365,277
Series A-1 Share Price	\$	1.8311

[Company], Inc. Before Series A Financing					After Series A Financing Closing							
Stakeholder	Common Stock	Options and RSUs	Fully Diluted Shares	Fully Diluted %	Common Stock	Series A-1	Series A-2	Series A-3	Series A-4	Options and RSUs	Fully Diluted Shares	Fully Diluted %
Founder 1	3,000,000	-	3,000,000	30.000%	3,000,000	-	-	-	-	-	3,000,000	21.974%
Founder 2	75,000	-	75,000	0.750%	75,000	-	-	-	-	-	75,000	0.549%
Founder 3	3,000,000	-	3,000,000	30.000%	3,000,000	-	-	-	-	-	3,000,000	21.974%
Founder 4	3,000,000	-	3,000,000	30.000%	3,000,000	-	-	-	-	-	3,000,000	21.974%
Safeholder 1	-	-	-	0.000%	-	-	136,529	-	-	-	136,529	1.000%
Safeholder 2	-	-	-	0.000%	-	-	-	174,698	-	-	174,698	1.280%
Safeholder 3	-	-	-	0.000%	-	-	-	-	170,671	-	170,671	1.250%
Lead Investor	-	-	-	0.000%	-	1,092,239	-	-	-	-	1,092,239	8.000%
Other Investors	-	-	-	0.000%	-	1,638,359	-	-	-	-	1,638,359	12.000%
Option Pool	-	925,000	925,000	9.250%	-	-	-	-	-	1,365,277	1,365,277	10.000%
Total	9,075,000	925,000	10,000,000	100.000%	9,075,000	2,730,598	136,529	174,698	170,671	1,365,277	13,652,773	100.000%

SAFE Conversion (Illustrative)					
Stakeholder	Investment Amount	Valuation Cap*	Discount Rate**	Conversion Price	Conversion Shares
Safeholder 1	\$ 250,000.00	-	-	\$ 1.8311	136,529
Safeholder 2	\$ 250,000.00	\$ 15,000,000.00	-	\$ 1.4310	174,698
Safeholder 3	\$ 250,000.00	-	80%	\$ 1.4648	170,671
Total					481,898

In this illustrative SAFE conversion scenario, there are three SAFEs issued for \$250,000 each. SAFE 1 has no discount or cap. SAFE 2 has a valuation cap only. SAFE 3 has a discount only. Note that this will result in three different Original Issuance Prices (as defined in the Charter) and require the creation of subclasses within Series A to accommodate that price-based preferences (such as the per share liquidation amount, initial conversion price and per share dividend amount) are based on the "Safe Price."

- * "Safe Price" means the price per share equal to the Post-Money Valuation Cap divided by the Company Capitalization.
- * "Company Capitalization" is calculated as of immediately prior to the Equity Financing and equals all shares of Capital Stock issued and outstanding + all Converting Securities + Options.
- ** "Discount Price" means the lowest price per share of the Standard Preferred Stock sold in the Equity Financing multiplied by the Discount Rate.

SAFES: Economic Considerations

- The YC post-money SAFE has only a handful of negotiable terms.
- Get these right and the form itself takes care of the rest.
- Every additional SAFE dilutes founders — not investors — in a priced round, so it is useful to pay attention to each lever below.

Valuation Cap

- Transparent and immediately calculable.
- The cap is 'post' all SAFE money, so SAFES don't dilute each other, only founders.

Discount

- Converts at $(1 - \text{discount}) \times$ the Series A price per share.
- Dilution depends entirely on the future priced round.
- Market discount is typically 10-20%.

MFN

- 'Most favored nations' provision lets an early SAFE adopt better terms if granted later.
- Use only for very first checks.





Pro Rata Side Letter

- Optional — and can have a significant impact.
- Grants the holder the right to keep their *pro rata* share in the Series A.
- Gate it with a minimum check size or skip it entirely.

Model it first. Build the as-converted, post-money pro forma against illustrative Series A scenarios before you sign — know exactly what you'll own.

Why the Lead Investor Matters

- Typically, one investor will anchor the Series A financing round and serve as the “Lead Investor.”
- The Lead Investor negotiates the price and terms, and others investors follow.
- Choosing the right Lead Investor can be as consequential as valuation.

	Sets the Terms	The Lead Investor negotiates valuation, the term sheet, board seat(s) and “protective provisions.”
	Signals Quality	A credible Lead Investor de-risks the company from other investors’ perspectives and can accelerate the rest of the raise.
	Board Representation	Your Lead Investor often receives at least one seat on the Company’s Board of Directors. As part of the Company’s future, it is essential to conduct your diligence on the suitability of the Lead Investor.
	Future Participation	Strong Lead Investors often invest capital in subsequent rounds. Ask about how your Lead Investor has typically supported its portfolio companies.

Importance of the data room.

- When a Lead Investor signs a term sheet, formal diligence begins.
- Most failures at this stage are about preparation — not the business.

~23%

of Series A deals that reach a term sheet collapse during diligence

61%

of those collapses trace to document gaps — missing assignments, messy cap tables, absent board consents — not to the fundamentals of the business.

Sources: PitchBook (2024); NVCA (2025).

Get Diligence-Ready

- Open a clean data room early.
- The below are the problems most likely to surface in diligence — fix them now, not under deal pressure.
- *Tools like [Pulley](#) keep the cap table clean and properly store corporate records related to issuances of securities.*

IP Assignments

Typically, the most substantial legal issue. Every founder, employee, and contractor must have assigned their work to the company — or you may not own your own technology.

Clean Cap Table

One source of truth. SAFEs, options, and prior rounds must reconcile.

Board & Stockholder Consents

Option grants, hires, leases, and prior financings should each have proper approvals on file.

Corporate & Financial Records

Formation documents, 83(b) filings, contracts, financials, and a current option pool should be kept organized and current.

The NVCA model documents

- Most equity financings use standardized forms maintained by the National Venture Capital Association.
- Standard starting points save time and cost — but every bracketed term is negotiable, and each shapes founder rights.

Amended and Restated Certificate of Incorporation

The "Charter" — publicly filed; defines the preferred stock and its economic and control rights.

Series [A] Stock Purchase Agreement

The mechanics of the sale. Company will make representations and warranties about the condition of the business.

Investors' Rights Agreement

Company grants information, registration, and *pro rata* rights to certain investors.

Voting Agreement

Includes requirements to vote in favor of specified board composition and "drag-along" rights.

ROFR & Co-Sale Agreement

Controls on how founders and others may sell their shares.

Critically Negotiated Areas

- In addition to the financial impact of the Company's next capital raise, founders should negotiate how the Company will be controlled post-closing, in particular the composition of the Company's Board of Directors and "protective provisions."
- ***Be sure to discuss the impact of "protective provisions" with your attorney so that you're aware of restrictions.***

FINANCIAL IMPACT

- Valuation and price per share.
- Liquidation preference (1x / participation).
- Dividends & anti-dilution.
- Option pool (pre- vs post-money).
- Founder vesting.
- Pay-to-play.

CONTROL

- Board composition and the CEO seat.
- "Protective provisions" (veto rights over the Company's substantive actions).
- Drag-along on a sale.
- Information & inspection rights.
- Pro rata/right of first offer.
- ROFR & co-sale on "Key Holder" (founder shares).

Considerations

- The Charter is publicly filed and defines the preferred stock. The NVCA form leaves the key numbers in brackets — here's where it's neutral and what's market for founders:

Liquidation Preference

The NVCA's form is a blank [__x]. Push for 1x, non-participating (both are drafted into the model form as options and are customary).

FLAG

Dividends

NVCA default is 8% non-cumulative, paid only “when, as and if declared.” Resist cumulative or accruing dividends, which grow the preference.

FLAG

Anti-Dilution

Broad-based weighted average is the NVCA default. Full ratchet is an off-market ask. Keep it weighted average.

FLAG

Pay-to-Play & Redemption

Pay-to-play (Special Mandatory Conversion) can favor the Company, and are most commonly used as a tool in special situations (including down rounds). Optional redemption rights are bracketed in model NVCA form. Push to strike them.

Liquidation Preference: 1x vs. Participating

- The liquidation preference decides how exit proceeds split between holders of shares of preferred stock versus holders of common stock.

PREVAILING MARKET STANDARD

1x Non-Participating

- In a liquidation or exit, holders of shares of preferred stock receive the greater of their money back (based on the Original Issue Price) OR their share of proceeds on an as-converted-to-common stock basis.
- No 'double dip' — clean alignment with founders.

Customary and favorable to holders of common stock.

WATCH OUT

Participating Preferred

- Holders of shares of preferred stock receive both their money back (based on the Original Issue Price) AND share the remaining proceeds *pro rata* with holders of common stock.
- At smaller exits this can meaningfully reduce proceeds to holders of common stock.

Negotiate its removal.

Protective Provisions: Control without a Majority

- “Protective provisions” give holders of shares of preferred stock veto rights over a defined list of major corporate actions — even when they own a minority of the company.
- While protective provisions are generally standard and reasonable, founders should be aware of the restrictions.
- Negotiation is typically over the scope and approval thresholds.

Common actions requiring preferred approval:

● Selling or dissolving the company

● Amending the charter or bylaws

● Creating senior or new classes of stock

● Increasing the option pool

● Issuing debt above a threshold

● Changing board size

● Paying dividends or redeeming stock

● Key changes to the business

Founder Lens: the NVCA threshold is the “Requisite Holders” — a majority of preferred voting together as one class. Keep it that way and keep the list tight. *The full enumerated list is in the Appendix.*

Board Composition & Drag-Along Rights

Board composition

The Voting Agreement controls board seats. The NVCA form example seats 2 Common + 1 Preferred + 1 Mutual (independent):

2

Common Directors (one is the CEO seat)

1

Preferred (Lead Investor) Director

1

Mutual / Independent Director

At Series A this keeps common in control. The CEO seat auto-transfers if the CEO changes; the Mutual Director needs both sides' agreement.

Drag-along rights

Negotiate the trigger: the NVCA form lets you require a majority of founder/key-holder common and the Board of Directors to approve, not just preferred stockholders.

Built-in protections for dragged founders:

- Reps limited to title to only the shares you own.
- Liability capped at your sale proceeds.
- Same form & amount of consideration per class.
- No new non-competes (unless you're an officer/employee).

Rights and Covenants

- In the Investors' Rights Agreement, the Company grants certain rights to "Major Investors" and makes certain covenants.

A Information Rights

- Annual financials within 180 days (audit optional) and quarterly within 45 days — to Major Investors only.
- Keep the Major Investor threshold meaningful.

B Pro Rata Rights

- Major Investors can buy their share of future rounds to maintain the same ownership.
- Useful for support; limit it to Major Investors.

C Registration Rights

- S-1 / S-3 demand and piggyback rights plus a 180-day IPO lock-up.
- Rarely relevant until an IPO, but standard provisions.

D Company covenants

- Covenants surrounding D&O insurance, employee IP/confidentiality assignments, a data-security program, and investors' right to fund competitors.

Restrictions on Key Holders

- The ROFR & Co-Sale Agreement binds the “Key Holders” (founders and certain employees), not investors.
- Prior to any Key Holder selling shares, a process must be followed before any outside buyer can purchase them:

1

Company ROFR

The Company is granted the first right to buy some or all of the shares Key Holders propose to sell, on outside buyer's terms.

2

Investor Secondary Refusal

Whatever the Company does not purchase, preferred stockholders may purchase, again on the same terms.

3

Investor Co-Sale

Investors can tag along and sell their proportional share into the Key Holder's deal. (Estate-planning and similar permitted transfers are carved out.)

The Post-Closing Board of Directors

- The closing of the first priced round usually creates a Board of Directors that is best used as a tool, not treated merely as a formality.

Run a Regular Cadence

- Regular meetings with a board presentation sent in advance.
- Decisions and consents documented every time.

Keep Records Clean

- Minutes, written consents, and an up-to-date cap table.
- This is the file the next round will diligence.

Use the Independent/Mutual Director

- An aligned, experienced independent director can break ties and add credibility.
- Fill this board seat thoughtfully.

Manage, Do Not Just Report

- Bring real problems to the Board of Directors early.
- Lead Investors likely has seen it before and can help.

A Major Tax Break — If Set Up Properly

- Holding Qualified Small Business Stock (Section 1202) can exclude much or all of your gain from federal tax at exit.
- The One Big Beautiful Bill Act expanded it for stock issued after July 4, 2025.

\$75M

Gross-asset limit (up from \$50M) — more startups now qualify

\$15M+

Per-issuer gain cap (up from \$10M), inflation-indexed from 2027

3 / 4 / 5 yrs

New tiered exclusion: 50% / 75% / 100% of gain

To Qualify, Generally:

- The holder must acquire stock of a U.S. C-corporation pursuant to an original issuance.
- The value of the business must fall under the specified asset cap.
- Holders must hold eligible stock for the applicable threshold.

QSBS is fact-specific — confirm eligibility with your attorney. This is general information, not tax advice.

Run an Efficient Process

1

Prepare

Have the below ready before you take meetings:

- Data room
- *Pro forma* model
- Narrative

2

Identify the Timeframe

- Cluster conversations to allow for interest to grow in parallel, not in series.

3

Drive to a Lead Investor

- Focus energy on converting one credible Lead Investor
- The rest will follow.

4

Keep Momentum

- Move fast upon receipt of a term sheet
- Set a clear closing date and stick to it.

5

Protect Your Time

- You run the company and the capital raising activity.
- Delegate diligence logistics to counsel and tools.
- *Being prepared with a clean cap table and counsel ready maximizes your efficiency.*

The Formula for an Efficient Financing: preparation + an appropriate window + a credible Lead Investor = leverage and speed on your terms.

Summary of Key Points

- ✓ Understand the impact on both financial and control — and negotiate both, not just valuation.
- ✓ Get diligence-ready early — clean cap table, signed IP, documented consents.
- ✓ Choose your Lead Investor wisely – like a long-term partner; as they will set terms and join your board.
- ✓ Model the as-converted cap table before you sign and understand the dilutive impact.
- ✓ On the Charter, anchor to 1x non-participating, 8% non-cumulative, weighted-average anti-dilution.
- ✓ Keep drag-along and protective provisions reasonable in scope and threshold (Requisite Holders).
- ✓ Set up for QSBS now — C-corp, original issuance, and start the holding-period clock.
- ✓ Run a tight, founder-led process and lean on experienced counsel and good tooling.

THANK YOU

Let's keep the conversation going...

Questions are welcome — and we're glad to talk through your specific situation one-on-one.

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PULLEY

Cap table & equity management

Keeping your cap table clean and maintaining corporate documents.

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This presentation is general information, not legal or tax advice, and does not create an attorney-client relationship.

Protective Provisions

- Verbatim categories from the NVCA Model Certificate of Incorporation (Oct 2025).
- The form splits the veto by who must approve.
- Bracketed board-level items are optional and negotiated deal-by-deal.

Preferred-stockholder vote

Requisite Holders — majority of preferred, as one class

- Liquidate, dissolve, or effect a Deemed Liquidation Event
- Amend the Charter or Bylaws (adverse to the preferred)
- Merge, reorganize, convert, or transfer the company
- Create stock senior to / pari passu with the preferred
- Increase or decrease authorized Common or Preferred
- Redeem stock or pay dividends / distributions (non-permitted)
- Create or hold a non-wholly-owned subsidiary
- Change the size of the Board or any director's votes

Board-level vote

Requisite Directors — typically includes the Preferred Director [optional]

- Incur debt above a set threshold (outside ordinary course)
- Adopt or increase an equity compensation plan
- Make loans or advances (outside ordinary course)
- Guarantee third-party indebtedness
- Hire / fire or set compensation for the CEO & top execs
- Approve or materially amend the annual budget
- Grant equity off the 4-year / 1-year-cliff standard
- Change board-committee composition (excl. a Preferred Director)
- Issue tokens / crypto / blockchain assets
- Material out-of-ordinary-course contracts above a threshold
- License or transfer material company IP to a third party
- Real-estate leases longer than three years (above cost cap)