



DSM USA

RAISING CAPITAL SEMINAR

MARCH 8, 2018

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Raising Capital Seminar

March 8, 2018

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Charise Flynn, *Owner of c.Results*

Starting her first business at the age of 13, Charise Flynn, owner of c.Results, LLC, has over 20 years of experience cultivating companies from the ground up. Most recently as the Chief Operating Officer of Dwolla, Flynn established and led teams in the areas of legal, compliance, risk, customer support, human resources and finance. Raising over \$32M in tier-one venture capital, and overseeing the Des Moines-based company's expansion to San Francisco, Flynn played an instrumental role in guiding Dwolla's growth.

Throughout her career she has designed and executed business plans, developed leaders and coached executives. Currently as the owner of c.Results, Flynn consults with high growth individuals to help them achieve results through strategic planning, executive leadership, team leadership, operation execution and raising capital.

Flynn was named one of The Business Records "40 Under 40," awarded the Simpson College Alumni Achievement Award and the Technology Association of Iowa's Small Business Innovation and Leadership Award. She graduated Magna Cum Laude from Simpson College with degrees in Philosophy and Religion.



Mike Colwell, *Executive Director of Entrepreneurial Initiatives at the Greater Des Moines Partnership*

Mike Colwell is currently the Executive Director of Entrepreneurial Initiatives of the Greater Des Moines Partnership. In this role, Colwell spends his days coaching, mentoring, consulting, networking and generally asking very tough questions, the kinds of questions most entrepreneurs would rather he did not ask. After spending more than 20 years in the mobile computing and wireless networking markets, Colwell brings his knowledge and battle scars to bear with the goal of expanding the central Iowa entrepreneur ecosystem.

Focusing on high-growth-potential companies, he works with businesses ranging from a single person with an idea to \$10 million companies looking to grow to \$25 million. Colwell assists with business strategy, business planning, business plan execution and business model development. He is the Co-founder and Co-manager of the Plains Angels, an angel investor group with over 60 members. He has also had instrumental roles in starting the Global Insurance Accelerator and an agricultural technology accelerator.

Colwell is an angel investor, author and builder. He majored in management information systems and minored in computer science at the University of Iowa.



Joe Leo, Attorney & Partner with BrownWinick Law Firm

Joe Leo is a member of BrownWinick Law Firm and currently serves on the firm's Management Committee. Leo practices mainly in the areas of securities law and corporate transactions. Leo strives to provide his clients with practical and timely legal advice which never loses sight of the business goals and objectives of his clients. Leo represents four publicly reporting companies in the Midwest. Leo provides legal advice to several private equity funds operating in Iowa regarding securities compliance matters. He is also an adjunct professor of Securities Law at Drake University Law School.

In addition to his securities compliance practice, Leo represents businesses in various aspects of their operations, including organization and planning, restructuring, equity and debt offerings and compliance and corporate governance matters. Leo is heavily involved in the business startup community in Iowa and is a frequent speaker on various legal issues that startup and high growth companies face. He enjoys bringing his practical approach to legal representation for early stage companies that must be strategic in how they allocate resources.

In addition to his legal practice, Leo participates in Plains Angels, an angel capital group operating in central Iowa and is involved as a mentor in the Global Insurance Accelerator located in Des Moines, Iowa. He is also involved with the Iowa AgriTech Accelerator located in Des Moines, Iowa.

Prior to attending law school, Leo worked in business development for the Wisconsin Department of Commerce. He feels that this experience in business development helps to keep him focused on the business goals of his clients. Leo graduated in 2000 from the University of Wisconsin-Madison with a B.S. in Economics. In 2006, Leo graduated *with high honors* from Drake University. He served on the *Drake Law Review* as a Notes Editor and is a member of the *Order of the Coif*. He is also a member of the Polk County, Iowa State and American Bar Associations. Leo was admitted to the Iowa bar in 2006.



Gabriel Glynn, Co-founder & CEO of MākuSafe Corporation

Gabriel Glynn is the CEO of Mākusafe™ and a serial entrepreneur. Glynn's startup journey began over a decade ago and in that time he has experienced several successful exits, his most recent being the selling of his software company, Slash/Web Studios, in 2015.

Glynn was named 2014 Entrepreneur of the Year at the Iowa Small Business Awards; in 2016 he was awarded Alumni of the Year by the Des Moines Area Community College and as a finalist for the YPC Young Professional of the Year in 2013. He has served on many community and nonprofit boards including the Ankeny Young Professionals and was a Charter Member of the Greater Des Moines Rotary Club.

Glynn is the creator and host of the Advanced Manufacturing Podcast (AMP) on iTunes and has interviewed dozens of manufacturing leaders around the globe, including Jeff Immelt, formerly of GE Corporation.

Glynn and his wife of 11 years, Amanda, live in Ankeny with their two boys, Caleb and Tucker. Glynn has a degree in Business Administration from Des Moines Area Community College.

Chris Sackett, *Attorney & Managing Partner at BrownWinick Law Firm*

Chris Sackett has practiced law for more than twenty years, focusing primarily on mergers and acquisitions, and angel, venture capital and private equity funded companies and related transactions. He represents founders, investors/funds and portfolio and target companies, including representation with respect to initial structure, organization and capitalization, later stage capitalization, strategic partnerships, channel distribution/licensing, intellectual property matters and ultimately exit transactions. He also represents numerous clients in general business, corporate and transactional matters.



Sackett is a recognized leader in his areas of expertise, having been recognized by *Chambers USA*[®] as a leading practitioner in corporate mergers, acquisitions and business law, and selected for inclusion in *Best Lawyers*[®] in the area of business organizations (including LLCs and Partnerships). Sackett is well known in the state of Iowa in the private equity, venture and angel investor communities, where he has extensive relationships that he is often able to leverage for the benefit of his clients.

He currently serves on the Board of Directors of the Association of Business and Industry, the Education and Workforce Development Board for the Greater Des Moines Partnership and the Board for Iowa Corn Opportunities investment fund. Sackett is also a strategic advisor to the Iowa Economic Development Authority on appropriate structure and operation of angel investor tax credit programs and serves as an expert panelist for VentureNet Iowa.

Sheldon S. Ohringer, *Partner at Formation Partners and Mango Seed Investments*

Ohringer is a Partner at Formation Partners, a business advisory firm, and Mango Seed Investment Fund, an early stage Iowa based fund. He currently has made over 30 Angel investments and is very active as an entrepreneur and startup advisor with involvement in the Plains Angels, Global Insurance Accelerator and Startup Weekends.



With more than 30 years' experience in business, Ohringer is best known as a telecommunication entrepreneur and veteran executive of both the telecommunications and internet services industry.

Ohringer co-founded, served as CEO and successfully sold Caleris, Inc., an outsourced technology and customer services helpdesk company, in 2014. From its inception in 2003, Caleris grew by more than 1000 percent. The company has received many awards including the Technology Association of Iowa (TAI) awards for Economic Growth in rural Iowa for 2005 and 2006. In 2008, Caleris was recognized by the TAI as Top Growth Company. Ohringer was honored as CEO of the Year at the TAI Prometheus Awards for 2009. The company was acquired by Iowa Network Services in 2014.

Prior, he was the President and CEO of FirstWorld Communication. He not only rebuilt this company from a \$1M per year CLEC to an internet infrastructure and data center company with \$100M run rate revenue. Ohringer led its highly successful IPO with a market capitalization of over \$1 billion. The fundraising was over \$270 million dollars in the IPO and concurrent private offerings in March 2000. He served as President of ICG Telecom Group, which had a market cap of over \$1 billion when he left.

Ohringer is a founding member of the ownership group that owned the Iowa Energy Basketball team. This investment was sold to a group led by members of the Memphis Grizzlies in May of 2014. Ohringer also serves on a number of not-for-profit boards, including the Science Center of Iowa and the Community Foundation of Greater Des Moines.

Welcome

- Thank you for joining us
- Logistics
 - Phones
 - Bathrooms
 - Breaks
- Goal of today
 - Overview of the process and documents
 - This is a lot of work. You need to internalize this.

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Morning Agenda

- 8:40 **Telling Your Story**
- Pitch Deck - Charise Flynn
 - One-Page Summary - Mike Colwell
- 10:00 **Break**
- 10:15 **Due Diligence** - Charise Flynn
- Common Due Diligence Checklist
 - Due Diligence organization
 - Best practices
- 10:45 **Financials** - Mike Colwell
- Introduction of a basic pro-forma
 - Capitalization Table - Joe Leo
- 11:45 **Lunch**
- Lessons Learned – Gabe Glynn



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Afternoon Agenda

1:00 **Preparing For Your Capital Raise** - Charise Flynn

- Typical timeline
- How much to raise?
- What is my company worth?
- Common stages / expectations of each round
- Advisory Board
- Networking / finding investors
- Online Platforms - Mike Colwell

1:45 **The Raise**

- Different investor strategies - Charise Flynn
- Example Term Sheet - Joe Leo / Chris Sackett
- Term Sheet - Joe Leo / Chris Sackett
- Negotiations - Chris Sackett
- Managing the Close - Charise Flynn

2:45 **After The Raise** - Sheldon Ohringer

- Investor best practices

3:15 **Wrap-up** - Chris Sackett / Mike Colwell



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Telling Your Story

Charise Flynn

March 8, 2018

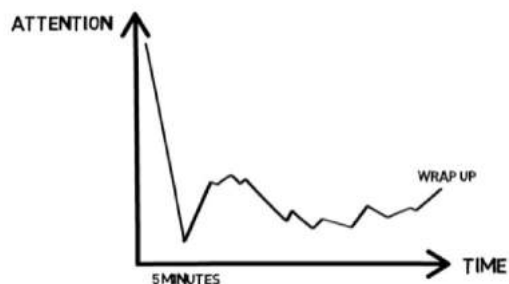


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If the idea and execution are lacking, then no pitch deck will get you investors.

Avoid the 60-minute mistake

Assumption that if you get an hour meeting, you get an hour of attention. **You don't.**



First 5 minutes are critical to hooking interest for the rest of the meeting.

Typical Pitch Deck Slides

	500 Startups	SEQUOIA CAPITAL	AIRBNB
SLIDES	12	11	12
Problem	X	X	X
Solution / Value Proposition	X	X	X
Market Validation / Why Now		X	X
Product	X	X	X
Market Size	X	X	X
Business Model	X	X	X
Underlying Magic	X		
Competition	X	X	X
Competitive Advantage	X		X
Marketing Plan / Go-to Market	X		X
Founding Team	X	X	X
Board / Advisors		X	
Traction / Milestones	X		
Press / User Testimonials			X
Fundraising	X	X	X
Financial / Use of Funds		X	

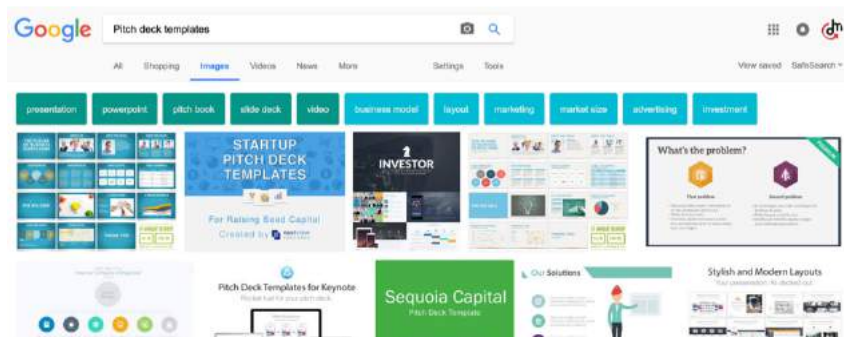


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Use Google for examples

You can find a ton of examples by Googling “pitch deck templates”



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Tell a compelling story

Slide titles

- Short, punchy, and explain exactly each slide
- A compelling deck tells a story through your headings
- Example: “The Right Mix of Passion and Experience” ... instead of just “TEAM”

Language

- Avoid obvious phrases that everybody uses (disruptive, innovative, world-class)
- Use your voice - ultimately you need to be comfortable delivering the pitch

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Slide 1: The Problem

- What are you solving?
- What customer pain are you alleviating?
- Why does your company exist?
- Avoid looking like you are a solution looking for a problem

*If you cannot convince an investor there's **something broken**, they will not be interested in a solution.*

The slide features the Airbnb logo and a title 'THE PROBLEM'. It contains the following text and statistics:

- Problem**
- Price is an important concern for customer booking travel online.
- Hotels leave you disconnected from the city and its culture.
- No easy way exists to book a room with a local or become a host.
- Email is the most important business communication channel
- 215 billion (EMAIL SENT EVERY DAY)
- 54% (USE BUSINESS SERVICES)
- 7% (HOLD NEW SUBSCRIBERS)
- Not email is a tool designed for personal use
- NOT COLLABORATIVE
- ONE-WAY COMMUNITY
- DRIVER PRICE

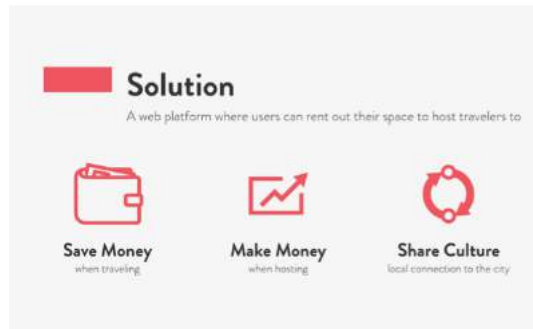
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Slide 2: The Solution

- Explain how you alleviate the pain / problem
 - web platform, SaaS, hardware, etc.
- Demonstrate how your company makes the customer's life better



Solution
A web platform where users can rent out their space to host travelers to

Save Money
when traveling

Make Money
when hosting

Share Culture
local connection to the city

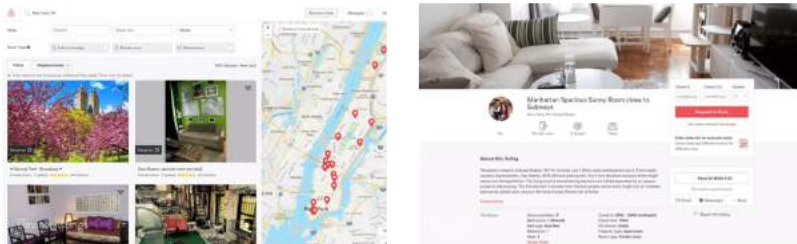


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Slide 3: Your Product

- Demonstrate how your product works
- Screenshots, photos and / or a demo are very helpful



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Slide 4: Market Size

- Break the market down by:
 - Total available market
 - Serviceable market
 - Share of market you think is realistic to capture
- Include sources to back up your numbers



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Slide 5: Business Model

- What do you charge?
 - One time, monthly, annual?
- Average account / customer value?
- What is your revenue potential?

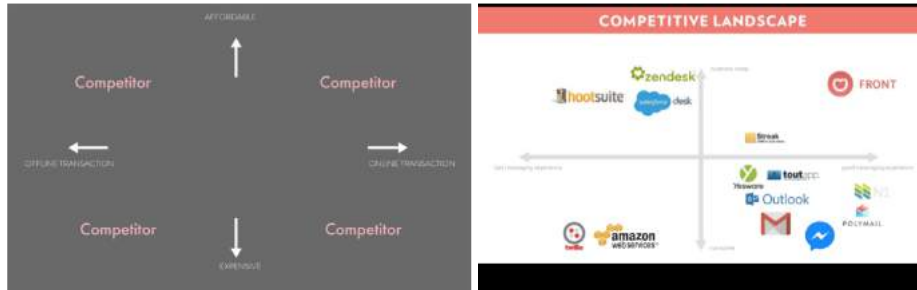


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Slide 6: Competition

- Who are you competing against?
- What makes you different / better?
- Better to identify all competitors than have investors discover them



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Slide 7: Competitive Advantage

- Why do you win?
- Often fall into five categories: Product, Cost, Positioning, Distribution, Execution
- Pick 1 or 2 to areas excel in (often based on founder strengths)



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Slide 7: Competitive Advantage

Product

- Ease of use
- Create barriers to switch
- IP

Distribution

- Buying chain disruption (especially online from traditional)

Cost

- Superior price point

Execution

- First mover
- Uniquely qualified team

Positioning

- Brand
- Clear value proposition




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Slide 8: Go to Market / Marketing Plan

- How do you sell your product?
- What channels are you focused on?
direct, online, channel, organic, partnerships
- What validation do you have that your plans will work?



Market Adoption

Events <small>target events monthly</small> Octoberfest (5M) Cabela (750,000) Summerfest (2M) Fenway (3M-1) Mardi Gras (800,000)	Partnerships <small>cheap/alternative travel</small> GoLimo Krave Ortelis	Craigslist <small>dual posting feature</small>
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ACQUISITION CHANNELS

3 acquisition channels

ORGANIC GROWTH 70% of 2015 leads Customer word-of-mouth Leader on "shared inbox"	SALES 40 qualified demos / month / SDR 28% post-demo conversion \$31k ARR added / month / AE	MARKETING ✓ Content playbook ✓ Co-marketing playbook ✓ Paid ads, unit economics
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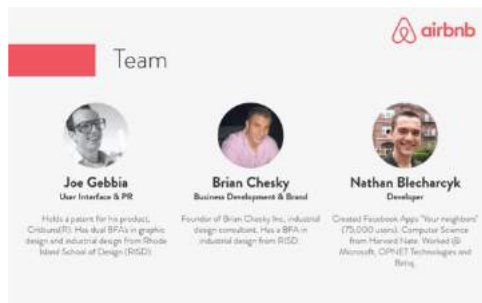
We've identified repeatable strategies to acquire new customers.
 We will iterate on those and double down on the winners.

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Slide 9: Team

- Highlight any special talents or experiences that make the team well suited to building the business
- Key players, board of directors, advisory board
- Don't be afraid of having some holes in your team

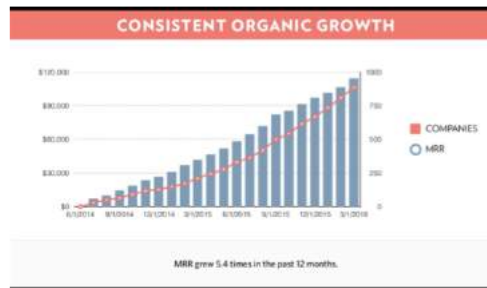


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Slide 10: Traction

- Highlight accomplishments to date
- Examples could be:
 - Product traction
 - Sales / partner traction
 - Marketing traction
 - User / customer traction



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Slide 11: Fundraise

- How much are you raising?
- What round is it? Angel, Seed, A?
- What will you achieve and in what amount of time?
- A simple timeline can be used to show how you will spend money in relation to achieving specific milestones

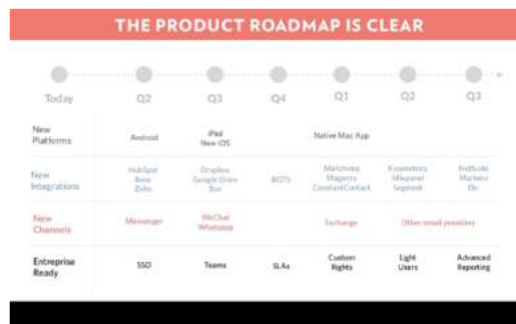


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Slide 12: Key Milestones / Use of Funds

- Product lineup (features, functionality, architecture, IP)
 - Coastal VC's care about your product / tech innovation
- If team growth is a large use of funds, you may want to show team expansion



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Optional: Press / User Testimonials

- Create excitement
- Show validation
- Only include if they are dramatic



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Wrapping Up

- Plan to get through the entire presentation in 20 minutes
- Save time for discussion afterwards
- Best meetings feel more like conversations than presentations

THE OPPORTUNITY

Slack proved that businesses are ready to buy good communication tools.
They're going after the internal communications market.

We're going after the bigger opportunity.
Front will own the external communications space.

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Anticipate questions, know your business

- Know how your type of business is being measured and demonstrate you know these numbers
 - SaaS business metric examples: MRR, ARR, CAC, LTV, Run Rate, Cash Burn
 - Read up on each of these as to how they are approached and debated. You need to be able to defend your position.
- Know your customers
 - Be able to give clear-use cases
 - Explain succinctly why they buy
- Know your industry / competitors

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One-Page Summary

Mike Colwell
March 8, 2018

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One Pager

- A public document to raise awareness
- "5-minute" business plan document
- Make SURE you run this by your lawyer first



Business Summary:
Torsion Skills is a leading provider of...
Customer Problem:
...
Product Solution:
...
Target Market Customers:
...
Market:
...
Business Model:
...
Competitive Advantage:
...
Company Location:
...
Company Leadership:
...
Financial Summary:
...
Other Information:
...

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Business Summary:
Hobart is a leading provider of...
Customer Problem:
...
Product Solution:
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Target Market Customers:
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...
Other Information:
...



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Company Profile:
URL: www.torsionmobile.com
Industry: Mobile Internet
Employees: 6
Founded: August, 2010

Contact Information:
Richard Kirsner
206 6th Ave, Suite 1103
Des Moines, IA 50309
(515) 724-7045
rkirsner@torsionmobile.com

Product:

Mojaba

Product Stage:

Shipping, Jan. 2012

Management:

Christian Gurney, CEO
Richard Kirsner, CFO
Cade Cannon, CTO

Advisors:

Drew McLellan, Marketing

Investors:

Co-Founders
Friends & Family
IA DED Demo Fund Grant

Business Summary:

Torsion Mobile sells a web-based service for designing and publishing mobile-optimized websites. Sold to creative professionals, our Software as a Service platform, called Mojaba™, provides an easy to use, intuitive interface for the creation of mobile websites by non-technical persons.

Customer Problem:

Google research shows that nearly 80% of websites do not offer a mobile-optimized version. Kleiner Perkins predicts that by 2015, more people will access the Internet via mobile phones than by a laptop or desktop computer. Consumers expect any place/any time access to web content. Creative professionals do not have a cost-effective way to create mobile websites. They often rely on outsourced web programmers that create mobile web solutions with costs that far exceed the typical client's budget.

Product/Services:

Mojaba is our turnkey solution that enables creative professionals, with no HTML knowledge or skills, to rapidly create mobile-optimized websites for mobile users, no matter what brand or type of mobile phone those users have. Mojaba provides the complete hosting and analytics reporting environment. Mojaba is an agency-only tool that offers a generous margin/mark up potential. There is no software to buy, install or maintain.

Target Market/Customers:

Our target market is the small to mid-tier advertising, marketing, creative and web services agencies that already have relationships with clients and provide those clients web and Internet solutions. We leverage those relationships and do not engage in expensive demand creation amongst end-users. There are approximately 35,000 advertising agencies and creative professionals in the United States, the majority fitting the mid to small size description and having less than 20 employees.

Sales/Marketing Strategy:

We are building out from a core group of agencies acquired through an exclusive invitation-only beta tester program. We will leverage this core for referrals and case studies. We will execute traditional direct marketing to the agency population which includes social media advertising, speaking at regional

and national conferences, affiliate programs with other providers of services to agencies and email marketing. Our marketing initiatives are built on 60-day cycles for feedback and adjustment.

Business Model:

Our pricing model is an annual subscription fee of \$300 per published mobile website. Basic features are included in a base-pricing tier with premium features to be offered for an additional charge. Our subscription model produces a recurring revenue stream that creates an attractive and lucrative business for both Torsion Mobile and our agency customers. Unlike a direct-to-consumer model, by selling to agencies, we think that we will see multiple sites created for each agency customer acquired. Acquisition costs are thus covered by the first subscription, with subsequent subscriptions generating attractive gross margins.

Competitors:

The competitive landscape is clustered around low-cost direct-to-business players, very high-cost companies focused on international brands and celebrities and few direct competitors. Low-cost direct-to-business entrants include Mofuse, MobiSiteGalore, WebsiteSource, Movitas, GetGoMobi, 2eogoPublish, MobilizeToday, and Dudamobile. High-cost competitors include Digby and Mobify. Direct competitors include FiddleFly and Pijinz.

Competitive Advantage:

- Turnkey solution that offers mobile site build and hosting
- No software to buy or maintain
- Build tool does not require HTML knowledge/skills
- Any agency employee, with 30 minutes of tutorial exposure, can build a site – regardless of technical skills
- Automatically adjusts for all mobile platforms to optimize user experience
- GeoAnalytics reporting provides ability to analyze behavior tied to consumer location
- Mojaba is an agency only tool – clients cannot access
- Generous agency margin/mark up potential
- The subscription model provides agencies with a client retention tool



Company Leadership

Christian Gurney, President & CEO

A co-founder of the company, Christian is responsible for leading the Torsion Mobile team. Since 1988, Christian has been designing, developing and delivering award-winning desktop, Internet and mobile software solutions and leading sophisticated business organizations. He is well-versed in the challenges of leading a technology business, having helped many companies resolve complex software development and product delivery issues.

Christian is past-president of NASDAQ-listed firm CE Software. That company was an Internet product pioneer producing QuickMail, one of the first comprehensive, business-class E-mail solutions that was used by millions worldwide.

Prior to CE Software, Christian was the Director of IT for Catalog Media Corporation, a company started by Priceline.com founder Jay Walker to bring the benefits of overnight package delivery to the American catalog consumer.

As a past member of a special information technology modernization planning subcommittee appointed by the governor of Iowa, Christian helped formulate the structure of a Technology Governance Board, portions of which were enacted into law by the Iowa legislature.

Christian is also co-founder of KG InterDev, which developed and implemented the web technologies used by the leading collector car auction firm, Mecum Auctions, whose live television broadcasts are seen by millions on Discovery Network's Velocity channel (formerly HD Theater). Christian's first startup was Race Legends, a firm dedicated to representing the great champions of the golden age of sports car and Formula One auto racing.

Christian is a graduate of the University of Wisconsin.

Product Profile:

URL: www.Mojaba.com

Type: Software as a Service

Employees: 6

Available: January, 2012

Technical Requirements:

Windows, Mac OS

Web Browser: Internet Explorer, Safari, Firefox or Chrome

Supported Mobile OS:

Apple iOS, Google Android, Windows Phone 7, BlackBerry 5+, XHTML-MP/WAP

Product Infrastructure:

Amazon Web Services
PHP/MySQL (via AWS RDS)
Linux with Apache
Kohana PHP Framework
Backbone JS Framework
jQuery Mobile
Akamai CDN

Richard Kirsner, Vice-President & CFO

A co-founder of the company and CFO, Richard is responsible for all finance, accounting, and investor relations activities of the company. Richard's is a certified public accountant and has ten years of experience as a tax accountant and manager with KPMG Peat Marwick and Coopers & Lybrand.

Prior to forming Torsion Mobile, Richard co-founded KG InterDev, a web technologies firm. Richard is also past-president of CE Software prior to its NASDAQ listing and later was in charge of business development. Richard's varied business career includes having served as CFO of a Rolls-Royce dealership in Florida and a telecommunications company in Dallas, Texas; he owned and operated a film animation company in St. Louis and a custom acoustic guitar factory in New Hampshire; and he was a founder of Sud Cable Services, a cable television provider located in the Provence Region of Southern France.

Richard's multi disciplinary educational background includes having studied architecture at the University of Illinois and received degrees in studio art and business from the University of Iowa.

Cade Cannon, President & CTO

Cade Cannon leads the Torsion Mobile development team. Cade is past primary architect and development team lead for Synapse Multimedia's content management system, used by mid-market local television stations to reach over 1.5 million audience members and deliver over 60 million advertising impression per month. These systems included solutions for desktop websites as well as native mobile applications for Apple iOS and Google Android. Cade is an expert practitioner of agile software development, particularly SCRUM. Other notable achievements include bio-informatics systems development for the Louisiana State University Health Science Center providing for the storage, retrieval and dissemination of micro-array experiment related data, results and discoveries, including integration with an 80-node supercomputer cluster for advanced computation and analysis.

Cade is a graduate of LSU Shreveport.



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Break

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Due Diligence

Charise Flynn
March 8, 2018

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Common Due Diligence Checklist (handout)

Data Room: Information Request List

Note: Preferred file formats are Excel, Word and PowerPoint (otherwise PDF). Files can be put into a data room (Google Drive, Dropbox, etc.)

<p>1 Corporate</p> <ul style="list-style-type: none"> 1.01 All legal governing documents (articles of incorporation, shareholders' agreement, bylaws, etc.) 1.02 Summary of any IP / patents and technology 1.03 Fully diluted cap table in Excel including any/all options and stock grants <p>2 Management and Employees</p> <ul style="list-style-type: none"> 2.01 Summary bios of senior management team 2.02 Organization chart (current) 2.03 List of projected hires in the next 12 months 2.04 Copy of key employee agreements and standard employment agreement template 2.05 Details regarding employees that have left the business and brief description of reason (new opportunity, grievance, change in pay/commission, etc.) <p>3 Metrics and Financials</p> <ul style="list-style-type: none"> 3.01 Summary of accounting policies (specifically revenue recognition and cost allocation) 3.02 Excel files of monthly financial statements (IS, BS and CFS) for most recent 18 months 3.03 Excel financial model with income statement projections for next 3-5 years 3.04 Summary of assumptions for the income statement projections 3.05 Annual financial statements prepared by accounting firm 3.06 State and Federal tax filings for History of company 3.07 Summary of key performance indicators on a monthly basis for 18 most recent months 3.08 Uses of funds in excel by month/quarter demonstrating key spending: hires, advertising/marketing, inventory, capital commitments (debt), other 3.09 Detailed accounting schedule of inventory balance sheet account (current) 3.10 Breakdown of revenue forecast (itemizing: repeat orders, repeat order growth rate, new customers acquired - paid, new customers acquired - organic/free, etc.) 	<p>4 Market, Customers and Products</p> <ul style="list-style-type: none"> 4.01 List of all customers (name or other unique identifier), date of order/s, dollar amount of order/s, location/zip (if available) in excel for the last 18 months 4.02 Summary of customer contracts (amount, term, structure, etc.) 4.03 Contact details of 10 reference customers 4.04 Industry research (size, growth, market size and competitors) 4.05 Comparison of MSJ's product/technology and pricing positioning versus competitors 4.06 Summary of the technology and product development roadmap (features, timing, costs, etc.) 4.07 Review of customer acquisition costs (CAC) for the past 18 months showing detailed calculations in excel <p>5 Partners, Suppliers and Agreements</p> <ul style="list-style-type: none"> 5.01 Summary of any partnerships or other strategic relationships 5.02 Summary of any major suppliers / vendors 5.03 Material contracts including existing / pending bank/debt financing <p>6 PR & Customer Reviews</p> <ul style="list-style-type: none"> 6.01 Document and link to Press and Media covering your company 6.02 Links to customer reviews, survey data, etc.
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Common Due Diligence Checklist

Data Room: Information Request List

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 - 4.02 Summary of customer contracts (amount, term, structure, etc.)
 - 4.03 Contact details of 10 reference customers
 - 4.04 Industry research in regards to market size and competitors
 - 4.05 Comparison of MSU's product/technology and pricing positioning versus competitors
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 - 4.07 Review of customer acquisition costs (CAC) for the past 18 months showing detailed calculations in excel
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 - 6.01 Document and link to Press and Media covering your company
 - 6.02 Links to customer reviews, survey data, etc.

Due Diligence Organization

- Start a Dropbox or Box with all anticipated due diligence (DD) documents
- Organization is critical

Sample organization structure

MASTER FOLDER

Name
▶ 01. Corporate
▶ 02. Management.Employees
▶ 03. Metrics and Financials
▶ 04. Market, Customers and Products
▶ 05. Partners, Suppliers and Agreements
▶ 06. PR & Customer Reviews

SUB - FOLDERS

Name
▶ 1.01 Governing Documents
▶ 1.02 IP / patents and technology
▶ 1.03 Cap Table. options. stock grants

Name
▶ 2.01 Bios of senior team
▶ 2.02 Draft Organization chart
▶ 2.04 Key Employee Agreements
▶ 2.05 Past employees

Name
▶ 3.02 Monthly Financials
▶ 3.05 Annual Financial Statements
▶ 3.06 State and Federal tax filings

Data Room: Information Request List

Note: Preferred file formats are Excel, Word and Powerpoint (otherwise PDF); files can be put into a data room (Google Drive, Dropbox, etc.)

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- 6.02 Links to customer reviews, survey data, etc.

Best Practices

- Create separate folders for each investor you share material with (including which pitch deck version you gave them).



- Don't share your DD data until you are certain of serious interest.
- Some investors will give you their DD list.
 - You may not have everything they ask for. In some instances it is ok to say "I don't have xyz."
- Minimize the number of groups you are doing DD with as it can take a ton of time.
 - Ideally a lead investor will lead the DD process and all other investors will rely upon the lead investors DD review.



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Financials

Mike Colwell
March 8, 2018

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Proforma / Financials

- Keep it simple: 6-tab financial model
 - Annual Profit and Loss (P&L)
 - Monthly Profit and Loss
 - Monthly Revenue projections
 - Monthly Expense projections
 - Team projections
 - Cash Flow

Have P&L, Balance Sheet, Cash Flow, and Cap Table prepared, but do not go through these in the first meeting.

The first meeting is like a first date 😊

Financial Forecast

- Take the time and effort to develop a realistic and detailed financial forecast
- Grounded in realistic assumptions
- First 12 -18 months critical and must be supported
- 3-year forecast is normally sufficient early on
- 5-year projections are often unrealistic!

Forecast Revenue

Revenue Assumptions

- Number of units sold multiplied by unit price
- Expected reoccurrence rate for SaaS models
- Ideally long term you can tie revenue assumptions to sales and marketing drivers
- Details revenue sources, for example:
 - SaaS (Software as a Service)
 - Hardware
 - Installation
 - Service fees

Forecast Expenses

Expense Assumptions

- Cost of Revenue / Goods, for example:
 - Manufacturer - cost of goods, warranties, support
 - Service / SaaS - on boarding, ongoing support costs
- Development / R&D
 - Employees
- Sales and Marketing
 - Resources, commissions, revenue share
- Operating Costs
 - Personnel, general, and administrative
- Capital Expenditures for example:
 - Equipment, computers, furniture, etc.

KNOW YOUR GROSS MARGIN!!

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Team Forecast

- Includes:
 - Existing and salaries of new hires
 - Hiring dates
 - Position titles by department
 - Annual raises

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Cash Flow

- Good operators manage to cash flow
- Know your cash requirements and manage the process
- Spend wisely, be thrifty
- Find creative ways to bring on resources or delay hiring
- Reduce salaries or take no salary

**ALWAYS HAVE A DETAILED CASH FLOW FORECAST OF AT
LEAST 90 DAYS!! MANAGE YOUR CASH!!**

Next Gen Tools P&L Forecast for the year 2018

Revenue	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Total
Revenue	-	-	-	-	-	-	4,975	5,970	6,965	9,950	24,875	20,895	73,630
Cost of Revenue	-	-	-	-	-	-	153	184	231	327	789	677	2,362
Commissions	-	-	-	-	-	-	697	836	975	1,393	3,483	2,925	10,308
Gross Margin	-	-	-	-	-	-	4,125	4,950	5,759	8,230	20,603	17,293	60,960
Sales and Marketing													
Payroll Costs	-	-	3,500	3,500	3,500	7,000	7,000	7,000	7,000	10,500	10,500	10,500	70,000
Benefits	-	-	280	280	280	560	560	560	560	840	840	840	5,600
Payroll Taxes	-	-	210	210	210	420	420	420	420	630	630	630	4,200
Ad budget for Subscription Sales	-	-	-	-	-	-	-	-	-	-	-	-	-
Other Marketing	-	-	-	-	-	-	-	-	-	-	-	-	-
Total Sales and Marketing	-	-	3,990	3,990	3,990	7,980	7,980	7,980	7,980	11,970	11,970	11,970	79,800
R&D and Internal Engineering													
Payroll Costs	5,000	5,000	5,000	5,000	5,000	5,000	5,000	5,000	5,000	5,000	5,000	5,000	60,000
Benefits	400	400	400	400	400	400	400	400	400	400	400	400	4,800
Payroll Taxes	300	300	300	300	300	300	300	300	300	300	300	300	3,600
Outsourced Hardware R&D	-	-	-	-	-	-	-	-	-	-	-	-	-
Outsourced Software R&D	12,000	12,000	12,000	12,000	12,000	12,000	6,000	6,000	6,000	2,000	2,000	2,000	96,000
Other R&D	-	-	-	-	-	-	-	-	-	-	-	-	-
Total R&D and Internal Engineering	17,700	17,700	17,700	17,700	17,700	17,700	11,700	11,700	11,700	7,700	7,700	7,700	164,400
Operating Expenses													
Payroll Costs	2,000	2,000	2,000	2,000	2,000	2,000	2,000	5,000	5,000	5,000	5,000	5,000	39,000
Benefits	160	160	160	160	160	160	160	400	400	400	400	400	3,120
Payroll Taxes	120	120	120	120	120	120	120	300	300	300	300	300	2,340
Dues, Fees & Subscriptions	-	-	-	-	-	-	-	3,500	-	-	-	-	3,500
Legal & Professional	6,000	-	2,000	-	2,000	-	2,000	-	1,000	-	1,000	-	14,000
Banking & Finance	120	120	120	120	120	120	120	120	120	120	120	120	1,440
Equipment	4,500	-	2,500	-	2,000	-	2,000	-	-	-	-	-	11,000
Supplies	150	150	150	150	150	150	150	150	150	150	150	150	1,800
Postage & Shipping	25	25	25	25	25	25	25	25	25	25	25	25	300
Facility	1,200	1,200	1,200	1,200	1,200	1,200	1,200	1,200	1,200	1,200	1,200	1,200	14,400
Administrative Services	200	200	200	200	200	200	200	200	200	200	200	200	2,400
Insurance	-	-	-	-	1,500	-	-	-	-	-	-	-	1,500
Phone / Internet	100	-	150	150	150	150	150	200	200	250	250	250	2,000
Miscellaneous	250	250	250	250	250	250	250	250	250	250	250	250	3,000
Other Operating Expenses	-	-	-	-	-	-	-	-	-	-	-	-	-
Total Operating Expenses	14,825	4,225	8,875	4,375	6,375	7,875	6,375	13,345	8,845	7,895	8,895	7,895	99,800
Total Expenses	32,525	21,925	30,565	26,065	28,065	33,555	26,055	33,025	28,525	27,565	28,565	27,565	344,000
Operating Profit	(32,525)	(21,925)	(30,565)	(26,065)	(28,065)	(33,555)	(21,930)	(28,075)	(22,766)	(19,335)	(7,962)	(10,272)	(283,040)
Headcount	2	2	3	3	3	4	4	5	5	6	6	6	6

Next Gen Tools Cash Flow Forecast for the year 2018

	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
Starting Cash	100,000	67,475	545,550	514,985	487,420	457,855	422,800	398,073	367,101	341,836	319,803	307,750
Revenue Received	-	-	-	-	-	-	4,478	5,373	6,766	9,552	23,084	19,801
Commissions	-	-	-	-	-	-	697	836	975	1,393	3,483	2,925
Credit Card Fees	-	-	-	-	-	-	153	184	231	327	789	677
Revenue Share	-	-	-	-	-	-	-	-	-	-	-	-
Operating Expenses	32,525	21,925	30,565	27,565	29,565	35,055	28,355	35,325	30,825	29,865	30,865	29,865
New Investment	-	500,000	-	-	-	-	-	-	-	-	-	-
Ending Cash Balance	67,475	545,550	514,985	487,420	457,855	422,800	398,073	367,101	341,836	319,803	307,750	294,083
Change in Cash	(32,525)	478,075	(30,565)	(27,565)	(29,565)	(35,055)	(24,727)	(30,972)	(25,265)	(22,033)	(12,053)	(13,667)

Next Gen Tools Cash Flow Forecast for the year 2019

	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
Starting Cash	294,083	285,859	277,703	266,763	250,662	247,896	241,973	247,077	248,249	255,487	263,690	282,775
Revenue Received	31,144	32,537	33,631	28,457	43,681	43,084	53,282	54,088	55,839	58,347	70,526	49,660
Commissions	4,458	4,736	4,736	3,900	6,269	6,269	7,592	7,717	7,843	8,219	10,099	6,812
Credit Card Fees	1,065	1,113	1,150	973	1,494	1,473	1,822	1,850	1,910	1,995	2,412	1,698
Revenue Share	-	-	-	-	-	-	-	-	-	-	-	-
Operating Expenses	33,845	34,845	38,684	39,684	38,684	41,264	38,764	43,350	38,850	39,929	38,929	39,929
New Investment	-	-	-	-	-	-	-	-	-	-	-	-
Ending Cash Balance	285,859	277,703	266,763	250,662	247,896	241,973	247,077	248,249	255,487	263,690	282,775	283,996
Change in Cash	(8,224)	(8,157)	(10,940)	(16,101)	(2,766)	(5,923)	5,104	1,172	7,238	8,203	19,085	1,221

Next Gen Tools Cash Flow Forecast for the year 2020

	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
Starting Cash	283,996	308,562	331,166	357,461	379,011	412,663	443,214	483,939	520,664	563,299	606,693	659,981
Revenue Received	77,779	77,043	80,018	75,361	89,062	88,525	97,704	98,429	100,005	102,262	113,223	94,444
Commissions	10,977	11,228	11,228	10,475	12,607	12,607	13,798	13,910	14,023	14,362	16,054	13,096
Credit Card Fees	2,660	2,635	2,737	2,577	3,046	3,028	3,341	3,366	3,420	3,497	3,872	3,230
Revenue Share	-	-	-	-	-	-	-	-	-	-	-	-
Operating Expenses	39,576	40,576	39,758	40,758	39,758	42,340	39,840	44,427	39,927	41,009	40,009	41,009
New Investment	-	-	-	-	-	-	-	-	-	-	-	-
Ending Cash Balance	308,562	331,166	357,461	379,011	412,663	443,214	483,939	520,664	563,299	606,693	659,981	697,091
Change in Cash	24,566	22,604	26,295	21,550	33,651	30,551	40,725	36,725	42,635	43,394	53,288	37,110



DSM USA DES MOINES, IOWA

Capitalization Table

Joe Leo
March 8, 2018



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What is a Capitalization Table?

A capitalization table (Cap Table) is a spreadsheet that shows capitalization (ownership stakes) in a company. It includes equity shares, preferred shares, options, and the various prices paid by each stakeholder for these securities.

The table uses these details to show ownership stakes on a fully-diluted basis, thereby enabling the company's overall capital structure to be understood at a glance.

Cap Table

- Keep Cap Table current at all times
- Assists you in making good decisions quickly
 - Running scenarios on pre-money valuation on new financing or future rounds of financing
 - Analyzing dilution impact of different sizes of financing round
 - Impact of option pool or granting of specific amount of options to a new hire
- Required during investor due diligence

Cap Table Examples

- Keep it organized and simple to understand
 - Illogical organization causes confusion and can slow down investment process
- Tailor Cap Table to supporting corporate structure
 - Have all supporting documents complete and in good order
- Hire a good attorney!!!

Two examples included in handout, before investment and after investment

Company, Inc.
PRO FORMA CAPITALIZATION TABLE
 As of January 1, 2018

Name	Common Shares	Preferred Shares	Options Unissued	Options Issued	Total Shares (undiluted)	Total Shares (dilute d)	Current Equity % (undiluted)	Current Equity % (diluted)
Andrew	500,000				500,000	500,000	33.33%	25.00%
Peter	500,000				500,000	500,000	33.33%	25.00%
Zoe	500,000				500,000	500,000	33.33%	25.00%
					0	0	0.00%	0.00%
					0	0	0.00%	0.00%
					0	0	0.00%	0.00%
					0	0	0.00%	0.00%
					0	0	0.00%	0.00%
					0	0	0.00%	0.00%
					0	0	0.00%	0.00%
					0	0	0.00%	0.00%
					0	0	0.00%	0.00%
					0	0	0.00%	0.00%
					0	0	0.00%	0.00%
					0	0	0.00%	0.00%
					0	0	0.00%	0.00%
					0	0	0.00%	0.00%
					0	0	0.00%	0.00%
					0	0	0.00%	0.00%
					0	0	0.00%	0.00%
					0	0	0.00%	0.00%
Option Pool			500,000	0	0	500,000	0.00%	25.00%
TOTAL:	1,500,000	0	500,000	0	1,500,000	2,000,000	100.00%	100.00%

Company, Inc.
PRO FORMA CAPITALIZATION TABLE
 As of March 1, 2018

Name	Common Shares	Preferred Shares	Options Unissued	Options Issued	Total Shares (undiluted)	Total Shares (diluted)	Current Equity % (undiluted)	Current Equity % (diluted)
Andrew	500,000				500,000	500,000	25.71%	20.45%
Peter	500,000				500,000	500,000	25.71%	20.45%
Zoej	500,000				500,000	500,000	25.71%	20.45%
Investor A		100,000			0	0	0.00%	0.00%
Investor B		100,000			100,000	100,000	5.14%	4.09%
Investor C		100,000			100,000	100,000	5.14%	4.09%
Investor D		144,445			144,445	144,445	7.43%	5.91%
					0	0	0.00%	0.00%
					0	0	0.00%	0.00%
					0	0	0.00%	0.00%
					0	0	0.00%	0.00%
					0	0	0.00%	0.00%
					0	0	0.00%	0.00%
					0	0	0.00%	0.00%
					0	0	0.00%	0.00%
					0	0	0.00%	0.00%
					0	0	0.00%	0.00%
					0	0	0.00%	0.00%
					0	0	0.00%	0.00%
					0	0	0.00%	0.00%
Option Pool			500,000	0	0	500,000	0.00%	20.45%
TOTAL:	1,500,000	444,445	500,000	0	1,944,445	2,444,445	100.00%	100.00%

Company, Inc.
PRO FORMA CAPITALIZATION TABLE
 As of June 1, 2018

Name	Common Shares	Preferred Shares	Options Unissued	Options Issued	Total Shares (undiluted)	Total Shares (diluted)	Current Equity % (undiluted)	Current Equity % (diluted)
Andrew	500,000				500,000	500,000	21.27%	17.54%
Peter	500,000				500,000	500,000	21.27%	17.54%
Zoey	500,000				500,000	500,000	21.27%	17.54%
Investor A		100,000			100,000	100,000	4.25%	3.51%
Investor B		100,000			100,000	100,000	4.25%	3.51%
Investor C		100,000			100,000	100,000	4.25%	3.51%
Investor D		144,445			144,445	144,445	6.14%	5.07%
Investor E		50,000			50,000	50,000	2.13%	1.75%
Investor F		50,000			50,000	50,000	2.13%	1.75%
Investor G		100,000			100,000	100,000	4.25%	3.51%
Investor H		100,000			100,000	100,000	4.25%	3.51%
Investor I		50,000			50,000	50,000	2.13%	1.75%
Investor J		56,505			56,505	56,505	2.40%	1.98%
Option Pool			500,000	0	0	0	0.00%	0.00%
TOTAL:	1,500,000	850,950	500,000	0	2,350,950	2,850,950	100.00%	100.00%


Company, Inc.
COMMON SHARE CERTIFICATE REGISTER
 Current Through June 1, 2018

Cert #	Name	Common Shares			
		Issued	Shares	Cancelled	Transferred?
1	Andrew	01/01/18	500,000		
2	Peter	01/01/18	500,000		
3	Zoey	01/01/18	500,000		
4					
5					
6					
7					
8					
9					
10					
11					
12					
13					
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Company, Inc.

SERIES A SHARE CERTIFICATE REGISTER
Current Through June 1, 2018

Series A Preferred Shares					
Cert #	Name	Issued	Shares	Cancelled	Transferred?
1	Investor A	03/01/18	100,000		
2	Investor B	03/01/18	100,000		
3	Investor C	03/01/18	100,000		
4	Investor D	03/01/18	144,445		
5	Investor E	06/01/18	50,000		
6	Investor F	06/01/18	50,000		
7	Investor G	06/01/18	100,000		
8	Investor H	06/01/18	100,000		
9	Investor I	06/01/18	50,000		
10	Investor J	06/01/18	56,505		
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Lunch

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Lessons Learned

Gabe Glynn
March 8, 2018



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Preparing For Your Capital Raise

Charise Flynn
March 8, 2018

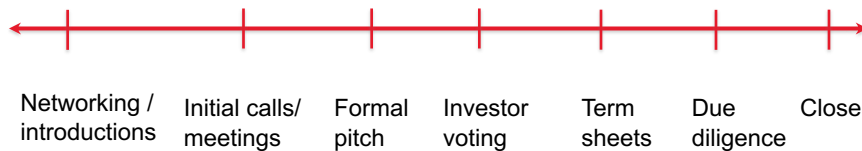


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Fundraising takes time!

- 3 months minimum
- 6 to 9 months likely
- Relationships, preparation, and demand can shorten the process



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How much to raise?

- Raise enough money to achieve a set of milestones that will attract a subsequent round of investment or get you to profitability
- Typically raise for a 15 - 18 month runway
 - Exception: early on you may raise a smaller amount for a shorter runway simply to demonstrate initial traction, or an initial working product
- Focus on getting done fast and back to work

“While having more money makes today easier, having a lower valuation makes tomorrow easier. So just consider the trade-offs as you plot your journey.”
- Mark Suster



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What is my company worth?

Valuations often determined by investor ownership %

Because investors expect 20 - 25% ownership after the round, your valuation is typically 3 - 4x the amount you are looking to raise.

Example:

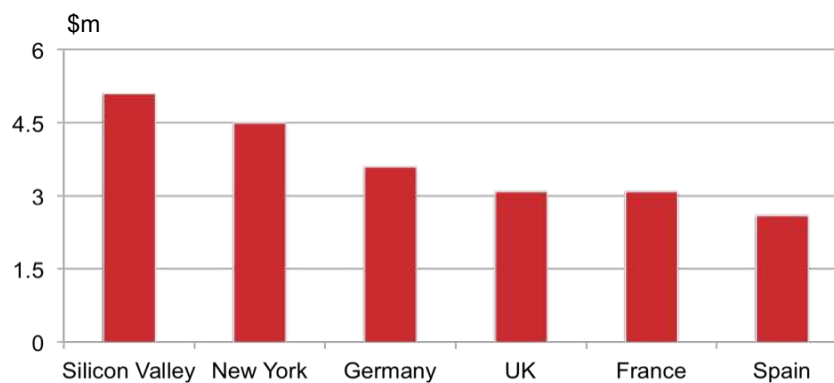
- \$1M raise
- \$1M = 25% of a \$4M post-money valuation
- Or \$1M = 20% of \$5M post money valuation
- Therefore, the pre-money valuation would be between \$3 - \$4M



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Seed/Angel Valuations



Iowa: typically sub-\$500K raise on a sub-\$2M valuation



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What am I raising? Seed? Angel? A?

“...none of it will matter unless you build shit people care about and use en masse and thus you can attract capital even if you call it a Z-round. But my advice to entrepreneurs--stop sweating the silly optics.”

- Mark Suster

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General Stages

review handout

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Typical Fundraising Stages and Expectations

	“Pre-Seed”	Seed	Series A	Series B
\$'s RAISED	\$50,000 - \$250,000	\$250,000- \$2m	\$3-\$10m average (low: typically \$1.5MM to \$2MM)	\$10m- \$25m average (LOW: \$2MM+)
VALUATION		\$750k-\$8m	\$10m-\$40m (low: \$4.5m-\$6m)	\$30m-\$100m (low: \$8m-\$10m+)
INVESTORS	Friends & Family Angels	Angels, Micro VC's	VC's	VC's
OWNERSHIP %	less than 5% ownership	no more than 20% ownership	average 20% ownership	average 20% ownership
BOARD SEAT	no	no	yes	yes
*MRR	-	\$0-50k	\$100-250k	\$350k-800k
PREFERENCE		1x	1x	1x
TEAM	Smart, committed with relevant experience	Found market fit: E.G. sales DNA, product design DNA, strong tech for API companies	No star VP's yet but often good director-level hires. Ability to attract and manage great people	Senior leadership in most function and proven ability to recruit senior people
PRODUCT MARKET FIT	Market research indicates strong need for the product	Strong indication of product/market fit from early customers and pilot users	Clear product market fit (PMF) and increasing evidence of PMF in large market	
TECH	Strong tech co-founder with relevant experience	Proven ability to move fast	Proven ability to attract and manage great engineers (product scales but still breaks)	Excellent tech leadership. Product doesn't break and meets SLA's (3-4 9's availability). Meets security, compliance and disaster recovery requirements of enterprise clients
OPERATIONS			Regular P&L and Balance Sheet. Human Resources is formal (benefits, salaries, taxes)	Financial maturity demonstrated in projections
SALES & MARKETING	Understand best practices, good ideas	Strong indications of demand (e.g. organic trial signups)	Strong organic demand. Success with at least one customer acquisition channel. Decent understanding of funnel and pipeline conversion rates.	Excellent understanding of sales and marketing costs and CAC payback times by channel. Increasing confidence in scalability of the sales / marketing machine.
MARKET POTENTIAL		Conviction that there is a \$100m Annual Recurring Revenue (ARR) potential	increasing conviction of a \$300m Annual Recurring Revenue (ARR) potential	increasing confidence in exit potential (large strategic buyers or IPO)
TRACTION		If pre-monetization, growing waiting list, trial user base	Out from 0-\$100k MRR within 12-18M	Growing 2.5 X y/y

* MRR = Monthly Recurring Revenue



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Typical Fundraising Stages and Expectations

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Advisory Boards

- Not expected, but can be helpful if managed thoughtfully
 - Know what you want from them
 - Manage the time you invest getting them up to speed
 - Map out the role you want them to play
- Don't overplay in your pitch
 - Investors realize the minimum impact they can actually have

Start networking before you need money

- Develop long-term relationships that may help make introductions
 - Advisors in the community are often great at making introductions after they have spent time getting to know you
 - Entrepreneurs can be helpful in opening doors / sharing their lessons learned
- It takes time to build relationships with investors
 - Helpful to know angels individually prior to pitching a group of angels - individuals within the group can be key advocates for you
 - Choose carefully what metrics, updates you talk about
 - Investors take note of everything and try to detect trends
 - Be clear when you are and are not raising

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Finding Investors - Do your research

- Get clear on what stage you are
- Research who invests in your industry and stage
 - Crunchbase is an excellent tool
 - Google, Google, Google
- Ask other entrepreneurs
- Consider trade-offs of angels, strategics, VCs
- Press helps drive name recognition
- Conferences with speaking opportunities can open doors
- Create a detailed tracking sheet of all investor contacts:
 - What stage they invest in, when and who you talked to, next steps

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Trade-offs of Strategic Investors

Strategic Investors

- May help by:
 - Opening the door to a commercial deal
 - Legitimizing the company
 - Lending domain expertise
- May hurt by:
 - Doing what is in their selfish self-interest
 - Having a disproportionate influence on the direction of the company
 - Inhibiting certain competitors from doing business with you
 - Blocking future investment rounds

Build Momentum

- It will be hard to raise if you aren't demonstrating momentum
- At different stages this will look different
 - Product / tech momentum
 - Early users
 - Sales traction
 - Industry traction / news
 - Partnerships



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Online Platforms


Mike Colwell
March 8, 2018

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Platforms

- Gust
- AngelList
- Other crowdfunding platforms

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Why should you be online?

- It's part of your startup's resume and identity
- Documents your existence
- Recruiting tool
- Fundraising tool
- Single point of data-room dissemination

Gust

- Popular platform for pitch events
- Absolute necessity for angel funds and networks
- Startup controls access to their data
- Easy to share deal docs
- This is not a trivial exercise
 - Requires a time commitment to stay current

Gust – Best Practices

- Always upload a pitch video
- Ensure financials typed in are SAME as those uploaded in business plans
- Ensure an understanding of valuation, run rate, etc. when filling in numbers
- Review your one pager as most investors look at this document **First**
- Remove access from disinterested parties **Immediately**

AngelList

- Popular platform for accredited crowdfunding
- De-facto site for syndicated funding rounds
- A recruiting and fundraising tool

AngelList For Startups

- Profile needs to be simple, complete, fresh, and accurate
- Reporting needs to be frequent
- Video profiles a necessity
- It is also a social network
 - Ensure key connections properly documented – founders, investors, advisors
- Use this profile for recruiting talent

AngelList For Investors

- Profile needs to be simple, complete, and accurate
- It is also a social network
 - Ensure key connections properly documented – investments and interests
- Follow relevant syndicates
- Understand syndicate firms' rules / SOP
- Time commitment can be high at times
- Due diligence ability may be limited due to time
- Heavily standardized

AngelList Investment Process

- VC / fund creates lead investment and invests money
- VC / fund creates syndicate (single purpose LLC)
 - VC representative is managing member
 - Syndicate members receive deal notification
 - First 98 syndicate members to fill round invest
 - Amounts may be varied amongst members
 - Closing in 2 to 3 weeks

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AngelList - Post Investment

- Monthly / quarterly email reports
- Annual K-1 for interest / dividend if any
- First priority to follow-on future rounds if any
- Little to no control on exits / future rounds

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The Raise

Charise Flynn
March 8, 2018

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Different Investor Strategies

- Friends and Family Round
 - Often company will set terms
 - Multiple friends and family members will invest
 - Likely won't have a board seat
- Angel / Seed Round led by company
 - Often company will set terms
 - Multiple individual angels or angel groups will invest
 - Likely won't have a board seat
- Angel / Seed Round with lead investor
 - Often lead investor will set terms
 - Typically will take a minimum of 25% of the total amount raised
 - Likely have experience / knowledge that is relevant to your company
 - May require board seat
 - Likely to be more *hands on* in next round

Regional Angel Syndicate

- Seed Step Angels – Oklahoma City
- Plains Angels – Des Moines
- Nebraska Angels - Omaha
- Gopher Angels - Minneapolis
- Sofia Fund - Minneapolis
- Womens Capital Connection – Fairway Kansas
- Mid America Angels - Fairway Kansas
- Rockies Venture Club – Colorado

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Surrounding State Angel Groups

Hyde Park Angels	Chicago IL
IrishAngels	Chicago IL
Harvard Business School Angels Chicago	Chicago IL
Caerus Investment Partners	Chicago IL
Rally Capital Services	Chicago IL
VCapital	Chicago IL
Cornerstone Angels	Northbrook IL
Heartland Angels	Skokie IL
Elevate Ventures	Indianapolis IN
Gravity Ventures	Indianapolis IN
VisionTech Angels	Indianapolis IN
Plains Angels	Des Moines IA
Ames Seed Capital	Ames IA

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Surrounding State Angel Groups (cont.)

iSELECT FUND	St Louis MO
Billiken Angels Network	St Louis MO
St. Louis Arch Angels	St Louis MO
Allen Angel Capital Education Program (AACE)	Columbia MO
Nebraska Angel Network	Lincoln NE
Linseed Capital	Omaha NE
Treetop Ventures	Omaha NE
Wisconsin Investment Partners	Madison WI
Golden Angels Investors	Brookfield WI
Phenomenelle Angels	Madison WI
Wisconsin Super Angel Fund	Milwaukee WI
Angels on the Water	Oshkosh WI
Silicon Pastures	Milwaukee WI
Marshfield Investment Partners	Wausau WI



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Surrounding State Micro VC funds

Micro-VCs are smaller venture firms that primarily invest in seed stage emerging growth companies, often have a fund size of <\$50M and typically invest between \$25K to \$500K in a given company.

M25 Group	Chicago IL
Jumpstart Ventures	Chicago IL
GSV Acceleration	Chicago IL
The Impact Engine	Chicago IL
Moderne Ventures	Chicago IL
Sandalphon Capital	Chicago IL
Holdings Industries	Chicago IL
Ekistic Ventures	Chicago IL
New Stack Ventures	Chicago IL
Arch Development Partners	Chicago IL
The Pritzker Organization	Chicago IL
West Loop Ventures	Chicago IL



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Surrounding State Micro VC funds (cont.)

Continental Advisors
Spring Mill Venture Partners
4G Ventures
Charmides Capital
Next Level Ventures
Principal Financial Group
Invest Nebraska
Center for Innovative Technology
Router Ventures
CSA Partners LLC
SymphonyAlpha Ventures

Chicago IL
Carmel IN
Carmel IN
Carmel IN
Des Moines
Des Moines
Lincoln NE
Virginia NE
Omaha NE
Milwaukee WI
Madison WI

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Term Sheet

Joe Leo
March 8, 2018



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The image shows a group of five people sitting around a table in a modern office setting, engaged in a meeting. Large windows in the background provide a view of the city. The text 'DSM USA' and 'DES MOINES, IOWA' is visible in the top left corner of the image area. The title 'Term Sheet' is prominently displayed in red, followed by the name 'Joe Leo' and the date 'March 8, 2018'. The Greater Des Moines Partnership logo and website URL are located in the bottom right corner.

Simple Company Led Term Sheet

- See handout

THIS SUMMARY OF EQUITY OFFERING TERMS HAS BEEN PREPARED BY THE BROWNWINICK LAW FIRM ON BEHALF OF AND WITH THE ASSISTANCE OF THE COMPANY. THIS DOCUMENT PRESENTS ONLY A SUMMARY OF THE TERMS OF THE COMPANY'S ARTICLES OF INCORPORATION, BYLAWS, EMPLOYMENT AGREEMENTS, AMONGST OTHER IMPORTANT DOCUMENTS. POTENTIAL INVESTORS SHOULD CONDUCT THEIR OWN DUE DILIGENCE WITH THE ASSISTANCE OF QUALIFIED LEGAL COUNSEL. THE BROWNWINICK FIRM REPRESENTS THE COMPANY AND NOT YOU AS A POTENTIAL INVESTOR.

[COMPANY LOGO]

COMPANY, INC.

SUMMARY OF PREFERRED EQUITY OFFERING TERMS

Securities Issued:	Company, Inc. (the "Company") is offering up to \$1,000,000 in shares of the Company's Series A Preferred Stock (the "Preferred Shares") to accredited investors only. The Preferred Shares will be priced based on a fully diluted pre-money valuation of \$4.5 million.
Minimum Offering:	The Company has established a minimum offering of \$800,000. Funds invested prior to the time when the Company reaches the minimum offering will be held in a separate account which will not be an escrow account.
Minimum Per Investor Investment:	Investors who wish to participate in this offering will be required to make a minimum investment of at least \$50,000. The Company reserves the right to waive this minimum investment on a case-by-case basis.
Investor Suitability:	Investing in the Preferred Shares involves a high degree of risk. Accordingly, the purchase of Preferred Shares is suitable only for investors of substantial financial means that have no need for liquidity in their investments and can bear to lose their entire investment. Preferred Shares are only being offered to accredited investors, as that term is defined by Securities and Exchange Commission ("SEC") Regulation D, Rule 501.
Capitalization:	The Company's founders, Andrew, Peter and Zoey, collectively hold 1,500,000 common shares. There are no other equity holders. The Company has issued \$500,000 in convertible debt which is subject to a 20% discount in this offering and a valuation cap of \$2 million. The convertible debt will be subject to a mandatory conversion if the minimum offering amount is reached. The Company has \$50,000 in SAFE Notes issued which will convert in this offering with a 25% discount. The Company has reserved an option pool representing 500,000 common shares.

Management:	The Company is managed by its board of directors (the “Board”). Currently the Company’s two directors are Andrew and Peter. Following the close of the offering, the Board will expand to three members, with two elected by the holders of the common shares and one elected by the holders of the Preferred Shares. Nearly all management decisions with respect to the Company will be made by the Board, and shareholders will not be actively involved in the management of the Company. The Board will be elected on an annual basis.
Distributions:	Holders of the Preferred Shares will be entitled to an 8% per year cumulative distribution, when and if declared by the Board, which will be paid before any distribution is paid to the holders of the common shares. Following payment of the preferred distribution, the holders of the Preferred Shares will participate with the holders of the common shares on any additional distribution paid by the Company. The Company is not obligated to make a distribution in any year. The Board’s ability to issue distributions is subject to certain restrictions, including the requirements of the Iowa Corporation Act, any contracts the Company may execute which limit the Board’s ability to make distributions and the restrictions in the Company’s governing documents. Distributions are not assured and any income generated by the Company may be reinvested by the Board which may limit the Company’s ability make distributions.
Liquidation Preference:	<p>In the event of any liquidation or winding up of the Company, the holders of the Preferred Shares will be entitled to receive in preference to the holders of the common shares, a per share amount equal to the original purchase price plus any declared but unpaid dividends for each Preferred Share.</p> <p>A sale of all or substantially all of the Company’s assets or a merger or consolidation of the Company with any other company will be treated as a deemed liquidation of the Company. A deemed liquidation may be waived upon the election of the holders of a majority of the outstanding Preferred Shares.</p>
Right of First Refusal:	The Preferred Shares will be entitled to a right of first refusal. Certain permitted transfers, such as estate planning transfers, are exempt from the right of first refusal.
Preemptive Rights:	Holders of the Preferred Shares will be entitled to limited preemptive rights to allow the investors to maintain their pro rata interest in the Company and to purchase additional securities issued by the Company in the future.

Tag-along and Drag-along Rights:	<p>If any founder proposes to sell any equity security, the holders of the Preferred Shares will have the right to sell a pro rata portion of their Preferred Shares on the same terms and conditions to the proposed purchaser.</p> <p>Each founder will be required to vote his/her shares in favor of a liquidation event that is approved by the Board, by the holders of a majority of the Preferred Shares, and by a majority of the holders of the common shares.</p>
Conversion Rights of Preferred Shares:	<p>The Preferred Shares may be converted at any time, at the option of the holder, into common shares. The conversion rate will initially be 1:1, subject to anti-dilution and other customary adjustments.</p> <p>The Preferred Shares will automatically convert into common shares upon the closing of an underwritten public offering of common shares as long as the Company's valuation in the public offering is at least \$50 million (a "Qualified Financing"). The Preferred Shares will also be automatically converted into common shares upon the consent of holders of a majority of the issued and outstanding Preferred Shares.</p>
Employment Agreements:	<p>Each of the founders has an employment agreement with the Company subject to customary termination provisions. Further, each founder's ownership in the Company is subject to vesting equally over a three year period starting on January 1, 2018.</p>
Registration Rights:	<p>Holders of the Preferred Shares will have piggyback registration rights subject to common exceptions.</p>
Closing:	<p>The Company plans to close the offering on or before July 31, 2018. Investments will only be accepted after the Company issues definitive investment documents.</p>

INVESTMENTS CAN BE MADE ONLY PURSUANT TO FINAL DOCUMENTS EXECUTED BY AN INVESTOR AND COMPANY, INC.

NEITHER THE SECURITIES AND EXCHANGE COMMISSION NOR ANY STATE SECURITIES COMMISSION HAS PASSED UPON THE ACCURACY OR ADEQUACY OF THE INFORMATION CONTAINED IN THIS TERM SHEET. ANY REPRESENTATION TO THE CONTRARY IS A CRIMINAL OFFENSE.

THE INFORMATION CONTAINED IN THIS TERM SHEET IS CONFIDENTIAL. ANY REPRODUCTION OR OTHER DISTRIBUTION OF THIS TERM SHEET, IN WHOLE OR IN PART, WITHOUT OUR PRIOR WRITTEN CONSENT, IS PROHIBITED. BY ACCEPTING DELIVERY OF THIS TERM SHEET, YOU AGREE NOT TO REPRODUCE THE TERM SHEET. THE BROWWINICK FIRM REPRESENTS THE COMPANY AND NOT YOU AS A POTENTIAL INVESTOR.

Term Sheet

The term sheet is the document that outlines the basic terms by which an investor (angel or venture capital investor) will make a financial investment in your company.

Term Sheet Includes

- Financial terms
 - Amount raised
 - Pricing / valuation
- Investor preferences / rights
 - Dividends
 - Liquidation
 - Anti-dilution
- Corporate governance
 - Board seats
 - Voting / approval rights
 - Information rights

Valuation / Pricing

- Pre-money Valuation
 - Value of a company prior to investment or financing
- Post-money Valuation
 - Value of a company after an investment has been made. This value is equal to the sum of the pre-money valuation and the amount of new financing received.

Liquidation Preference

- Determines the payout order in case of a corporate liquidation and / or sale of the company
- Investors often make it a condition for their investment that they receive their investment money back first before other shareholders

Stock Option

- Employee stock option (ESO) provides employee the right to buy company shares priced at date of grant
 - Priced at today's value with expectation of increasing value over time
 - Usually vested over time (3 - 5 years)
 - Provides employee the opportunity to participate in the upside and increased valuation of the company over time

Option Pool

- Pool of shares available to be granted
- Average pool approximates 10% of outstanding shares
- Employee is granted a certain amount of shares that vest over a period of time, priced at today's share price

Most investors require that the pool be established prior to their investment so as to not be diluted by the option pool.

Key Employees

- Founders salaries - influx of cash can alter the incentives and behavior in a company, including such major items as founder compensation as well as minor items like benefits
- Term sheets may dictate how much or if the founder can give themselves as a raise

Board / Governance

- New money means new bosses / governance
- If no board exists, term sheet will call for its establishment
- Term sheet will outline number of board seats required by new investors into this round
- Generally 1 seat based upon 5 member board
- Negotiable

Preferred Shareholder Protective Provisions

- Preferred shareholder approval required for *fundamental* transactions
- Carefully consider the list and thresholds
- Blocking versus affirmative rights
- Minimum ownership requirement?

Management and Information Rights

- Major investors want or require certain rights
- Financial statements, budget, tax returns, etc.
- Carefully consider the list
 - Balance need with interference

Matters Requiring Preferred Director Approval

- Preferred director approval required for certain *operational* decisions
- Carefully consider the list and board makeup
- Blocking versus affirmative rights
- Minimum ownership requirement?

Right of First Refusal (ROFR) and Co-Sale

- ROFR typically runs to company and certain (all?) investors
- Consider which shares are covered by ROFR
- Consider which shares are benefitted by co-sale
- Minimum ownership requirement?

Drag-Along

- Requires shareholders to vote in favor of specified events – generally exit transactions
- Consider balance of power

Term Sheet - Control

- Right to participate in future rounds

Term Sheet - Control

- All The Rest
 - Intellectual Property / Assignment of Inventions
 - Confidentiality and Restrictive Covenants
 - Employment Agreements



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Negotiations

Chris Sackett
March 8, 2018



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Getting to Agreement

- Know what you want and what you will be willing to accept
- Understand the other party's interests and situation
- External pressures? Anyone desperate?
- If you know you will need more money, be very aware of giving away too much of the company too early



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Getting to Agreement (cont.)

- Do your homework on the investor - you are going to be working with them in the future
 - Speak to other founders and companies they invested in
 - If you expect strategic value, make sure they have delivered in the past
 - Share strategic vision?

Getting to Agreement (cont.)

- Negotiation approach: reasonable deal or best deal possible
- Create a sense of urgency, more than one suitor - get best deal sooner so they can stay in the running
- Don't negotiate against yourself
 - Don't give something that someone doesn't ask for

Walking Away

- Dollars are important, but what are you willing to give up?
- Know what has value to you - have a hard line

Legalities Behind Negotiation

- Non-disclosure Agreements (NDAs)
- Term Sheets, Letters of Intent (LOIs), No-shop provisions
- Formal documentation
 - Get the general deal agreed before doing the big drafting. If you can't agree on the economics there is no point in paying to have all of the documents drafted.

Manage The Close

- Set expectations for a close date
- Create a closing checklist
 - This requires time and organization to keep the close on track
- Determine roles of all parties involved (e.g. your lawyers, investors lawyers, internal team that may help with logistics)
- Keep close communication with your board and when you will need them
- Set expectations with all parties who need to sign paperwork

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After The Raise

Sheldon Ohringer
March 8, 2018

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Stay Connected

- Investors want to be part of team
- Email monthly or quarterly updates
 - Runway, sales progress, HR needs, key wins and losses
 - Highlight any major milestones
 - Outline any help you need from your investors
 - Doesn't have to be lengthy - one page is sufficient
- Annual in-person meeting will go a long way

Truths

- You're no longer pitching – share real numbers
- Projections should be based on **known** pipeline
- Share team dynamics – warts and all
- Fibs catch up and hurt future investment potential

Ask For Help

- Startup investors are rarely passive investors
- Use their experience
- Leverage their network
- Ask for guidance, mentorship, advice
- Investors can often step in at times of HR voids

Share Bad News Early

- There are lots of indicators – share them
 - Operating: Maybe you thought about expenses
 - Make payroll: Maybe you've thought about layoffs
 - Obligations: You did notice A/P growing
 - Landlord: You negotiated
 - Miracles: Don't happen, you control them through resources



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Final Thoughts

Mike Colwell & Chris Sackett
March 8, 2018

 GREATER DES MOINES PARTNERSHIP

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Thank You!

- Final thoughts
 - Survey
 - Stay in touch
 - Plains Angels
 - Square One DSM

Going Forward

- plainsangels.com
- squareonedsm.com

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Appendix

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10 Common Mistakes

1. Poor corporate "housekeeping" / mistakes on prior rounds
2. Overcomplicating the company or offering structure
3. Using equity as a cash substitute
4. Thinking an amazing pitch deck will get you there
5. Failing to understand that fundraising is a process that takes a ton of time. Start fundraising well before you run out of money and develop a process to keep yourself organized and on track
6. Not understanding your company - clueless about your financials... you may not be a CFO, but you need to know and understand your numbers.
7. Not knowing what you are raising money for - develop a clear roadmap of what you will accomplish with the money raised
8. Picking the wrong investors - Money is a commodity. Find investors who bring value to your company in a non-monetary way; such as a network, business assets, or mentorship.
9. Not understanding your market potential and having a large enough opportunity to get investors excited
10. Not having the right team(s)

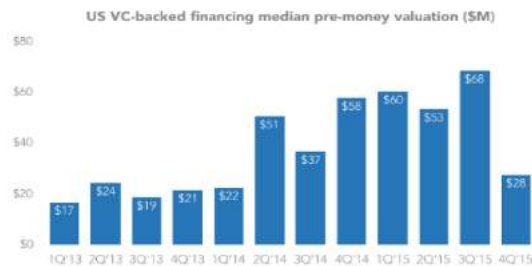


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Valuations are influenced by fluctuating markets

Private market valuations rose unsustainably with a massive correction in Q4 2015



Source: Dow Jones VentureSource Venture Capital Report 4Q'15, Upfront analysis

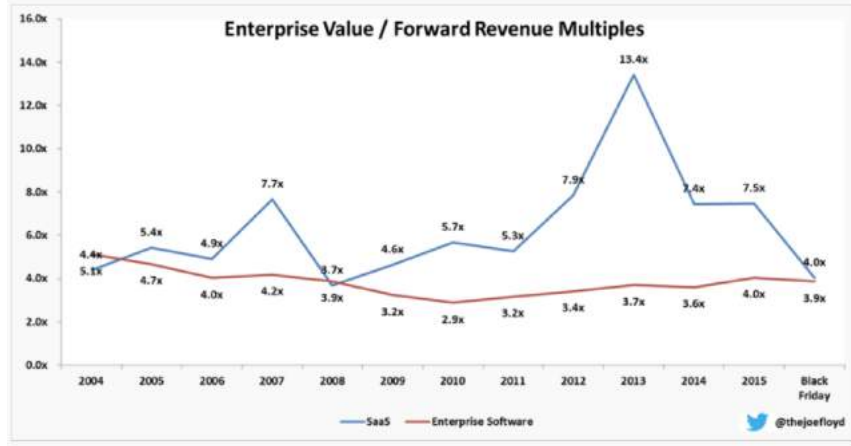
upfront



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Another look at valuations

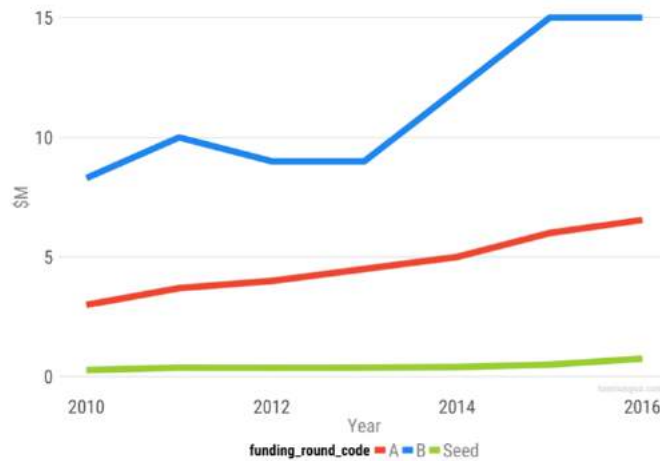


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Funding sizes are increasing



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Series A round- what influences size?

Investors perspective:

- \$3M deal: “This is an experiment. I like the team and the concept, but one or more critical hypotheses need to be proven out, or the business will need to overcome a few hurdles.”
- \$6M deal: “I see a path to generating real revenue over the next 12 months, but it's early. There is not enough data to give me 80%+ confidence that the company will hit its projections.”
- \$10M deal: “This is a HOT deal. I need to win it! I expect the company will get multiple term sheets based on the uniquely good team / traction / unit economics / product.”

Source- <http://www.nea.com/blog/what-size-series-a-round-can-you-expect-to-raise>



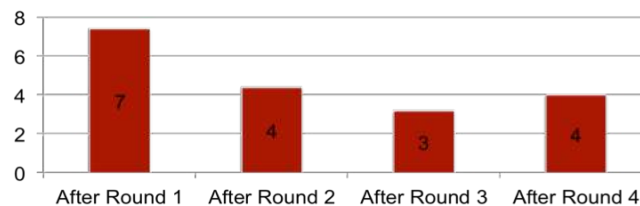
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Important to map your financing journey

- Round sizes tend to increase by ~5x between each financing round
- E.g. If your previous round was \$500K, the following one will be expected to total ~\$2.5M
- As you develop how much to raise, ensure your plan falls within the perimeters of 3x to 7x increase between each round

Average multiple of next round



Source: AngelList/Crunchbase



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venture
capitalist at
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▼ ■ in

Your Startup's Competitive Advantage



Startups fail when they run out of money. Startups run out of money when they lack focus. Without a maniacal focus on serving customer needs in a unique way, startups can founder amidst competition. Without product market fit, the business is challenged to generate strong metrics and face fundraising challenges. That's why it's critical to identify and focus on your startup's competitive advantage.

Most of the time, start-up competitive advantage falls to five categories: product, cost, positioning, distribution and execution.

Product improvements are common startup differentiators. A better chat experience, a data modeling layer for data analysts, near-instant transcription of expenses. All of these innovations are product innovations that cause users to switch to a new product.

Product advantages can be replicated by competitors given enough time, but they often last several years or more.

Cost is another competitive advantage when a new business understands how to minimize their costs relative to competitors. Amazon Web Services can offer low prices on infrastructure because of their scale, similar to their initial e-commerce business. This pricing advantage is created by economies of scale, and once a leader emerges, it's very expensive for others to catch up. Price advantages are more common when hardware or manufacturing are involved, because these types of expenses can be reduced at scale. Most software businesses costs are dominated by salary and very few businesses can outcompete their challengers by paying their employees substantially less.

Positioning is a more amorphous competitive advantage but can be just as powerful as the rest. A premium brand versus a value brand: which is your startup? Responsys positioned itself as a premium email marketing company with an ACV of \$250k+. In contrast, Marketo's ACV was roughly \$26k and ConstantContact \$263 (dollar). Each of these businesses ultimately exited for more than \$1B.

Another component of brand is category creation. By developing a brand that resonates with consumers, that creates a category, and that sufficiently differentiates a business from its competitors, a startup can create a lasting competitive advantage. Galoisight is synonymous with customer success and Intercom for customer communication.

Distribution advantages don't come around very often. It could be the dawn of search engine marketing, mobile app store distribution, enterprise apps or distribution, relationships with a key distribution channel, or novel marketing tactic. Dropbox refer-a-friend. Zensesk's community and referral marketing effort. Bill.com relationship with a national bank. Xero courting accountants to acquire businesses. Distribution advantages place a startup's product in front of customers in a scalable, cost-effective way that is difficult to replicate.

Execution is a competitive advantage when the team is uniquely qualified to pursue and opportunity. David Duffield founded and ran PeopleSoft before starting Workday, a SaaS disruptor to an incumbent whose business he understood better than anybody else. Because after all he had built it.

To be successful, a startup needs only one or two of these competitive differentiators to succeed. Trying to do all five increases the complexity and execution of the business. Consistently, the startups that differentiate based upon the founders' strengths (product, marketing, partnerships, expertise) are the ones with stronger competitive advantages. Pick one or two for your business and focus on those.

Published 2016-10-23 in [Strategy](#)



I am a partner at Redpoint. I write daily, data-driven blog posts about key questions facing startups. I co-authored the book, [Winning with Data](#). Join more than 20,000 others receiving these blog posts by email.

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This sample document is the work product of a national coalition of attorneys who specialize in venture capital financings, working under the auspices of the NVCA. This document is intended to serve as a starting point only, and should be tailored to meet your specific requirements. This document should not be construed as legal advice for any particular facts or circumstances. Note that this sample document presents an array of (often mutually exclusive) options with respect to particular deal provisions.

TERM SHEET

Preliminary Note

This term sheet maps to the NVCA Model Documents, and for convenience the provisions are grouped according to the particular Model Document in which they may be found. Although this term sheet is perhaps somewhat longer than a "typical" VC Term Sheet, the aim is to provide a level of detail that makes the term sheet useful as both a road map for the document drafters and as a reference source for the business people to quickly find deal terms without the necessity of having to consult the legal documents (assuming of course there have been no changes to the material deal terms prior to execution of the final documents).

TERM SHEET
FOR SERIES A PREFERRED STOCK FINANCING OF
[INSERT COMPANY NAME], INC.
[_____, 20__]

This Term Sheet summarizes the principal terms of the Series A Preferred Stock Financing of [_____] Inc., a [Delaware] corporation (the “**Company**”). In consideration of the time and expense devoted and to be devoted by the Investors with respect to this investment, the No Shop/Confidentiality [and Counsel and Expenses] provisions of this Term Sheet shall be binding obligations of the Company whether or not the financing is consummated. No other legally binding obligations will be created until definitive agreements are executed and delivered by all parties. This Term Sheet is not a commitment to invest, and is conditioned on the completion of due diligence, legal review and documentation that is satisfactory to the Investors. This Term Sheet shall be governed in all respects by the laws of [_____]the].¹

Offering Terms

Closing Date: As soon as practicable following the Company’s acceptance of this Term Sheet and satisfaction of the Conditions to Closing (the “**Closing**”). [provide for multiple closings if applicable]

Investors: Investor No. 1: [_____] shares ([_]%), \$[_____]
Investor No. 2: [_____] shares ([_]%), \$[_____]
[as well other investors mutually agreed upon by Investors and the Company]

Amount Raised: \$[_____], [including \$[_____]] from the conversion of principal [and interest] on bridge notes].²

Price Per Share: \$[_____] per share (based on the capitalization of the Company set forth below) (the “**Original Purchase Price**”).

¹ The choice of law governing a term sheet can be important because in some jurisdictions a term sheet that expressly states that it is nonbinding may nonetheless create an enforceable obligation to negotiate the terms set forth in the term sheet in good faith. Compare *SIGA Techs., Inc. v. PharmAthene, Inc.*, Case No. C.A. 2627 ((Del. Supreme Court May 24, 2013) (holding that where parties agreed to negotiate in good faith in accordance with a term sheet, that obligation was enforceable notwithstanding the fact that the term sheet itself was not signed and contained a footer on each page stating “Non Binding Terms”); *EQT Infrastructure Ltd. v. Smith*, 861 F. Supp. 2d 220 (S.D.N.Y. 2012); *Stanford Hotels Corp. v. Potomac Creek Assocs., L.P.*, 18 A.3d 725 (D.C. App. 2011) with *Rosenfield v. United States Trust Co.*, 5 N.E. 323, 326 (Mass. 1935) (“An agreement to reach an agreement is a contradiction in terms and imposes no obligation on the parties thereo.”); *Martin v. Martin*, 326 S.W.3d 741 (Tex. App. 2010); *Va. Power Energy Mktg. v. EQT Energy, LLC*, 2012 WL 2905110 (E.D. Va. July 16, 2012). As such, because a “nonbinding” term sheet governed by the law of a jurisdiction such as Delaware, New York or the District of Columbia may in fact create an enforceable obligation to negotiate in good faith to come to agreement on the terms set forth in the term sheet, parties should give consideration to the choice of law selected to govern the term sheet.

² Modify this provision to account for staged investments or investments dependent on the achievement of milestones by the Company.

Pre-Money Valuation: The Original Purchase Price is based upon a fully-diluted pre-money valuation of \$[_____] and a fully-diluted post-money valuation of \$[_____] (including an employee pool representing [__]% of the fully-diluted post-money capitalization).

Capitalization: The Company's capital structure before and after the Closing is set forth on Exhibit A.

CHARTER³

Dividends: [Alternative 1: Dividends will be paid on the Series A Preferred on an as-converted basis when, as, and if paid on the Common Stock]

[Alternative 2: The Series A Preferred will carry an annual [__]% cumulative dividend [payable upon a liquidation or redemption]. For any other dividends or distributions, participation with Common Stock on an as-converted basis.]⁴

[Alternative 3: Non-cumulative dividends will be paid on the Series A Preferred in an amount equal to \$[_____] per share of Series A Preferred when and if declared by the Board.]

Liquidation Preference: In the event of any liquidation, dissolution or winding up of the Company, the proceeds shall be paid as follows:

[Alternative 1 (non-participating Preferred Stock): First pay [one] times the Original Purchase Price [plus accrued dividends] [plus declared and unpaid dividends] on each share of Series A Preferred (or, if greater, the amount that the Series A Preferred would receive on an as-converted basis). The balance of any proceeds shall be distributed pro rata to holders of Common Stock.]

[Alternative 2 (full participating Preferred Stock): First pay [one] times the Original Purchase Price [plus accrued dividends] [plus declared and unpaid dividends] on each share of Series A Preferred. Thereafter, the Series A Preferred participates with the Common

³ The Charter (Certificate of Incorporation) is a public document, filed with the Secretary of State of the state in which the company is incorporated, that establishes all of the rights, preferences, privileges and restrictions of the Preferred Stock.

⁴ In some cases, accrued and unpaid dividends are payable on conversion as well as upon a liquidation event. Most typically, however, dividends are not paid if the preferred is converted. Another alternative is to give the Company the option to pay accrued and unpaid dividends in cash or in common shares valued at fair market value. The latter are referred to as "PIK" (payment-in-kind) dividends.

Stock pro rata on an as-converted basis.]

[*Alternative 3 (cap on Preferred Stock participation rights)*: First pay [one] times the Original Purchase Price [plus accrued dividends] [plus declared and unpaid dividends] on each share of Series A Preferred. Thereafter, Series A Preferred participates with Common Stock pro rata on an as-converted basis until the holders of Series A Preferred receive an aggregate of [_____] times the Original Purchase Price (including the amount paid pursuant to the preceding sentence).]

A merger or consolidation (other than one in which stockholders of the Company own a majority by voting power of the outstanding shares of the surviving or acquiring corporation) and a sale, lease, transfer, exclusive license or other disposition of all or substantially all of the assets of the Company will be treated as a liquidation event (a “**Deemed Liquidation Event**”), thereby triggering payment of the liquidation preferences described above [unless the holders of [_____] % of the Series A Preferred elect otherwise]. [The Investors' entitlement to their liquidation preference shall not be abrogated or diminished in the event part of the consideration is subject to escrow in connection with a Deemed Liquidation Event.]⁵

Voting Rights:

The Series A Preferred shall vote together with the Common Stock on an as-converted basis, and not as a separate class, except (i) [so long as [*insert fixed number, or %, or “any”*] shares of Series A Preferred are outstanding,] the Series A Preferred as a class shall be entitled to elect [_____] [()] members of the Board (the “**Series A Directors**”), and (ii) as required by law. The Company’s Certificate of Incorporation will provide that the number of authorized shares of Common Stock may be increased or decreased with the approval of a majority of the Preferred and Common Stock, voting together as a single class, and without a separate class vote by the Common Stock.⁶

Protective Provisions:

[So long as [*insert fixed number, or %, or “any”*] shares of Series A Preferred are outstanding,] in addition to any other vote or approval required under the Company’s Charter or Bylaws, the Company will not, without the written consent of the holders of at least [_____] % of the Company’s Series A Preferred, either directly or by amendment, merger, consolidation, or otherwise:

⁵ See Subsection 2.3.4 of the Model Certificate of Incorporation and the detailed explanation in related footnote 25.

⁶ For corporations incorporated in California, one cannot “opt out” of the statutory requirement of a separate class vote by Common Stockholders to authorize shares of Common Stock. The purpose of this provision is to “opt out” of DGL 242(b)(2).

(i) liquidate, dissolve or wind-up the affairs of the Company, or effect any merger or consolidation or any other Deemed Liquidation Event; (ii) amend, alter, or repeal any provision of the Certificate of Incorporation or Bylaws [in a manner adverse to the Series A Preferred];⁷ (iii) create or authorize the creation of or issue any other security convertible into or exercisable for any equity security, having rights, preferences or privileges senior to or on parity with the Series A Preferred, or increase the authorized number of shares of Series A Preferred; (iv) purchase or redeem or pay any dividend on any capital stock prior to the Series A Preferred, [other than stock repurchased from former employees or consultants in connection with the cessation of their employment/services, at the lower of fair market value or cost;] [other than as approved by the Board, including the approval of [_____] Series A Director(s)]; or (v) create or authorize the creation of any debt security [if the Company's aggregate indebtedness would exceed \$[_____] [other than equipment leases or bank lines of credit] [unless such debt security has received the prior approval of the Board of Directors, including the approval of [_____] Series A Director(s)]; (vi) create or hold capital stock in any subsidiary that is not a wholly-owned subsidiary or dispose of any subsidiary stock or all or substantially all of any subsidiary assets; [or (vii) increase or decrease the size of the Board of Directors].⁸

Optional Conversion:

The Series A Preferred initially converts 1:1 to Common Stock at any time at option of holder, subject to adjustments for stock dividends, splits, combinations and similar events and as described below under "Anti-dilution Provisions."

Anti-dilution Provisions:

In the event that the Company issues additional securities at a purchase price less than the current Series A Preferred conversion price, such conversion price shall be adjusted in accordance with the following formula:

[*Alternative 1:* "Typical" weighted average:

$$CP_2 = CP_1 * (A+B) / (A+C)$$

CP₂ = Series A Conversion Price in effect immediately after new issue

⁷ Note that as a matter of background law, Section 242(b)(2) of the Delaware General Corporation Law provides that if any proposed charter amendment would adversely alter the rights, preferences and powers of one series of Preferred Stock, but not similarly adversely alter the entire class of all Preferred Stock, then the holders of that series are entitled to a separate series vote on the amendment.

⁸ The board size provision may also be addressed in the Voting Agreement; see Section 1.1 of the Model Voting Agreement.

- CP₁ = Series A Conversion Price in effect immediately prior to new issue
- A = Number of shares of Common Stock deemed to be outstanding immediately prior to new issue (includes all shares of outstanding common stock, all shares of outstanding preferred stock on an as-converted basis, and all outstanding options on an as-exercised basis; and does not include any convertible securities converting into this round of financing)⁹
- B = Aggregate consideration received by the Corporation with respect to the new issue divided by CP₁
- C = Number of shares of stock issued in the subject transaction]

[*Alternative 2*: Full-ratchet – the conversion price will be reduced to the price at which the new shares are issued.]

[*Alternative 3*: No price-based anti-dilution protection.]

The following issuances shall not trigger anti-dilution adjustment:¹⁰

- (i) securities issuable upon conversion of any of the Series A Preferred, or as a dividend or distribution on the Series A Preferred; (ii) securities issued upon the conversion of any debenture, warrant, option, or other convertible security; (iii) Common Stock issuable upon a stock split, stock dividend, or any subdivision of shares of Common Stock; and (iv) shares of Common Stock (or options to purchase such shares of Common Stock) issued or issuable to employees or directors of, or consultants to, the Company pursuant to any plan approved by the Company's Board of Directors [including at least [_____] Series A Director(s)].

Mandatory Conversion:

Each share of Series A Preferred will automatically be converted into Common Stock at the then applicable conversion rate in the event of the closing of a [firm commitment] underwritten public offering with a price of [___] times the Original Purchase Price (subject to adjustments for stock dividends, splits, combinations and similar events) and [net/gross] proceeds to the Company of not less than \$[_____] (a "QPO"), or (ii) upon the written consent of the

⁹ The "broadest" base would include shares reserved in the option pool.

¹⁰ Note that additional exclusions are frequently negotiated, such as issuances in connection with equipment leasing and commercial borrowing. See Subsections 4.4.1(d)(v)-(viii) of the Model Certificate of Incorporation for additional exclusions.

holders of []% of the Series A Preferred.¹¹

[Pay-to-Play:

[Unless the holders of []% of the Series A elect otherwise,] on any subsequent [down] round all [Major] Investors are required to purchase their pro rata share of the securities set aside by the Board for purchase by the [Major] Investors. All shares of Series A Preferred¹² of any [Major] Investor failing to do so will automatically [lose anti-dilution rights] [lose right to participate in future rounds] [convert to Common Stock and lose the right to a Board seat if applicable].¹³

*Redemption Rights:*¹⁴

Unless prohibited by Delaware law governing distributions to stockholders, the Series A Preferred shall be redeemable at the option of holders of at least []% of the Series A Preferred commencing any time after [] at a price equal to the Original Purchase Price [plus all accrued but unpaid dividends]. Redemption shall occur in three equal annual portions. Upon a redemption request from the holders of the required percentage of the Series A Preferred, all Series A Preferred shares shall be redeemed [(except for any Series A holders who affirmatively opt-out)].¹⁵

STOCK PURCHASE AGREEMENT

¹¹ The per share test ensures that the investor achieves a significant return on investment before the Company can go public. Also consider allowing a non-QPO to become a QPO if an adjustment is made to the Conversion Price for the benefit of the investor, so that the investor does not have the power to block a public offering.

¹² Alternatively, this provision could apply on a proportionate basis (*e.g.*, if Investor plays for ½ of pro rata share, receives ½ of anti-dilution adjustment).

¹³ If the punishment for failure to participate is losing some but not all rights of the Preferred (*e.g.*, anything other than a forced conversion to common), the Certificate of Incorporation will need to have so-called “blank check preferred” provisions at least to the extent necessary to enable the Board to issue a “shadow” class of preferred with diminished rights in the event an investor fails to participate. As a drafting matter, it is far easier to simply have (some or all of) the preferred convert to common.

¹⁴ Redemption rights allow Investors to force the Company to redeem their shares at cost (and sometimes investors may also request a small guaranteed rate of return, in the form of a dividend). In practice, redemption rights are not often used; however, they do provide a form of exit and some possible leverage over the Company. While it is possible that the right to receive dividends on redemption could give rise to a Code Section 305 “deemed dividend” problem, many tax practitioners take the view that if the liquidation preference provisions in the Charter are drafted to provide that, on conversion, the holder receives the greater of its liquidation preference or its as-converted amount (as provided in the Model Certificate of Incorporation), then there is no Section 305 issue.

¹⁵ Due to statutory restrictions, the Company may not be legally permitted to redeem in the very circumstances where investors most want it (the so-called “sideways situation”). Accordingly, and particularly in light of the Delaware Chancery Court’s ruling in *Thoughtworks* (see discussion in Model Charter), investors may seek enforcement provisions to give their redemption rights more teeth - *e.g.*, the holders of a majority of the Series A Preferred shall be entitled to elect a majority of the Company’s Board of Directors, or shall have consent rights on Company cash expenditures, until such amounts are paid in full.

Representations and Warranties: Standard representations and warranties by the Company. [Representations and warranties by Founders regarding technology ownership, etc.].¹⁶

Conditions to Closing: Standard conditions to Closing, which shall include, among other things, satisfactory completion of financial and legal due diligence, qualification of the shares under applicable Blue Sky laws, the filing of a Certificate of Incorporation establishing the rights and preferences of the Series A Preferred, and an opinion of counsel to the Company.

Counsel and Expenses: [Investor/Company] counsel to draft Closing documents. Company to pay all legal and administrative costs of the financing [at Closing], including reasonable fees (not to exceed \$[____]) and expenses of Investor counsel[, unless the transaction is not completed because the Investors withdraw their commitment without cause].¹⁷

Company Counsel: [_____

_____]

Investor Counsel: [_____

_____]

INVESTORS' RIGHTS AGREEMENT

Registration Rights:

Registrable Securities: All shares of Common Stock issuable upon conversion of the Series A Preferred [and {any other Common Stock held by the Investors}] will be deemed "**Registrable Securities**."¹⁸

Demand Registration: Upon earliest of (i) [three-five] years after the Closing; or (ii) [six] months¹⁹ following an initial public offering ("**IPO**"), persons

¹⁶ Founders' representations are controversial and may elicit significant resistance as they are found in a minority of venture deals. They are more likely to appear if Founders are receiving liquidity from the transaction, or if there is heightened concern over intellectual property (e.g., the Company is a spin-out from an academic institution or the Founder was formerly with another company whose business could be deemed competitive with the Company), or in international deals. Founders' representations are even less common in subsequent rounds, where risk is viewed as significantly diminished and fairly shared by the investors, rather than being disproportionately borne by the Founders. A sample set of Founders Representations is attached as an Addendum at the end of the Model Stock Purchase Agreement.

¹⁷ The bracketed text should be deleted if this section is not designated in the introductory paragraph as one of the sections that is binding upon the Company regardless of whether the financing is consummated.

¹⁸ Note that Founders/management sometimes also seek limited registration rights.

holding []% of the Registrable Securities may request [one][two] (consummated) registrations by the Company of their shares. The aggregate offering price for such registration may not be less than \$[5-15] million. A registration will count for this purpose only if (i) all Registrable Securities requested to be registered are registered, and (ii) it is closed, or withdrawn at the request of the Investors (other than as a result of a material adverse change to the Company).

Registration on Form S-3: The holders of [10-30]% of the Registrable Securities will have the right to require the Company to register on Form S-3, if available for use by the Company, Registrable Securities for an aggregate offering price of at least \$[1-5 million]. There will be no limit on the aggregate number of such Form S-3 registrations, provided that there are no more than [two] per year.

Piggyback Registration: The holders of Registrable Securities will be entitled to “piggyback” registration rights on all registration statements of the Company, subject to the right, however, of the Company and its underwriters to reduce the number of shares proposed to be registered to a minimum of [20-30]% on a pro rata basis and to complete reduction on an IPO at the underwriter’s discretion. In all events, the shares to be registered by holders of Registrable Securities will be reduced only after all other stockholders’ shares are reduced.

Expenses: The registration expenses (exclusive of stock transfer taxes, underwriting discounts and commissions will be borne by the Company. The Company will also pay the reasonable fees and expenses[, not to exceed \$_____,] of one special counsel to represent all the participating stockholders.

Lock-up: Investors shall agree in connection with the IPO, if requested by the managing underwriter, not to sell or transfer any shares of Common Stock of the Company [(including/excluding shares acquired in or following the IPO)] for a period of up to 180 days [plus up to an additional 18 days to the extent necessary to comply with applicable regulatory requirements]²⁰ following the IPO (provided all directors and officers of the Company [and [1 – 5]% stockholders] agree to the same lock-up). [Such lock-up agreement shall provide that any discretionary waiver or termination of the restrictions of such agreements by the Company or representatives of the underwriters

¹⁹ The Company will want the percentage to be high enough so that a significant portion of the investor base is behind the demand. Companies will typically resist allowing a single investor to cause a registration. Experienced investors will want to ensure that less experienced investors do not have the right to cause a demand registration. In some cases, different series of Preferred Stock may request the right for that series to initiate a certain number of demand registrations. Companies will typically resist this due to the cost and diversion of management resources when multiple constituencies have this right.

²⁰ See commentary in footnotes 23 and 24 of the Model Investors’ Rights Agreement regarding possible extensions of lock-up period.

shall apply to Investors, pro rata, based on the number of shares held.

Termination:

Upon a Deemed Liquidation Event, [and/or] when all shares of an Investor are eligible to be sold without restriction under Rule 144 [and/or] the [____] anniversary of the IPO.

No future registration rights may be granted without consent of the holders of a [majority] of the Registrable Securities unless subordinate to the Investor's rights.

Management and Information Rights:

A Management Rights letter from the Company, in a form reasonably acceptable to the Investors, will be delivered prior to Closing to each Investor that requests one.²¹

Any [Major] Investor [(who is not a competitor)] will be granted access to Company facilities and personnel during normal business hours and with reasonable advance notification. The Company will deliver to such Major Investor (i) annual, quarterly, [and monthly] financial statements, and other information as determined by the Board; (ii) thirty days prior to the end of each fiscal year, a comprehensive operating budget forecasting the Company's revenues, expenses, and cash position on a month-to-month basis for the upcoming fiscal year; and (iii) promptly following the end of each quarter an up-to-date capitalization table. A "Major Investor" means any Investor who purchases at least \$[_____] of Series A Preferred.

Right to Participate Pro Rata in Future Rounds:

All [Major] Investors shall have a pro rata right, based on their percentage equity ownership in the Company (assuming the conversion of all outstanding Preferred Stock into Common Stock and the exercise of all options outstanding under the Company's stock plans), to participate in subsequent issuances of equity securities of the Company (excluding those issuances listed at the end of the "Anti-dilution Provisions" section of this Term Sheet. In addition, should any [Major] Investor choose not to purchase its full pro rata share, the remaining [Major] Investors shall have the right to purchase the remaining pro rata shares.

Matters Requiring Investor Director Approval:

[So long as the holders of Series A Preferred are entitled to elect a Series A Director, the Company will not, without Board approval, which approval must include the affirmative vote of [one/both] of the Series A Director(s):

- (i) make any loan or advance to, or own any stock or other securities of, any subsidiary or other corporation, partnership, or

²¹ See commentary in introduction to Model Managements Rights Letter, explaining purpose of such letter.

other entity unless it is wholly owned by the Company; (ii) make any loan or advance to any person, including, any employee or director, except advances and similar expenditures in the ordinary course of business or under the terms of a employee stock or option plan approved by the Board of Directors; (iii) guarantee; any indebtedness except for trade accounts of the Company or any subsidiary arising in the ordinary course of business; (iv) make any investment inconsistent with any investment policy approved by the Board; (v) incur any aggregate indebtedness in excess of \$[_____] that is not already included in a Board-approved budget, other than trade credit incurred in the ordinary course of business; (vi) enter into or be a party to any transaction with any director, officer or employee of the Company or any “associate” (as defined in Rule 12b-2 promulgated under the Exchange Act) of any such person [except transactions resulting in payments to or by the Company in an amount less than \$[60,000] per year], [or transactions made in the ordinary course of business and pursuant to reasonable requirements of the Company’s business and upon fair and reasonable terms that are approved by a majority of the Board of Directors];²² (vii) hire, fire, or change the compensation of the executive officers, including approving any option grants; (viii) change the principal business of the Company, enter new lines of business, or exit the current line of business; (ix) sell, assign, license, pledge or encumber material technology or intellectual property, other than licenses granted in the ordinary course of business; or (x) enter into any corporate strategic relationship involving the payment contribution or assignment by the Company or to the Company of assets greater than [\$100,000.00].

*Non-Competition and
Non-Solicitation Agreements:*²³

Each Founder and key employee will enter into a [one] year non-competition and non-solicitation agreement in a form reasonably acceptable to the Investors.

Non-Disclosure and

Each current and former Founder, employee and consultant will

²² Note that Section 402 of the Sarbanes-Oxley Act of 2003 would require repayment of any loans in full prior to the Company filing a registration statement for an IPO.

²³ Note that non-compete restrictions (other than in connection with the sale of a business) are prohibited in California, and may not be enforceable in other jurisdictions, as well. In addition, some investors do not require such agreements for fear that employees will request additional consideration in exchange for signing a Non-Compete/Non-Solicit (and indeed the agreement may arguably be invalid absent such additional consideration - although having an employee sign a non-compete contemporaneous with hiring constitutes adequate consideration in jurisdictions where non-competes are generally enforceable). Others take the view that it should be up to the Board on a case-by-case basis to determine whether any particular key employee is required to sign such an agreement. Non-competes typically have a one year duration, although state law may permit up to two years. Note also that some states may require that a *new* Non-Compete be signed where there is a material change in the employee’s duties/salary/title.

Developments Agreement: enter into a non-disclosure and proprietary rights assignment agreement in a form reasonably acceptable to the Investors.

Board Matters: [Each Board Committee shall include at least one Series A Director.]

The Board of Directors shall meet at least [monthly][quarterly], unless otherwise agreed by a vote of the majority of Directors.

The Company will bind D&O insurance with a carrier and in an amount satisfactory to the Board of Directors. Company to enter into Indemnification Agreement with each Series A Director [and affiliated funds] in form acceptable to such director. In the event the Company merges with another entity and is not the surviving corporation, or transfers all of its assets, proper provisions shall be made so that successors of the Company assume the Company's obligations with respect to indemnification of Directors.

Employee Stock Options: All employee options to vest as follows: [25% after one year, with remaining vesting monthly over next 36 months].

[Immediately prior to the Series A Preferred Stock investment, [_____] shares will be added to the option pool creating an unallocated option pool of [_____] shares.]

Key Person Insurance: Company to acquire life insurance on Founders [*name each Founder*] in an amount satisfactory to the Board. Proceeds payable to the Company.

RIGHT OF FIRST REFUSAL/CO-SALE AGREEMENT

*Right of First Refusal/
Right of Co-Sale
(Take-Me-Along):* Company first and Investors second (to the extent assigned by the Board of Directors,) will have a right of first refusal with respect to any shares of capital stock of the Company proposed to be transferred by Founders [and future employees holding greater than [1]% of Company Common Stock (assuming conversion of Preferred Stock and whether then held or subject to the exercise of options)], with a right of oversubscription for Investors of shares unsubscribed by the other Investors. Before any such person may sell Common Stock, he will give the Investors an opportunity to participate in such sale on a basis proportionate to the amount of securities held by the seller and those held by the participating Investors.²⁴

²⁴ Certain exceptions are typically negotiated, *e.g.*, estate planning or *de minimis* transfers. Investors may also seek ROFR rights with respect to transfers by investors, in order to be able to have some control over the composition of the investor group.

VOTING AGREEMENT

Board of Directors:

At the initial Closing, the Board shall consist of [_____] members comprised of (i) [name] as [the representative designated by [_____] as the lead Investor, (ii) [name] as the representative designated by the remaining Investors, (iii) [name] as the representative designated by the Founders, (iv) the person then serving as the Chief Executive Officer of the Company, and (v) [_____] person(s) who are not employed by the Company and who are mutually acceptable [to the Founders and Investors][to the other directors].

[Drag Along:

Holders of Preferred Stock and the Founders [and all future holders of greater than [1]% of Common Stock (assuming conversion of Preferred Stock and whether then held or subject to the exercise of options)] shall be required to enter into an agreement with the Investors that provides that such stockholders will vote their shares in favor of a Deemed Liquidation Event or transaction in which 50% or more of the voting power of the Company is transferred and which is approved by [the Board of Directors] [and the holders of ____% of the outstanding shares of Preferred Stock, on an as-converted basis (the “**Electing Holders**”)], so long as the liability of each stockholder in such transaction is several (and not joint) and does not exceed the stockholder's pro rata portion of any claim and the consideration to be paid to the stockholders in such transaction will be allocated as if the consideration were the proceeds to be distributed to the Company's stockholders in a liquidation under the Company's then-current Certificate of Incorporation.]²⁵

[Sale Rights:

Upon written notice to the Company from the Electing Holders, the Company shall initiate a process intended to result in a sale of the Company.]²⁶

OTHER MATTERS

Founders' Stock:

All Founders to own stock outright subject to Company right to buyback at cost. Buyback right for [_____] % for first [12 months] after Closing; thereafter, right lapses in equal [monthly] increments over following [_____] months.

[Existing Preferred Stock:]²⁷

The terms set forth above for the Series [_____] Preferred Stock are subject to a review of the rights, preferences and restrictions for the existing Preferred Stock. Any changes necessary to conform the existing Preferred Stock to this term sheet will be made at the

²⁵ See Subsection 3.3 of the Model Voting Agreement for a more detailed list of conditions that must be satisfied in order for the drag-along to be invoked.

²⁶ See Addendum to Model Voting Agreement

²⁷ Necessary only if this is a later round of financing, and not the initial Series A round.

Closing.]

No Shop/Confidentiality:

The Company agrees to work in good faith expeditiously towards a closing. The Company and the Founders agree that they will not, for a period of [_____] weeks from the date these terms are accepted, take any action to solicit, initiate, encourage or assist the submission of any proposal, negotiation or offer from any person or entity other than the Investors relating to the sale or issuance, of any of the capital stock of the Company [or the acquisition, sale, lease, license or other disposition of the Company or any material part of the stock or assets of the Company] and shall notify the Investors promptly of any inquiries by any third parties in regards to the foregoing. [In the event that the Company breaches this no-shop obligation and, prior to [_____] , closes any of the above-referenced transactions [without providing the Investors the opportunity to invest on the same terms as the other parties to such transaction], then the Company shall pay to the Investors \$[_____] upon the closing of any such transaction as liquidated damages.]²⁸ The Company will not disclose the terms of this Term Sheet to any person other than officers, members of the Board of Directors and the Company's accountants and attorneys and other potential Investors acceptable to [_____] , as lead Investor, without the written consent of the Investors.

Expiration:

This Term Sheet expires on [_____] , 20__] if not accepted by the Company by that date.

EXECUTED THIS [__] DAY OF [_____] , 20[____].

[SIGNATURE BLOCKS]

²⁸ It is unusual to provide for such "break-up" fees in connection with a venture capital financing, but might be something to consider where there is a substantial possibility the Company may be sold prior to consummation of the financing (e.g., a later stage deal).

EXHIBIT A

Pre and Post-Financing Capitalization

Security	Pre-Financing		Post-Financing	
	# of Shares	%	# of Shares	%
Common – Founders				
Common – Employee Stock Pool				
Issued				
Unissued				
[Common – Warrants]				
Series A Preferred				
Total				