QAPITA

Beyond
The Signature

Why the last document an investor signs is the first place your cap table can go wrong and how to make sure it doesn't.

WHAT'S INSIDE

Contents

SECTION 01

Stop Treating It Like Paperwork

Founders spend weeks negotiating a term sheet fighting over ten basis points on the discount, arguing about a pro-rata clause and then wave the subscription agreement through with barely a read. That instinct is exactly backwards.

A term sheet is a negotiation. It is non-binding, forgettable, and easily amended. A subscription agreement is a permanent record. It is the one document that tells your cap table, your auditors, your 409A provider, and your next-round investor exactly who owns what, how they paid for it, and whether they were legally entitled to buy it in the first place.

A quiet truth about cap table errors

A mistake in a subscription agreement rarely stays a mistake. It becomes a fact in your cap table. Then a footnote in your next 409A valuation. Then a question your lead investor asks during Series B diligence the one that stalls a closing by two weeks.

Term Sheet	Negotiated, non-binding, flexible
↓	
Subscription Agreement	Executed, legally binding record
↓	
Cap Table	Permanent, the system of record

SECTION 02

What Is a Subscription Agreement?

In the US startup context, a subscription agreement is the contract in which an investor formally "subscribes" agrees to purchase a specific number of shares at a specific price, and the company accepts that subscription. It is bidirectional: the company commits to sell and issue the shares; the investor commits to pay for them and makes a set of legal representations that let the company rely on a securities-law exemption.

Priced Equity Rounds

The most common startup use: seed, Series A, and later rounds where shares are issued at an agreed price per share often bundled inside, or alongside, a Stock Purchase Agreement.

Fund / LP Structures

In limited partnerships (VC funds, real estate syndicates), the subscription agreement is how a limited partner applies to join a related but distinct use case with its own fund-specific representations.

The Legal Bridge

It is also the mechanism that lets a private company sell securities without a costly, time-consuming SEC registration by relying on exemptions like Regulation D.

Two promises, one document

The company promises to sell a defined number of shares at a defined price. The investor promises to pay that price and confirms, in writing, that they meet the legal standard to buy unregistered securities. Neither side can walk away without consequence once both sides sign.

SECTION 03

Where It Sits in the Deal Timeline

The subscription agreement doesn’t arrive in isolation it is one checkpoint in a sequence. Understanding its place helps you spot when a step has been skipped.

Term Sheet Signed

Key economics and rights agreed; non-binding except for exclusivity & confidentiality.

Definitive Docs Drafted

Stock Purchase / Subscription Agreement, charter amendment, investor rights agreement.

Diligence & AI Verification

Accredited investor status confirmed; disclosure schedule finalized.

Signing

Company and investor execute signature pages, often via counterparts.

Wire / Funding

Investor funds move; company confirms receipt before treating shares as issued.

Closing

Conditions precedent satisfied; board resolution ratifies the issuance.

Cap Table Updated

Shares recorded; certificate or book-entry position issued same day.

SECTION 04

Anatomy of a Subscription Agreement

1

Subscription Details

Investor legal name, number of shares, price per share, aggregate purchase amount, share class.

2

Investor Representations

Accredited status, investment intent, sophistication, authority to sign, source of funds.

3

Company Representations

Good standing, capitalization accuracy, authorized shares, no conflicts, securities-law compliance.

4

Conditions to Closing

Board & stockholder approvals, charter amendments filed, required consents obtained.

5

Payment Mechanics

Wire instructions, timing, currency, what “received” and “cleared” mean for issuance.

6

Indemnification

Allocation of loss if a representation turns out to be false or a party breaches the contract.

7

Confidentiality

Restrictions on sharing cap table, financials, and deal terms outside the transaction.

8

Governing Law & Signatures

Almost always Delaware; counterparts clause enabling electronic / remote execution.

SECTION 05

What the Investor Is Actually Signing

Every checkbox in the representations section exists to protect the private-placement exemption the company is relying on. If any one of them turns out to be false, the exemption and the whole offering can be at risk.

1. **Accredited Investor Status**
   Confirms the investor meets an income, net worth, or professional-credential test under SEC Rule 501.

2. **No General Solicitation**
   Under 506(b), the investor confirms they weren't reached through public advertising.

3. **Risk Acknowledgment**
   Explicit acceptance that the shares are illiquid, unregistered, and speculative.

4. **Source of Funds**
   Confirms committed capital isn't financed by a third party solely to appear qualified.

5. **Investment Intent**
   Shares are being bought to hold, not to immediately resell or distribute to the public.

6. **Independent Investigation**
   Investor had access to information and the chance to ask questions before committing.

7. **Authority to Execute**
   For entities: confirmation the signer is authorized to bind the fund, trust, or LLC.

SECTION 06

What the Company Is Promising Back

Representations aren't one-sided. The company is making its own set of promises and this is where a messy cap table becomes a legal liability rather than just an administrative headache.

1

Due Organization & Standing

The company is validly formed and in good standing under Delaware (or its state of incorporation).

2

Capitalization Accuracy

The disclosed cap table shares outstanding, options, SAFEs, notes is complete and correct as of closing.

3

Authorized Share Issuance

Board and stockholder approvals for this specific issuance exist and are properly documented.

4

No Conflicts

The sale doesn't violate the charter, bylaws, or any existing investor-rights or ROFR agreement.

5

Securities Law Compliance

The offering qualifies for its claimed exemption and required notice filings will be made.

6

Disclosure Accuracy

Nothing material has been omitted or misstated in the disclosure schedule provided to the investor.

SECTION 07

Regulation D: 506(b) vs 506(c)

Almost every US priced round relies on one of two Regulation D exemptions. The choice changes what your subscription agreement needs to prove.

	Rule 506(b)	Rule 506(c)
GENERAL SOLICITATION	Not permitted	Permitted public posts, webinars, press releases allowed
INVESTOR POOL	Unlimited accredited + up to 35 sophisticated non-accredited	Accredited investors only, no exceptions
VERIFICATION STANDARD	"Reasonable belief" self-certification in the subscription agreement is typically sufficient	"Reasonable steps to verify" documentation, third-party letter, or minimum-investment method
TYPICAL USE CASE	Rounds sourced from warm networks, existing investors, referrals	Rounds marketed broadly, platform-led raises, larger syndicates

In March 2025, the SEC allowed issuers to treat a sufficiently high minimum investment amount as a reasonable step to verify accredited status under 506(c) a meaningfully lighter path than requiring tax returns or a third-party letter for every investor.

SECTION 08

Accredited Investor Verification in 2026

Income Test

> $200,000 individual (or $300,000 joint) in each of the prior two years, with a reasonable expectation of the same this year.

Net Worth Test

> $1,000,000 net worth, individually or jointly with a spouse, excluding the value of a primary residence.

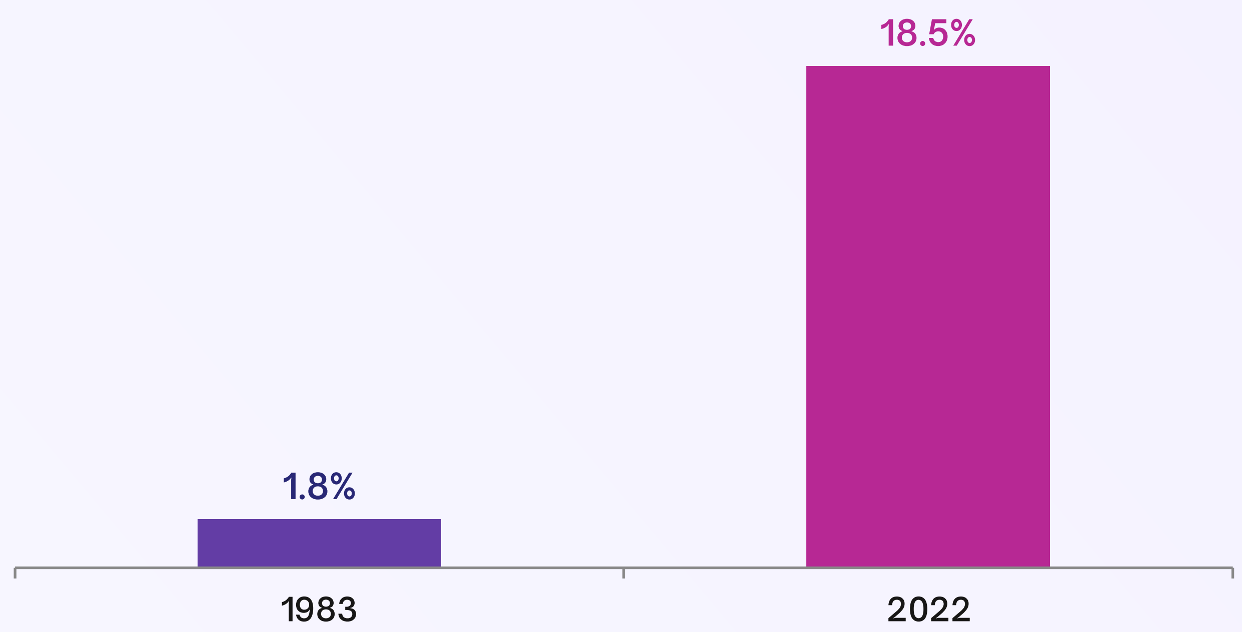
Professional Credentials

Series 7, 65, or 82 license holders qualify regardless of income or balance sheet.

Knowledgeable Employees

Employees of a private fund who participate in its investment activities qualify for that fund’s offering.

Both thresholds have held steady at their 2010 levels for over a decade which quietly widens the accredited pool every year as incomes and asset values rise with inflation:



Share of US Households Qualifying as Accredited Investors

Why this matters for your subscription agreement

Static thresholds mean more of your prospective investors will qualify but it also means self-certification checkboxes are doing more legal work than ever. Build a real verification file, not just a signed checkbox, especially under 506(c).

SECTION 09

Blue Sky Laws & the Form D Filing

Signing the subscription agreement doesn't mean the raise is compliant. Regulation D preempts state registration requirements, but it does not eliminate state notice obligations and this is the step founders most often forget.

Federal Notice: Form D

Must be filed electronically with the SEC within 15 calendar days of the first sale in the offering not 15 days after closing the whole round.

State Notice Filings

Most states still require a Blue Sky notice filing (and fee) for each state where an investor resides, even though Reg D preempts state merit review.

Amendments

Adding a new closing, a new investor, or materially changing terms can trigger an amended Form D track this per closing, not just once.

Recordkeeping

Keep proof of filing and state notices with the deal file auditors and future acquirers will ask for it.

The subscription agreement proves the offer was made correctly. Form D and state notices prove the company followed through. Skipping the second step after nailing the first is one of the most common and most fixable compliance gaps in early-stage fundraising.

SECTION 10

Key Clauses You Cannot Skip

Signing the subscription agreement doesn't mean the raise is compliant. Regulation D preempts state registration requirements, but it does not eliminate state notice obligations and this is the step founders most often forget.

Indemnification & Warranty

Allocates cost if a party's representation turns out false or a breach occurs — read the survival period and any cap.

Confidentiality

Restricts sharing of cap table detail, financials, and deal terms outside the transaction.

Conditions Precedent

Lists exactly what must happen board approval, charter filing before the contract becomes operative.

Non-Compete / Standstill

Less common in venture deals, but appears in strategic or corporate-investor rounds to limit competitive conflicts.

Governing Law & Venue

Almost universally Delaware for US startups, regardless of where the company is headquartered or operates.

Assignment & Transfer

Restricts whether an investor can transfer their subscribed shares without company consent.

SECTION 11

Six Mistakes That Quietly Break Your Cap Table

1

Share count mismatch

The number in the subscription agreement doesn't match the board resolution or the cap table software entry.

2

Entity name mismatch

Investor signs as "John Smith" but funds arrive from "Smith Family Trust" no one reconciles the two.

3

Price-per-share rounding

Small rounding differences between the term sheet and the final agreement compound across a large investor list.

4

Expired verification

Funds are accepted before accredited-investor verification is complete a technical 506(c) violation.

5

Premature closing

Signature pages are executed, but a listed condition precedent like a charter amendment was never actually satisfied.

6

Funds-before-signature

Wire lands before the company countersigns creating ambiguity about exactly when the shares were issued.

SECTION 12

Subscription Agreement, SPA or SAFE?

These three instruments get mentioned interchangeably in founder conversations they are not interchangeable. Each answers a different question about when and how ownership converts into real shares.

Instrument	When Used	Priced Now?	Converts Later?
SAFE	Pre-seed / early seed, speed matters more than precision	No, valuation deferred	Yes, converts at the next priced round
Convertible Note	Pre-seed / bridge financing, often between priced rounds	No, accrues interest instead	Yes, converts, often with a cap & discount
Subscription Agreement	Priced seed and later rounds; issued alongside or within a Stock Purchase Agreement	Yes, price per share fixed at signing	No, shares issue immediately at closing

In practice, many early priced rounds skip a separate "Stock Purchase Agreement" entirely and simply call the whole package a Subscription Agreement the substance matters more than the label your lawyer puts on the cover page.

SECTION 13

Special US Market Considerations

Delaware Governs, Regardless of HQ

Nearly every US venture-backed company is a Delaware C-corp, and the subscription agreement's governing law clause reflects that even if the company operates entirely out of California or New York.

Foreign Investors Need More Paperwork

Expect a W-8BEN for tax purposes, and for sensitive sectors, a CFIUS screening question build extra time into closing for cross-border subscribers.

Entity Investors Need Authority Docs

LLCs, trusts, and SPVs must attach evidence that the signer has authority to bind the entity an operating agreement excerpt or trust certification.

QSBS Eligibility Starts Here

For Section 1202 tax treatment, the investor's five-year holding period begins at original issuance an error in the subscription agreement's date or share class can jeopardize that clock.

SECTION 14

Closing Mechanics: The Sequence Matters

Closing isn't a single moment, it's a sequence. Doing these steps out of order is how conditions precedent get "satisfied" on paper before they're actually true.

1. Board resolution approving the issuance is adopted and documented
2. Charter amendment (if a new series of preferred) is filed with the Delaware Secretary of State
3. Disclosure schedule is finalized and attached as an exhibit
4. Wire instructions are confirmed with the investor over a verified channel, wire fraud targets closings specifically
5. Signature pages are executed, typically via counterparts and e-signature
6. Funds are received and confirmed before shares are treated as issued
7. Stock ledger and cap table are updated the same day, not "when there's time"

A wire fraud reminder: always verbally confirm wire instructions on a known phone number before sending funds, this is the single most common closing-day scam in private financings.

SECTION 15

Getting It Into Your Cap Table Right

Treat every executed subscription agreement as a data-entry event, not just a filing task. The fields on the signature page are the fields that need to land in your cap table exactly.

- Legal Name (as signed)
- Share Class
- Share Count
- Price per Share
- Issue Date
- Consideration Type
- Certificate / Book-Entry #

Reconcile Before You Certify

Cross-check the aggregate shares issued in this closing against your fully diluted cap table before generating any certificate or book-entry position catch the mismatch before it's permanent.

Keep the Full Record Together

Store the signed agreement, the disclosure schedule, and the accredited-investor verification file together per investor. If the SEC ever examines the offering, the burden of proof sits with the issuer not the investor.

The founders who never scramble before a priced round or an audit are the ones who treated every subscription agreement as cap table input from day one not a PDF to file away and forget.

SECTION 16

Quick Reference: The Two Checklists

Before You Sign	After You Close
✓ Confirm 506(b) vs 506(c) path and matching solicitation practice	✓ Confirm all conditions precedent are truly satisfied, not just listed
✓ Complete accredited-investor verification and file the evidence	✓ Verify wire instructions on a known channel before funds move
✓ Reconcile share count & price against the term sheet and board approval	✓ File Form D within 15 days of first sale; check state notice needs
✓ Confirm investor legal entity name and signing authority	✓ Update the cap table and stock ledger the same day as closing
✓ Finalize the disclosure schedule with no material omissions	✓ Store agreement, schedule, and verification file together per investor

IN CLOSING

Precision Here Is Cheaper Than Correction Later

A subscription agreement takes a few extra hours to get exactly right. A cap table error discovered during Series B diligence, a 409A revision, or an SEC inquiry takes weeks and costs far more than legal fees.

COMPANION RESOURCE

US Subscription Agreement Template

A ready-to-adapt Delaware C-corp subscription agreement built for Rule 506(b) / 506(c) priced rounds provided alongside this guide.

Download

This guide is provided for general informational purposes and does not constitute legal, tax, or financial advice. Consult qualified securities counsel before relying on any exemption or executing a subscription agreement.

SECTION 17

How Qapita Helps You Execute Subscription Agreements Riot-Free

A subscription agreement is just the beginning. From the moment it's signed through multiple rounds, secondaries, and eventually a liquidity event, your cap table is the system of record. That's where Qapita fits.

Cap Table Management

Record subscription agreements as transactions in real-time. Every signature, every share class, every investor is captured with audit-ready accuracy. No spreadsheets, no discrepancies.

409A Valuations

Get independent, IRS-compliant 409A valuations in as little as 5 days, with analysis from CFA-reviewed analysts. Stay current, stay defensible as you hit material events.

Stock Option Administration

Issue grants, manage vesting, handle 83(b) elections, and run equity payslips — all on one platform. Scale from your first hire to 100+ employees without operational friction.

Financial Reporting

Automate ASC 718 share-based payment accounting and ASC 820 valuation reporting for your auditors. Let Qapita handle the compliance math, not your CFO.

Book A Demo