



QAPITA

The Investment *Agreement*

What Actually Happens After the Term Sheet and the Clauses That Decide Who Controls Your Company Later

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01 — THE REAL PROBLEM

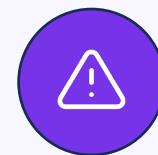
The Handshake-to-Headache Gap

Every founder remembers the moment an investor says yes. Almost none of them remember the exact wording of Clause 7.3 two years later which is precisely the problem.

The investment agreement is the single most consequential document a founder signs and the one that gets the least scrutiny after signing day. Term sheets get negotiated line by line. The definitive agreement gets a quick legal review, a round of signatures, and then a drawer.

That's backwards. A term sheet is a statement of intent. The investment agreement is the enforceable reality: it fixes who gets paid first in an exit, who can block your next raise, what information you're obligated to hand over every quarter, and how much of the company you actually own once every conversion mechanism has run its course.

Most guides on this topic — including the well-known ones — treat the agreement as a checklist to get through. This guide treats it as what it is: a piece of infrastructure that has to survive contact with three years of actual company-building. That distinction is where the rest of this guide lives.



78%

of startups with well-structured investor agreements secure follow-on funding within 18 months. Structure isn't paperwork it's a growth lever.

Source: qubit.capital startup financing research

The takeaway isn't the percentage. It's that investors read your agreement's rigor as a proxy for how you'll run the company.

02 — DEFINITIONS THAT MATTER

What an Investment Agreement Actually Is

An investment agreement is the binding contract between an investor and a company that fixes the exact terms of a specific capital injection: amount, instrument, price, and the rights attached to it. It is not a relationship document it's a transaction document.



Term Sheet

STATEMENT OF INTENT

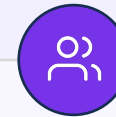
- Non-binding (mostly)
- 1–2 pages, high-level
- Sets the negotiation frame
- No signatures required to “work”



Investment Agreement

THE ENFORCEABLE DEAL

- Legally binding on execution
- Covers one specific round
- Defines rights, price, protections
- What courts actually enforce



Shareholders' Agreement

THE ONGOING RELATIONSHIP

- Binding until terminated
- Covers all shareholders, always
- Governance, transfer, exit rules
- Outlives any single round

Why the distinction matters

Founders often assume a signed term sheet is the deal. It isn't. Until the investment agreement is executed, an investor can walk and once it is executed, the shareholders' agreement is what determines whether this round's terms stay consistent with every round that follows.



A quick way to check which document you're actually looking at

If it references “this specific round” and has a closing date, it's the investment agreement. If it references “the Company and its shareholders” with no round attached, it's the shareholders' agreement and it should already exist before you're negotiating either.

03 — THE ANATOMY OF THE AGREEMENT

Eight Components, in Plain English



Investment terms

Amount, valuation, price per share, and the funding structure the round sits on.



Equity & ownership

Shareholding percentages, the option pool, and how dilution is calculated round over round.



Governance & control

Board composition, voting thresholds, and which decisions need investor sign-off.



Protective provisions

Anti-dilution, liquidation preference, and minority protections that activate on specific triggers.



Exit mechanics

IPO, acquisition, or buyback pathways and who has to agree before one can happen.



Vesting & restricted stock

Founder and employee vesting schedules, cliffs, and acceleration triggers.



Confidentiality & non-compete

What stays private, for how long, and what founders are restricted from doing elsewhere.



Reps, warranties & closing

The factual promises both sides make, and the conditions that must be met to close.

04 — CHOOSING YOUR INSTRUMENT

Four Ways to Structure the Same Check

The underlying legal shell changes depending on stage, valuation certainty, and how much control the investor wants before conversion. Here's how the four common instruments actually compare.

Instrument	Valuation Set?	Typical Stage	Investor Gets	Best For
Equity / Share Subscription	Yes, at signing	Series A+	Shares immediately	Priced rounds with clear valuation
Convertible Note	Deferred (cap/discount)	Seed	Debt → converts to equity	Fast closes before a priced round
Safe	Deferred (valuation cap)	Pre-seed / Seed	Right to future equity	Speed and minimal legal cost
Venture Debt	N/A — not equity	Post-Series A	Fixed interest + warrant	Extending runway without dilution

Note: SAFEs and convertible notes both defer valuation, but a SAFE is not debt. it carries no interest, no maturity date, and no repayment obligation.



The question that actually decides this

It isn't "which instrument is best", it's "how much am I willing to leave undefined right now." A SAFE trades pricing certainty for speed. A priced equity round trades speed for a valuation both sides commit to today. Neither is wrong; the mismatch happens when a founder picks for speed and an investor expects the certainty of a priced round.

THE PART MOST GUIDES SKIP

The Drift Problem

Your investment agreement is a snapshot. Your company is a moving target. Nobody tells founders what happens in the gap between the two.

Here's what almost every resource on investment agreements leaves out: the document is correct on the day you sign it, and increasingly wrong every day after. New SAFEs get issued. Options get granted informally. A co-founder leaves and their unvested shares don't get clawed back cleanly. None of these events amend the agreement but every one of them changes what the agreement's numbers actually mean in practice.

This is the gap between the legal record and the operational reality, and it's the single most common reason Series A term sheets fall apart in diligence. Research on cap table failures shows the pattern clearly: startups that issue several SAFEs without modeling them consistently discover, when a lead investor asks for fully diluted ownership, that founders own significantly less than they believed.

The agreement didn't fail. The tracking around it did. A liquidation preference clause is only as reliable as the cap table that tells you who's ahead of whom in the stack and if that cap table hasn't been reconciled against every signed agreement, board consent, and 83(b) filing, the clause is theoretical.

How Drift Compounds



Signing day

Agreement matches cap table exactly.



+3 SAFEs later

Caps and discounts diverge; no one re-models.



A hire leaves

Unvested equity lingers, undocumented.



Series A diligence

Fully diluted math surprises everyone.

What this means in practice

If you can't reconcile your investment agreement's cap table against your actual issued shares, options, and convertible instruments in under an hour, the agreement's protections are a promise you can't currently verify to yourself or to your next investor.

06 — CLAUSE DEEP DIVE

Liquidation Preference, Decoded With Real Numbers

This clause decides who gets paid first when the company is sold and it's the one investors negotiate hardest, because it determines their downside protection, not just their upside.

The Scenario

An investor puts in \$2M for preferred shares with a 1x non-participating liquidation preference. The company is later sold for \$6M. Founders and common shareholders hold the rest.

Non-Participating (1x)

Investor takes the greater of: their \$2M back, OR their pro-rata share of the full \$6M. They pick whichever is worth more — not both.

*Pro-rata share (20% stake) = \$1.2M
\$2M preference > \$1.2M pro-rata → Investor takes the \$2M preference. Common holders split the remaining \$4M.*

Cleaner. Widely seen as founder-friendlier and the current market default for early rounds.

Participating Preferred

Investor takes their \$2M back first, THEN also takes their pro-rata share of what's left and effectively double-dipping.

*Step 1: Investor takes \$2M off the top.
Step 2: Remaining \$4M split pro rata.
Investor's 20% of \$4M = \$800K more. →
Investor receives \$2.8M total.*

Common holders receive less than under non-participating terms for the same exit value.



What this means in practice

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07 — CLAUSE DEEP DIVE

Anti-Dilution, Decoded

This clause protects investors if you later raise money at a lower valuation (a “down round”) by adjusting their conversion price retroactively. The formula variant you agree to changes the outcome dramatically.

BROAD-BASED WEIGHTED AVERAGE FORMULA

$$\text{New Conversion Price} = \text{Old Price} \times [(A + B) / (A + C)]$$

A = shares outstanding before the new round · B = shares the new money would buy at the OLD price · C = new shares actually issued

Full Ratchet

Old price resets straight to the new, lower price — full stop.

Maximum investor protection. Severe founder dilution. Rare outside distressed rounds.

Narrow-Based Weighted Average

Same formula, but “A” only counts outstanding preferred stock, not the fully diluted base.

More investor-favorable than broad-based. Amplifies the adjustment.

Broad-Based Weighted Average

“A” includes all outstanding shares, options, and convertible securities.

Market standard. Balances protection with proportionality. Founder-preferred default.

Worked Example — Broad-Based

If you can't reconcile your investment agreement's cap table against your actual issued shares, options, and convertible instruments in under an hour, the agreement's protections are a promise you can't currently verify to yourself or to your next investor.

$$A = 8,000,000$$

$$B = \$1M \div \$2.00 = 500,000$$

$$C = 1,000,000$$

$$\text{New price} = \$2.00 \times (8.5M / 9M)$$

$$\text{New price} \approx \$1.89$$

08 — THE CLAUSE NOBODY NEGOTIATES

Information Rights Are Where Control Actually Moves

Founders spend weeks negotiating liquidation preferences and board seats. Information rights get a paragraph and a signature and yet they're the clause that most reliably expands investor influence over time, one “reasonable request” at a time.

The standard clause is almost always framed the same way: the company will provide investors with monthly or quarterly financials, an annual budget, and “such other information as the investor may reasonably request.” That last phrase is doing more work than any other five words in the agreement.

In year one, “reasonable” means a P&L and a cap table update. By year two, it can mean a standing invite to management meetings, access to the customer pipeline, or a seat at product roadmap reviews, none of which required a single amendment, board vote, or renegotiation. The investor never asked for more control. They asked for more information, repeatedly, until the two became indistinguishable.

This isn't a criticism of investors, it's rational behavior inside a clause written to be open-ended. The fix isn't refusing information rights; it's scoping them at signing, not after the pattern has already set in.

Scope it at Signing

- ✓ Name the exact reports owed, and how often
- ✓ Cap “reasonable requests” to information tied to investor rights already in the agreement
- ✓ Tie board observer access to a defined trigger, not an evolving norm
- ✓ Require the same information rights across all investors of the same class - no side letters

The tell isn't a bad clause, it's an unscoped one. Every information right you leave open-ended today is a negotiation you'll have without realizing you're having it.

09 — THE NEGOTIATION PLAYBOOK

What to Push For, Round by Round

**Anchor on the term sheet, not the agreement**

Every point you concede in the term sheet becomes far harder to claw back once lawyers draft the definitive agreement. Negotiate hard upstream.

**Push for non-participating preference**

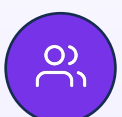
It's the market default for a reason — participating preferred should cost the investor something in valuation or terms elsewhere.

**Insist on broad-based anti-dilution**

Narrow-based and full-ratchet formulas both amplify founder dilution in a down round. Broad-based is the standard worth holding the line on.

**Scope information rights explicitly**

Name the reports, name the cadence, and cap the catch-all “reasonable request” language before it becomes precedent.

**Match board seats to check size, not sentiment**

A board seat is a governance right, not a relationship gesture. Tie it to ownership thresholds that adjust as the cap table evolves.

10 — BEFORE YOU SIGN

Fourteen Red Flags Worth Catching Early

None of these should end a conversation by itself, but each one changes the negotiation, and worth raising before signatures, not after.



Full-ratchet anti-dilution with no carve-out for option pool top-ups



Participating preferred stacked with a liquidation multiple above 1x



Vague “reasonable information request” language with no scope



Board composition that gives investors control before Series A



Drag-along rights with no minimum price floor for founders



No clearly defined “qualified financing” trigger for SAFE conversion



Redemption rights that let investors force a buyback on a timeline



Protective provisions covering ordinary operating decisions



No vesting acceleration on a founder-unfriendly termination



Pro-rata rights extended without a cap, diluting future lead investors



MFN clauses stacked across multiple SAFEs with no tracking system



Governing law and jurisdiction misaligned with where you'll actually raise next



No explicit reconciliation clause tying the agreement to the cap table



Side letters granting one investor terms not disclosed to the class

11 — THE UNCOMFORTABLE PART

Where Templates Quietly Fail

A free template gets the clauses right. It rarely gets the context right and context is exactly what breaks first when a deal gets tested.



Jurisdiction drift

A template built for Delaware corporate norms doesn't automatically hold up for a Singapore-incorporated entity raising from a US fund and hiring in India. Governing law has to match where you'll actually enforce the agreement, not where the template was written.



Execution isn't the finish line

Digital signatures satisfy the contract. They don't satisfy your cap table. An agreement that's signed but never reconciled against issued shares, board consents, and vesting schedules is a document that exists in isolation from the company it governs.



Living document, not a PDF

The moment a template is filled in, saved, and filed away, it stops reflecting the company. Every subsequent SAFE, option grant, or secondary sale needs to be modeled against the original agreement's terms, not just recorded next to it.

None of this is an argument against using a template to start. It's an argument against treating the signed PDF as the finish line rather than the starting point for ongoing reconciliation.

12 — CLOSING THE GAP

Keeping the Agreement and the Cap Table in Sync

Every clause in this guide, liquidation preference, anti-dilution, information rights, is only as reliable as the ownership record behind it. That's the layer that decays fastest and gets attention last.



One source of truth

Every SAFE, note, and priced round modeled against the same live cap table not a static spreadsheet someone updates quarterly and hopes is still accurate at Series A.



Audit-ready by default

Board consents, 83(b) filings, and signed agreements linked to the shares they authorize, so diligence doesn't start with a documentation scramble six months before your next raise.



Scenario modeling built in

Model a down round, a new option pool, or an exit waterfall against your actual liquidation stack before you're negotiating it live with a term sheet on the table.

BEFORE YOUR NEXT ROUND

Your Agreement Is Only as Strong as What Backs It

The clauses in this guide protect you on paper. Whether they protect you in practice depends on whether your cap table, your signed agreements, and your equity records tell the same story every day, not just on closing day.

See how Qapita keeps your investment agreements, cap table, and equity records in one place, from your first SAFE to your IPO.

[Talk to Qapita](#)