

# Understanding Legal Structures in Private Equity

Comillas Private Equity & Venture Capital Club

Private Markets 101

# Map of the Course

- Understanding Private Markets
- **Private Equity**
- Venture Capital
- Private Credit
- Infrastructure and Real Estate Investments

# Private Equity Modules

- Introduction to Private Equity
- Fund Structure & Investment Lifecycle
- PE Entry & Exit Strategies
- **Understanding Legal Structures in PE**
- Sustainability in PE
- LBO model

# Legal Architecture in Private Equity and Venture Capital Deals

1

Legal structuring defines ownership, rights and responsibilities.

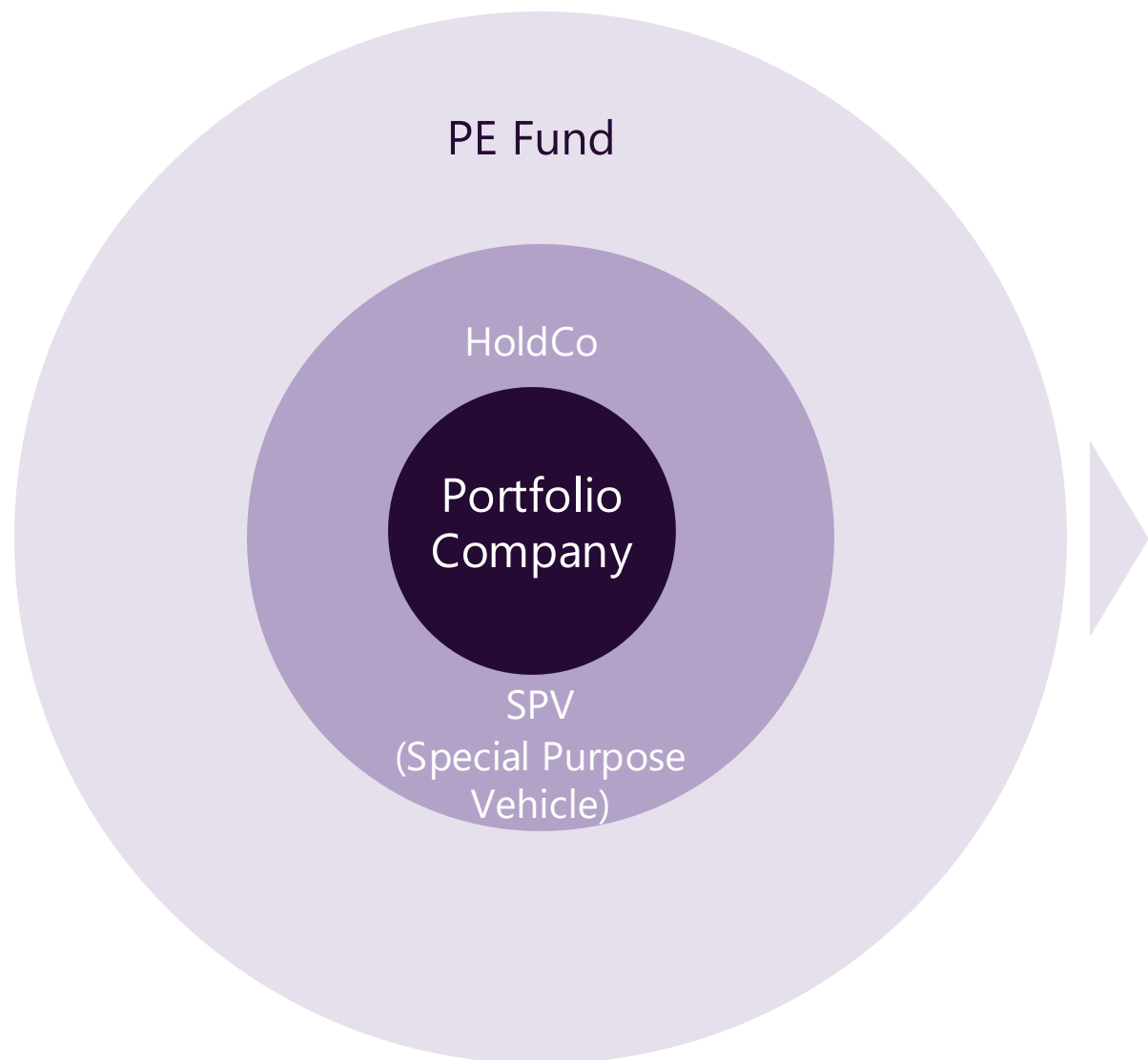
2

PE & VC deals rely on tailored documentation to protect value and interests.

3

Understanding the legal flow is essential for any investor or operator.

# Key Legal Entities – Vehicles Used to Manage Risk, Ownership and Capital Flows



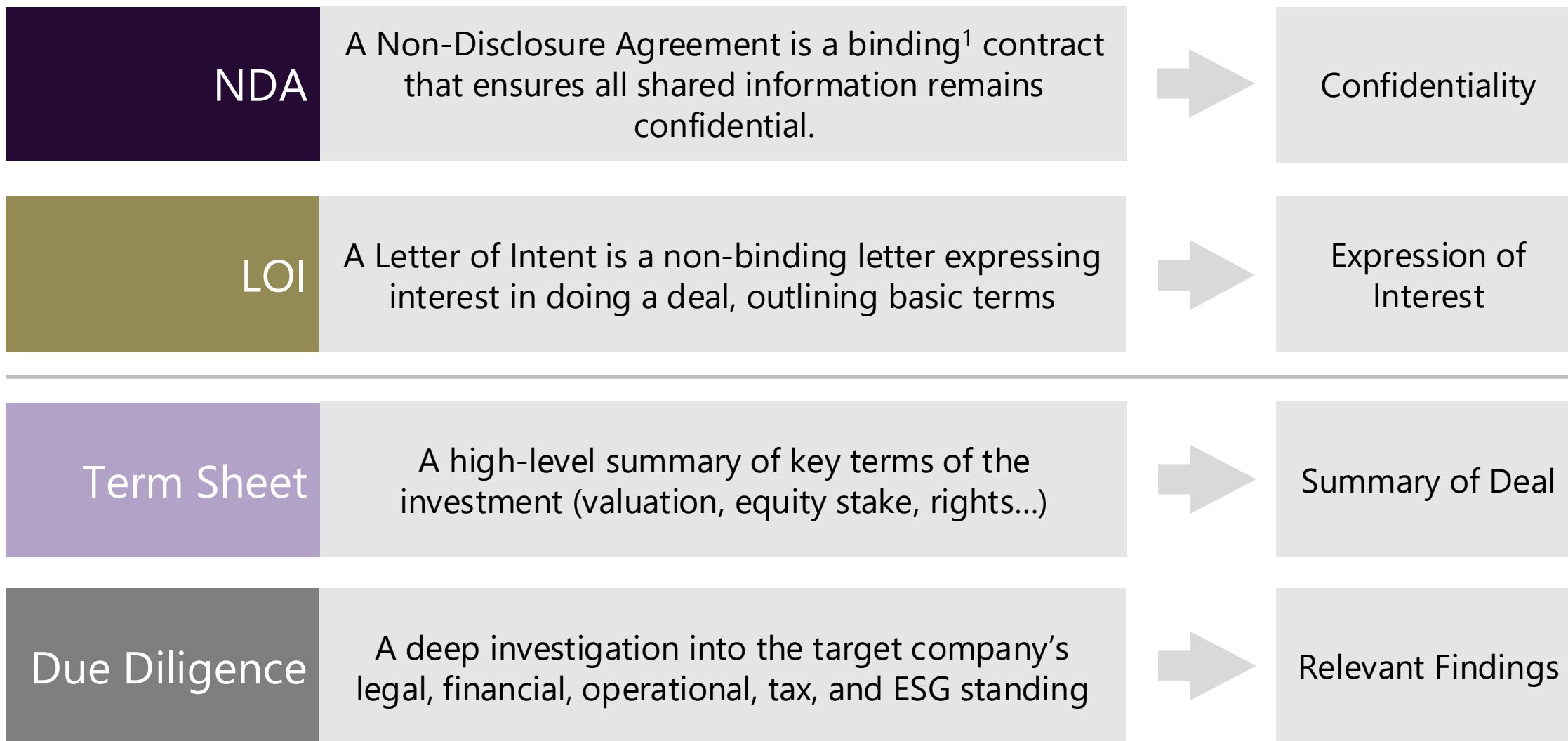
## Where Equity Is Allocated

The PE Fund is owner of an **SPV** (Special Purpose Vehicle) or a **HoldCo** that holds the equity of the investment.

- ✓ **SPVs** are created for a single investment to isolate risk from the whole portfolio.
- ✓ **HoldCos** are intermediate companies used for co-investments, governance issues and tax.

# Key Legal Documents in PE & VC Deals

# Pre-Deal Legal Documents



1. Binding means that something is legally enforceable – once signed, parties are obligated to comply with its terms.

# Pre-Deal Legal Documents – Due Diligence

During this process, the PE firm explores all material aspects related to the target with the goals of:

- ✓ Developing a robust understanding of its underlying strengths and weaknesses.
- ✓ Reveal specific areas that require negotiation.

## STRATEGIC / COMMERCIAL

Market Analysis  
Customer Base  
Sales & Marketing  
Competitive  
Positioning

*Strategic Consultants &  
Investment Banks*

## FINANCIAL & TAX

Financial Statements  
Quality of Earnings  
Cash Flow Analysis  
Debt and Liabilities  
Tax Compliance

*Auditors / Financial  
Consultants*

## LEGAL

Review Contracts  
and Agreements  
Litigation Check  
Intellectual Property  
Regulatory  
Compliance

*Law Firms*

## HUMAN RESOURCES

Organizational  
Structure  
Labour Contracts

*HHRR Consultants*

## MANAGEMENT TEAM

Assessment of  
management team  
Potential and  
ambition

*HHRR Consultants*

## OTHERS (ESG/TECH)

Technological  
infrastructure  
ESG Compliance  
Ethical and  
Environmental  
Risks

*Specific  
Consultants*





This binding contract formalizes the **sale and purchase of shares** defining price, warranties and indemnities.



This contract is essential between shareholders as it regulates their rights, obligations in the company. It covers **board structure** and **exit rights**.

# Share Purchase Agreement (SPA) – Key Elements

1. Definitions and Interpretation
2. Sale and Purchase of the Sale Shares
3. Conditions Precedent
4. Consideration
5. Purchase Price Adjustment
6. Obligations On Or Before Closing
7. Closing
8. Post-Closing Obligations
9. Representations and Warranties
10. Seller's Liability
11. Indemnities
12. Tax Claims
13. Claims Procedure
14. Sellers' Representative
15. Confidentiality
16. Duties, Costs and Expenses
17. Other Provisions

The SPA transfers the ownership of the company, and its content must clearly reflect all agreed-upon terms, responsibilities and protections for both parties.

## Sellers' Liability as a Consequence of a Breach in the Sellers Representation and Warranties

This part defines what happens if the sellers' representations and warranties<sup>1</sup> turn out to be false or misleading after the transaction closes. If such breach occurs, sellers may be required to compensate the buyer, but this clause limits the sellers' liability.

1. Representations and Warranties are statements made by the seller about the company being sold. They give the buyer a picture of the company's true condition. They include financials, legal compliance, ownership of assets... If any of them turn out to be false after the closing, the buyer may suffer losses.

# Shareholders Agreement (SHA) – Key Elements

## CORPORATE MATTERS

Director's election and % to have the right of appointing a Director.

## SPECIAL CONSENT OR VETO RIGHTS

Governance and control mechanisms<sup>1</sup>.

## SHARE TRANSFERS RIGHT

Exit enforcement mechanisms<sup>1</sup>.

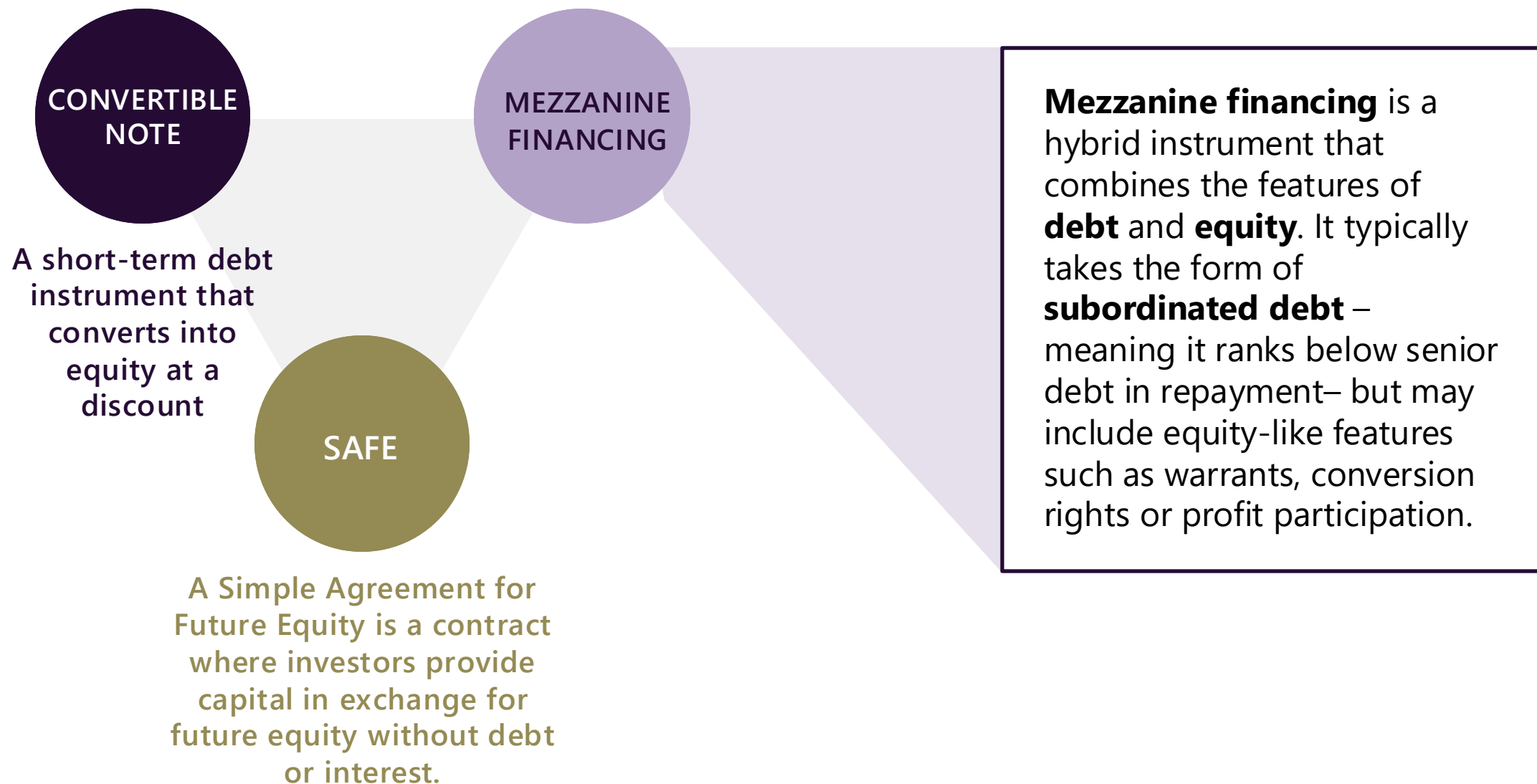
## DISPUTE RESOLUTION MECHANISM

The SHA governs the relationship between shareholders after the deal closes.

While the SPA closes the deal, the SHA ensures it runs smoothly

1. Governance, control and exit enforcement mechanisms explained in the following slides.

# Hybrid Instruments in Private Equity & Venture Capital Deals



# Control Mechanisms & Exit Rights

# Control Mechanisms & Exit Rights

How investors protect their influence and ensure liquidity

1

## EXIT ENFORCEMENT MECHANISMS

- Drag-along rights
- Tag-along rights
- Put Option
- Call Option

2

## GOVERNANCE & CONTROL PROTECTIONS

- Veto Rights / Reserved Matters
- Board Rights

3

## DOWNSIDE PROTECTION MECHANISMS (Common in VC)

- Liquidation Preference

# Exit Enforcement Mechanisms

## DRAG ALONG

Allows majority shareholders to **force** minority shareholders **to sell** in a company sale.  
Ensures clean exists

## TAG ALONG

Allows minority shareholders to **join a sale** initiated by majority holders.  
Protects against being left behind.

## PUT OPTION

Gives the investor the right to **sell shares back** to the company or other shareholders at a set price or formula.  
Used to create an exit path in case of no liquidity event.

## CALL OPTION

Gives one party (often the company or founder) the right to **buy back** shares from investors.  
Often used in buybacks or restructuring scenarios.

# Governance & Control Protections – Downside Protection Mechanisms

## VETO RIGHTS / RESERVED MATTERS

Investor **approval is required** for major decisions such as raising new capital, changing the business model or selling the company.

It protects investors from being diluted or excluded from strategic decisions.

## BOARD RIGHTS / BOARD SEATS

Investors negotiate for **representation** or **observation rights** on the board.

Grants direct influence over governance

GOVERNANCE  
& CONTROL  
PROTECTIONS

## LIQUIDATION PREFERENCE

Ensures investors **get their money back** (often with a return multiple) before founders or common shareholders in a liquidity event.

DOWNSIDE  
PROTECTION  
MECHANISMS



# Key Terms Recap

| Term                 | Definition   |
|----------------------|--|
| <b>HoldCo</b>        | Holding company, intermediate company for co-investments and governance and tax issues.                |
| <b>SPV</b>           | Special Purpose Vehicle – used to isolate specific assets or transactions.                             |
| <b>Binding</b>       | Legally enforceable obligation   |
| <b>NDA</b>           | Non-Disclosure Agreement – protects confidential information (binding).                                |
| <b>LOI</b>           | Letter of Intent – outlines main deal terms before signing definitive agreements (non-binding).        |
| <b>Term Sheet</b>    | Summary of the key deal terms agreed in principle.   |
| <b>Due Diligence</b> | In-depth review of a company's financial, legal and operational status.                                |
| <b>SPA</b>           | Share Purchase Agreement – transfers company ownership.  |
| <b>SHA</b>           | Shareholders' Agreement – regulates shareholders' rights and obligations.                              |
| <b>Warranties</b>    | (and Representations) – statements of fact given by the seller to the buyer to ensure deal conditions. |
| <b>SAFE</b>          | Simple Agreement for Future Equity – converts into shares in a future round.                           |
| <b>Drag Along</b>    | Right allowing majority shareholders to force minority shareholders to sell.                           |
| <b>Tag Along</b>     | Right allowing minority shareholders to join a sale initiated by majority shareholders.                |
| <b>Put Option</b>    | Right to sell shares back to a counterparty at a pre-agreed price.                                     |
| <b>Call Option</b>   | Right to buy shares from another shareholder at a pre-agreed price.                                    |

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