

Morgan Lewis

# Strategic Investments and Acquisitions

**VC Taskforce**

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# Overview of Transactional Issues for Corporate Investors

- Governance Issues/Risks
  - Board Membership vs Observer Rights, Confidentiality Obligations
- Strategic Considerations
  - Exclusivity
  - Customer Relationship/Supply Terms
  - Acquisition/Change of Control
- Financing Terms
  - Minority Shareholder Issues
  - Transfer Restrictions
- Due Diligence Issues
  - Intellectual Property/Patent Issues
- Corporate Reputation/Publicity

# Mechanics Of How A Deal Is Done

- Term Sheet
- Purchase Agreement
- Financing, Time and Responsibilities Checklist

# Mechanics Of How A Deal Is Done (cont.)

- **Closings**

- **Single Closing**

- *Review Purchase Agreement*

- **Multiple Closings**

- *Review applicable portions of Purchase Agreement*
- *Addendum Agreement*

# Basic Deal Structure

- **Equity**
  - Common Stock
  - Preferred Stock
- **Debt**
  - Convertible
  - Other
- **Warrants**
  - Simple Warrant Coverage
  - Staged Financing (with milestones)

# Preferred Stock Features

- **Liquidation Preferences**
  - Participation Features
  - Preference Features
- **Dividend Preference**
- **Redemption Features**
  - Mandatory
  - Optional

# Preferred Stock Features (cont.)

- **Voting Rights**
  - General
  - Special
- **Antidilution Features**
  - General
  - Price-Based
    - *Weighted Average*
    - *Pay to Play*



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