

# Raising Capital How to Close the Deal

Valhalla Angels #AskMeAnything  
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# Presenters

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2018 Transactions



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- Lucas advises entrepreneurs and emerging growth companies on organizational matters and private investment.
- Lucas' practice also includes public financings, M&A transactions, business reorganizations, fund formation, securities regulatory matters, corporate and commercial matters, compensation matters and corporate governance.



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- Arik provides corporate and commercial advice to public and private companies on a wide range of issues, including start-up and incorporation, debt and equity financing transactions, securities laws, mergers & acquisitions, intellectual property management, technology licensing, and SaaS contracting and negotiation.
- Prior to practicing law, Arik worked in BC's technology sector in online marketing, finance and product management at AbeBooks.com; an early e-commerce marketplace based in Victoria (acquired by Amazon.com).

# Agenda

## 1. Laying the Foundation

- company structure
- investor relations
- key agreements
- compliant privacy policy

## 2. Preparing for Due Diligence

- capitalization table
- materials organized and accessible
- remediate any issues

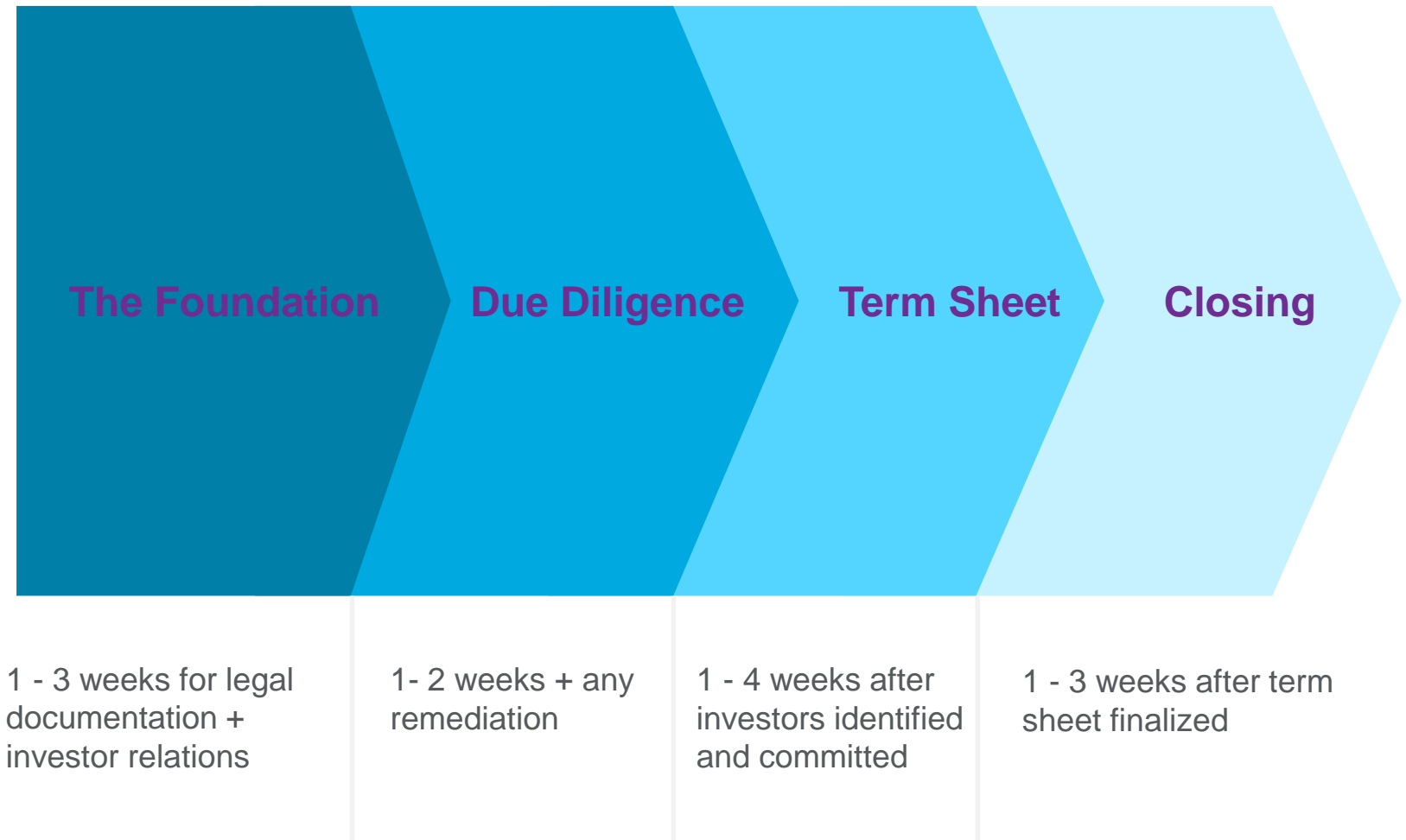
## 3. Negotiating the Term Sheet

- selecting the financing structure
- determining valuation(s)
- additional investor rights

## 4. Closing the Deal

- transaction documentation
- securities compliance
- closing process

# Sample Transaction Timeline



# 1. Laying the Foundation

- **Appropriate company structure**
  - Federal or Provincial incorporation
  - Clean capitalization table (common shares, employee equity (options), and customary early stage investment tools)
  - Early stage form of shareholders' agreement
  - Founder reverse vesting agreement
  - Employee equity plan (depending on company size and growth)
- **Existing investor relationships**
  - Angels and angel groups
  - Consider investors prior investments / preferred industries or verticals
  - Try for regular communication or updates (to demonstrate traction)
- **Key contracts in place**
  - Employment Agreements (with assignment of intellectual property)
  - Proper Supplier / Customer Agreements
- **Compliant privacy policy (if business model requires)**

## 2. Preparing for Due Diligence

### ■ Capitalization table

- Overview of shareholdings and other investments (consider both pre and post closing)
- Important for founder(s) to maintain and understand

Capitalization Table of Internet of Wings Inc. At Founding

Shareholder	Percent	Number of Shares	Price	Value
Jill	48%	4,800,000	\$0.001	\$4,800.00
Jack	32%	3,200,000	\$0.001	\$3,200.00
Options Pool	20%	2,000,000	\$0.001	\$2,000.00
	100%	10,000,000		\$10,000.00

### ■ Remediate any outstanding issues

- Have all shares been properly authorized and issued?
- Have all employees and contractors assigned intellectual property to the Company?
- Are there any founders no longer involved / holding large share positions?
- Ensure supplier and customer agreements provide appropriate terms and protections

### ■ Materials organized and accessible

- Corporate minute book (legal counsel to provide)
- Key agreements (e.g. with founders, employees, customers, advisors, etc.)
- Secure data site with higher level of controls and analytics (legal counsel generally able to provide)

# 3. Negotiating the Term Sheet

- Determine transaction structure
  - Debt vs. equity
  - Consider additional rights
    - Information rights
    - Board involvement (seat or observer status)
    - Pre-emptive rights (if using SAFEs or convertible notes)
  - Access advisors to ensure terms are reasonable for the Company
- Prepare Valuation
  - “art not science”
  - Look to comparable valuations
  - Access advisors (don’t exclusively rely on them)
- Prepare Term Sheet
  - Ideally have legal counsel assist – at a minimum let them review before it goes out
  - Non-binding other than select terms

## 4. Closing the Deal

- **Prepare Transaction Documentation**
  - Company counsel prepares
  - If possible, identify lead investor to streamline review and negotiation
  - Consider market terms (don't exclusively rely on them)
- **Securities Compliance**
  - Ensure that investors meet the requirements for prospectus exemptions
    - Friends and family
    - Directors and officers (and certain relatives of directors and officers)
    - Employees or consultants
    - Accredited investors
  - Obtain documentation / reasonable assurance of compliance
- **Complete Closing**
  - Either at a single time, or on a rolling basis
  - Try to reduce sending out multiple drafts / revisions
  - Use available technology to complete electronically (e.g. DocuSign, Closing Folders)
  - Take extra caution when receiving wire instructions



# Thank You

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