



## **Private Equity Services**

SorbaraLaw's TechGroup provides not only traditional private equity services, such as private placements and shareholder agreements, but offers many years of specialized experience with in-bound cross-border financial and enterprise structuring. The latter looks beyond getting the investment in to maximizing corporate profits and the return on investment for foreign investors.

### *Private Placements*

Avoiding the onerous and costly documentation and disclosure regime applicable to public companies depends on investor qualification for private placement exemptions and corporate compliance with attendant obligations. SorbaraLaw's TechGroup advises on the availability of these various exemptions as well as on the corresponding corporate obligations to ensure the compliance of all parties to applicable securities laws, regulations and policies.

### *Capital structuring*

The needs of investors range from complex convertible debt instruments tailored to provide upside participation and downside protection, to simpler structures which align investor interests with those of the founders. Whatever the approach, the issues remain the same: risk management and profit maximization. SorbaraLaw's TechGroup has the insight of long experience, gained both in-house and in private practice, to effectively advise upon, negotiate and close capital structures that best serve the interests of both investors and the companies they support.

### *Tax Structuring for Foreign Investment*

The vast majority of investment in Waterloo's tech community comes from the U.S. and, in particular, California. It is, therefore, essential that such investment accounts not only for the usual domestic tax considerations but for uniquely cross-border tax regimes for which specifically cross-border tax expertise and experience is needed. When, for example, structuring debt and equity interests, the resulting foreign debt to equity ratio may have unintended tax costs to both the company and its investors. One must also consider the tax consequences of discounts on debt conversions by non-residents, the differing tax cost of interest, dividends and alternative distributions when paid across a border and the role of U.S. LLCs and Canadian ULCs, to name but a few of the issues in play. These issues represent not inevitable tax costs but planning opportunities.

### *Employee Stock Option Plans*

While not usually considered when planning for equity investment, employee stock option plans (ESOPs) are often an integral piece of the puzzle, particularly in the technology industry where talent comes at a premium. Just as ESOP specialists rely on SorbaraLaw's TechGroup for advice and drafting in this area, so we include ESOP planning in our private equity structuring to ensure that all interests, present and future, dovetail within the larger strategy.

### *Valuation*

The valuation of a start-up involves more than a determination of value. For founders, valuation is a key strategic element: value too high and risk missing the Series 'A' valuation target and forfeiting further investment; value too low and risk dilution with the attendant loss of control and financial return. SorbaraLaw's TechGroup offers both the relationships with dedicated business valuers and the benefit of experience to ensure that the proffered valuation best serves the company's broader management and financial strategy.

### *Shareholders' Agreements*

After debt and equity structuring, shareholders' agreements are key to management oversight and exit strategies. SorbaraLaw's TechGroup has the experience, both as part of tech start-up management teams as well as in private practice representing investors, to understand and appreciate the interests and concerns of all parties and to provide practical and efficient solutions.

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