

## FAQs - UC Guidelines for Accepting Equity for Services

1. **When do these guidelines go into effect?**
  - The pilot program for accepting equity under these guidelines is a 3-year period beginning July 1, 2016. At the end of the pilot period, the program will be reviewed by the Technology Transfer Advisory Committee (TTAC), a systemwide advisory board including representatives from administration and the Faculty Senate.
2. **Why might an incubator take equity in a startup?**
  - Taking equity in a startup is optional for UC incubators (for the purpose of these FAQ, “incubators” include “accelerators”). UC incubators must charge fair market rate for their services and use of UC space, services or resources, in order to preserve the 501(c)(3) status of the University. A rate that ensures the UC receives fair market value can be achieved by receipt of cash, a combination of cash and equity (including convertible debt) or equity, as detailed further in the guidelines.
3. **Which campus entities can take equity in a startup?**
  - Campus management may request approval to take equity in exchange for space and/or services at a UC incubator. The equity is held by the Regents of the University of California.
4. **What is the process for executing an agreement that includes an equity term?**
  - Each campus must appoint a Designated Campus Manager (DCM) to work with any incubator that will accept equity under the pilot program. The incubator must work with the DCM to develop program related agreements and complete the approval documents under which the program operates.
  - The DCM provides the completed document to the UC Equity Approval Manager (EAM) at UCOP who will verify the documents for completeness and submit them to the Office of General Counsel (OGC) for review and subsequent approval by the Executive Director, Innovation Alliances and Services for approval.
  - Once OGC has approved the agreement, the DCM forwards the equity (stock certificates, etc.) to the Office of the Chief Investment Officer (OCIO) of the Regents, while copying the EAM on all communications with OCIO.
5. **Who manages the equity?**
  - The equity is held by the Office of the Chief Investment Officer (OCIO) of the Regents and managed by that office for the benefit of the campus.
6. **How does the OCIO dispose of any equity upon an IPO or other liquidity event allowing for a partial sale?**
  - The OCIO will dispose of the equity pursuant to a rule based model whereby 50% of the shares are sold upon the first available opportunity following the IPO or other liquidity event allowing for a partial sale, another 25% is sold six months later and the final 25% is sold another six months later unless the DCM elects the final 25% to be held for a longer term. At the time equity approval is requested, the DCM can make an irrevocable election to defer the sale of the final 25% for up to five (5) years. This is the same rule based model that the University generally uses to manage equity received in connection with licensing agreements.
7. **How are proceeds from sales of shares handled?**
  - Proceeds from any sales will be transferred to the financial accounting group at Innovation Alliances and Services at UCOP. IAS will distribute the funds to the

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originating campus periodically (not less than annually); these funds are distributed to the office of the campus Chief Financial Officer (CFO).

- The incubator may wish to work with its campus leadership (e.g., the campus CFO) to reach an understanding regarding how proceeds will be distributed at the campus level. For example, the incubator may wish to enter into an MOU with its campus CFO to dictate how the proceeds will be distributed once received by the campus.

### **8. How should an incubator value any equity it takes?**

- Incubators should use a fixed and consistent methodology to ensure that the equity received is equivalent to the fair market value of the UC services, space and/or other resources being used by any private company (e.g. a startup).

### **9. How can UC take equity in a company without estimating the value of the company?**

- Incubators can take several approaches, which are laid out in Appendix F (p. 35) of the Guidelines

### **10. What restrictions apply to relationships between UC employees and companies in which UC has taken equity?**

- UC employees who are employed or affiliated with the incubator, and/or those providing direct business services to the company in which UC has taken equity, shall not accept a position on the board of directors, nor exercise voting rights in a company.
- UC employees with current or potential interests in the company may not participate in the equity transaction decision-making process.

### **11. What is the maximum stake that UC can have in a company?**

- 10% for a public company. Up to 20% for private companies is allowed but discouraged.

### **12. What if the company exits the incubator before the end of the initial term?**

- The incubator should endeavor take the shares up front, with no obligation to refund any shares should the company leave the incubator prior to the end of its agreement (e.g., lease or other services agreement). However, we recognize that this is not always feasible. Once a company exits the incubator, it can become more difficult to obtain the shares owed. The overarching principle should be that if an incubator would require payment in full at the start of the lease, then the same conditions should apply to equity. Shares cannot be returned to the startup upon its exit from the incubator.

### **13. Can an external foundation or venture firm receive equity on behalf of UC in connection with a startups' use of UC space, services and/or resources?**

- Consideration representing the fair market value of the services, space or other resources provided by the University must be received directly by the University.
- Transfer of UC funds (directly or indirectly) to a UC campus foundation is not permitted by UC policy and could raise legal issues for UC campus foundations.

### **14. Can UC receive a gift of equity from a startup participating in an incubator?**

- Yes, but any such gift must be separate and distinct from the startup's participation in an incubator, i.e., the gift may not be made in lieu of a startup paying fair market value for any space, services or other resources it receives from UC. Further, any such gift must be coordinated with the campus development office and requires review by the Office of General Counsel (campus counsel and/or attorneys at UCOP).