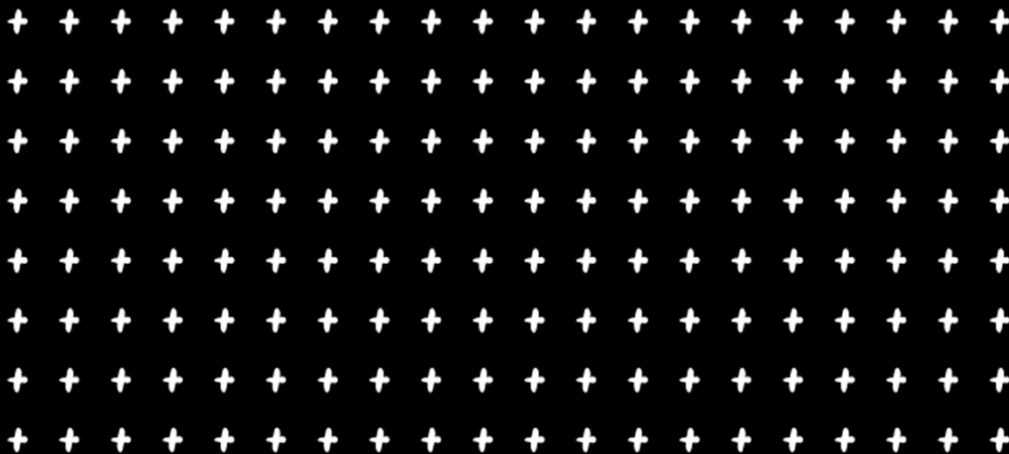




PRE-INCORPORATION PLAYBOOK

A practical guide for every entrepreneur who has just had a great idea and wishes to make it happen and succeed!





This guide is the first in a series of playbooks that will walk through some of the key elements about the many phases of a Start-Up.

We will give you **insights** from the moment your idea is born until the end game (an IPO or a sale to a private entity). In this playbook, we will **focus on the first phase, the idea, the pre-incorporation.**

We want you to **explore your idea**, to **discuss it** with relevant people who can **add value to it**. However, to do this, you need to be legally sure no one will steal the idea from you. **Don't show off without an NDA.**

If you had the idea with someone else, you need to prioritize, structure who does what.

Don't move forward without a Co-Founder's Agreement.



1

THE IDEA

2

THE NON-DISCLOSURE AGREEMENT (NDA)

One-way NDA
Mutual NDA

3

THE CO-FOUNDERS AGREEMENT

Have a talk before signing the Agreement
A Co-Founders Agreement should contain



1



THE IDEA

You've just had a potentially good idea and want to explore it, understand if it makes sense to move forward with it. Here are some of our recommendations.

- + Be careful! **Take your idea with the seriousness it deserves** from day 1. Don't talk to anyone unless your idea is legally protected. Before you talk to anyone, **present them with an NDA.**
- + It's not that we don't trust people, but you never know, and **better safe than sorry.**
- + The truth is, **it costs nothing to be diligent at birth**, and if you are not, there is much more to lose than to gain.
- + At this stage, R&D is key, and you can't put an hold on it. **Talk to as many people as possible**, find out if the idea is worth moving forward with, but don't do it without an NDA!
- + If you didn't come up with the idea on your own, and you and the others who did, are all committed to moving the idea forward, you should sign a **Co-Founders Agreement.**
- + Discuss and try to understand what each of the founders can bring to the idea/start-up that the other cannot.
- + The positive part is your idea, and nothing will question it. But **be contractually prepared for the worst**: if one of you loses interest what about its share?



2



THE NDA

- + Agreement setting out **how confidential information is shared**, the conditions and the way in which this information is legally protected.
- + **Agreement aimed at creating safe zones**, where the purpose of the meeting is detailed and what the recipient can do with the idea presented is contractually limited.
- + **Prepares for the worst**. It protects the person who had the idea from possibly being copied, reproduced, or stolen. It also prohibits reverse engineering.
- + NDAs can either be one-way or mutual.

2.1 One-way NDA

- + Used only when one of the parties shares confidential/proprietary information.
- + Agreement to receive confidential information and, in exchange, the receiving party agrees not to misuse or improperly disclose said information to a third party.
- + Used for:
 - + **Contractors,**
 - + **Employees,**
 - + **Mentors/Advisors,**
 - + **Investors/Potential Investors,**
 - + Anyone who may be exposed to confidential company's/entrepreneur's information or idea.



2

THE NDA

2.2 Mutual NDA

- + When **both sides** are bound by the agreement.
- + **Both sides** disclose confidential information to each other.
- + Warning: these types of NDAs are **difficult to create and especially difficult to enforce**.

Don't underestimate these kind of agreements! You don't want to be "the one who presented his idea to a *shark*, and the next day saw his idea being developed by someone else".

J+NEXT's Team **warns you**, each idea has its own contours, which is why we urge you to come have a meeting with us, so we can prepare a tailor-made NDA for you.

3



THE CO-FOUNDERS AGREEMENT

- + Legally binding contract, where the roles, rights, duties and responsibilities of each founder are established.
- + The goal is to outline and protect the interests of the Start-up and its Founders, namely, to anticipate and prevent the existence of potential future conflicts (if they never come to exist, perfect, but in case they do, it's better to have all this defined beforehand).
- + Outlines how the founders work, their general roles, and how they collaborate with each other.
- + If the agreement is clear, everyone's contribution to the development of the idea/project/startup becomes easy to understand.
- + It is critical for you and the rest of the Founders to align your vision.
- + See it has the playbook that sets out the rules of the game, and everyone must know the rules before playing it.

3.1 Have a talk before signing the Agreement

- + Before you sign any type of agreement, there are some questions you and your partners should discuss. Here are a few topics:
 - + Strategy,
 - + Ownership Structure (Equity),
 - + Management.



+ Strategy:

+ **What are your goals for the Start-up and for each of the Co-Founders** (professionally and personally)? When do you intend to achieve these goals? How do you plan to achieve the established goals?

+ Ownership Structure:

+ How will the Start-up's **shares** be **distributed**?

+ What will be the **role** of each Founder?

+ Will any of the Founders contribute with cash? How much will each contribute? Will this be taken into consideration when deciding the equity distribution?

+ What happens **if any of the Founders do not contribute to the success of the Start-up**? Will they remain with the same percentage of the Start-up? Can the Founder who is still contributing get the percentage of the one who underperformed/lost interest in the project?

+ Management:

+ **Who will manage** the day-to-day operations of the start-up? **How will decisions be made** (unanimously, by majority vote, will the CEO have the autonomy to make day-to-day decisions)?

+ **If one of the Founders wants to leave** (depending on how they do it), can they keep their equity? Is it reduced, or is it distributed in its entirety to the other Founders?

+ Who decides on the sale, dissolution or financing of the start-up?

+ Are there **non-compete clauses**? Do the Founders have to work exclusively for the Start-up, can it be part-time?

+ What is the **expected retribution** for each Founder?



3.2 A Co-Founders Agreement should contain:

- + **Transfer of ownership to company upon incorporation:** The founders agree to transfer all ownership over the idea (patent, trademark, etc.) to the Start-up upon its incorporation;

- + **Business structure and ownership:**
 - + The percentage each Founder has.
 - + Is any percentage reserved for future employees?

- + **Representations and Warranties**

- + **Confidentiality;**

- + **Dispute Resolution;**

- + **Choice of Law.**

Do not underestimate this Agreement! The relationship between you and the other Founders will not be damaged by this, and hopefully never will be. However, it is better to be prepared for the worst, and if possible, this agreement will never need to be enforced for negative reasons.

J+NEXT's Team warns you, every idea, company and relationship between founders is different, unique, and that is why we invite you to come to us for a meeting, so we can prepare a tailor-made Co-Founders Agreement for you. This type of agreement should be optimized, and the uniqueness of the business and the people involved in it should be considered so as not to make it a null or void Agreement.





If you have any questions regarding any phase of your Start-up, reach out to our Team, we will be happy to help you out!



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