# Spin-out Checklist

| ITEM | PROCESS | COMPLETE |
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| 1. Internal University Processes | | |
| 1.1 | If you intend to take an active role in a new business, while retaining a position with the University, have you considered the University’s Conflict of Interest Policy?   * Conflicts of Interest Procedure * Conflicts of Interest Management Plan * In principle Approval from Faculty and School |  |
| 1.2 | What is the nature of the business and what services will the company offer? |  |
| 1.3 | Have you identified what Intellectual Property you require in the new entity?   * Are there any encumbrances over this?   + owned by UoA or another organisation? * What is your strategy for gaining access to the required IP in the new entity?   + Assignment/license in? |  |
| 1.4 | Will your new business venture require other support/resources from the University?   * Office space * Lab space * Access to University staff * Access to University facilities   What can you offer in return for the provision of these resources?   * Equity vs fee for service vs contract research |  |
| 1.5 | Have you engaged with your School / Faculty regarding the proposed structure and University interest? |  |
| 1.6 | Have you engaged with the relevant University Division (ICP/Legal) to understand the legal agreements required?   * Access agreements * Commercial leases * Licence / assignment for IP |  |
| 2. Commercial/spin-out considerations | | |
| 2.1 | Have you prepared a business plan, which includes, for example:   * Market/sector assessment * Key competitors * Financial forecast * Marketing plan * Commercial and other business risks * Regulatory/compliance requirements * Initial capital and ongoing funding requirements * Key personnel/team * Growth strategy   Has this been reviewed by Innovation and Commercial Partners? |  |
| 2.2 | Have you identified who your co-founding shareholders will be, if any?  Have you agreed what percentage ownership you each will have in the initial venture?  Can you articulate what each founder is contributing to the business and what if any formal role they will have in the business?  Is it your intention to offer equity to the University to participate as a shareholder? |  |
| 2.3 | Have you conducted appropriate due diligence on your co-founding/co investment partners? |  |
| 2.4 | Have you prepared a detailed budget, detailing:   * Foundation capital requirements (to fund plant and equipment/registrations/ etc) * Working capital requirements (for initial operating cash reserves in the business) * Future capital requirements (e.g. to fund scale up/growth) |  |
| 2.5 | Have you identified how you will meet these capital requirements?   * Self-funded / equity investment partners / grant funding opportunities   What is your strategy to meet your capital requirements? |  |
| 2.6 | Do you have a marketing strategy and brand for the business?  Have you agreed a name under which the business will operate and have the relevant due diligence checks been done to see if that name is available?   * How will you promote your product/service to your target market?   + Distribution partners/in house sales team / marketing materials * Do you have a website?   Have you developed an operational budget? |  |
| 2.7 | Have you identified your key team?   * CEO / COO? * Financial controller? * R&D/scientific lead |  |
| 2.8 | Have you considered how your key personnel will be remunerated?   * Salary and wages vs employee share scheme |  |
| 3. Legal/compliance considerations | | |
| 3.1 | Have you registered a business name?  Have you registered a domain name? |  |
| 3.2 | Do you have an ABN / ACN / TFN? |  |
| 3.3 | What type of entity will you be establishing?   * Private company? * Partnership? * Other? |  |
| 3.4 | Are there any regulatory/ reporting requirements needed to operate in your field?   * TGA/FDA registrations * Manufacturing process accreditation * ISO / quality assurance requirements * Safety / compliance audits   Have you appropriately budgeted for these costs? (consultants, initial registrations and ongoing) |  |
| 3.5 | Do you have a constitution? |  |
| 3.6 | Do you have a shareholder’s agreement? |  |
| 3.7 | Have you considered your governance framework   * Board of Directors * External audit * Independent advisors * Policies and procedures (e.g. risk management) |  |
| 3.8 | Have you chosen an appropriate IT system to support the business?   * Accounting system * Point of sale/debtor/creditor management system * Inventory management system * CRM   Have you appropriately budgeted for these costs? (start-up, ongoing and management costs)? |  |
| 3.9 | Will you be employing staff?  Do you understand your legal requirements around this?   * Payroll / superannuation / WorkCover * Employment contracts / minimum wage |  |
| 3.10 | Have you considered the business’ insurance requirements?   * Compulsory third party * Workers’ Compensation * Public liability * Professional indemnity * Motor vehicles * Property * Product liability * Inventory / loss of stock * Business interruption * Directors and Officers insurance * Other   Have you appropriately budgeted for these costs?  *You should seek independent insurance advice to ensure you are adequately covered* |  |
| 3.11 | Are you aware of your tax obligations?   * GST * Income Tax * PAYG * FBT * Stamp duty * Withholding * Other   *You should seek independent tax advice to ensure you are meeting your tax obligations* |  |
| 4. Issuing new equity | | |
| 4.1 | Constitution should already be in place, - this document is binding on existing shareholders (refer 3.5 above) |  |
| 4.2 | Do you have a Shareholders’ Agreement? It is not necessary where the company has only one shareholder, or a few, related founding shareholders, but is required where the company raises new equity from external sources   * If you **do not** have a Shareholders’ Agreement in place at the time new shareholders enter the company, one can be drafted and all current shareholders can sign up to the Shareholders’ Agreement * If you **do** have a Shareholders’ Agreement already in place, your new shareholders will need to sign up to a Deed of Accession (or similar) confirming their acceptance of the existing Shareholders’ Agreement. It is likely that any new shareholder will require changes to any existing Shareholders Agreement. |  |
| 4.3 | Does your constitution or Shareholders’ Agreement (if already in place) include pre-emptive rights/anti-dilution clauses for existing shareholders (giving them certain preferential rights over new share issues)?   * If so, these may need to be waived to enact the new equity issue. A simple 1 liner email/memo confirming the shareholder waives their pre-emptive rights is sufficient |  |
| 4.4 | Your new shareholder will need to submit a 1 page Application for an allotment of new shares   * Where the share issue is more complex (e.g. comes with certain warranties/conditions, or a large amount of consideration), you may want to consider whether a Share Subscription Agreement is required instead (this is a more detailed legal document outlining the conditions of the share issue) |  |
| 4.5 | The Company’s board of directors will need to approve the Application by way of a Directors’ Resolution   * Directors’ Resolution will confirm the details of the approved share issue |  |
| 4.6 | The Company needs to issue new share certificates to new equity holders   * Company’s share register should be updated to reflect the new shares/shareholders |  |
| 4.7 | The Company needs to lodge the relevant forms with ASIC to notify them of the change   * Form 484 Change to Company Details * Other notifications are required in some instances (e.g. if the company is public, or if the shares are preference shares) |  |