



QAPITA

The Founders *Agreement*

Nine clauses, three blind spots, and the conversations most co-founders postpone until it's too late.

What actually goes into the document and the three things most templates never mention.

65%

of high-potential startups fail over co-founder conflict, not the market

1 in 3

equal-split teams cite the split itself as a source of tension by year two

0

the number of these problems a verbal agreement has ever solved

01 THE PROBLEM

Handshake deals don't break companies. They just wait.

Two friends start a company. They split it 50/50 because splitting it any other way felt like an argument they didn't want to have. Eighteen months later, one is working eighty-hour weeks and the other has taken a consulting gig on the side "just until things pick up." Nobody said this arrangement out loud. Nobody wrote it down. And now nobody knows how to raise it without sounding like they're accusing their co-founder and possibly their friend of something.

This is not a story about bad people. It's a story about a document that was never written.

Why this happens more than founders admit

It feels like distrust

Drafting terms with a friend can feel like planning for a breakup before the relationship starts so the conversation gets avoided entirely.

There's no visible cost yet

In the first few months, everyone is contributing roughly the same energy. The gap that eventually forms is invisible until it isn't.

It seems reversible

Founders assume they can always "formalize it later" not realizing that later is exactly when incentives to agree have diverged the most.

65%

of high-potential startups fail because of problems among the founding team not the product or the market.

Noam Wasserman,
The Founder's Dilemmas

55%

of failed startups, per a Google for Startups report, trace back to co-founding team dynamics as the single largest contributor.

Google for Startups

2.5x

the rate at which dissatisfaction with an equity split intensifies as the company matures it rarely gets easier to fix.

Yael Daniely, founder-conflict research

02 DEFINITION

What a founders' agreement actually is

Strip away the legal language and a founders' agreement answers five questions before anyone is angry, tired, or negotiating from a place of hurt feelings: who owns how much, who decides what, who owns the work product, what happens if someone leaves, and how disagreements get resolved. It is the only document in your company's life that gets easier to write on day one and harder every day after.



What it is

- A private contract between co-founders, signed before meaningful work begins
- The record of who owns what, and why, before memory gets political
- A pre-agreed playbook for the scenarios no one wants to discuss twice: exit, death, disability, deadlock
- Something you can amend with everyone's signature as the company changes



What it is not

- A formality investors ask for it determines what happens to their money if founders fall out
- The same thing as your shareholders' agreement or your incorporation bylaws (more on that later)
- A one-time task you finish and file away it should be revisited at every major milestone
- A substitute for the conversation itself it's the record of that conversation, not a way to skip it

The reframe that matters most

Founders who've been through a difficult split often describe the same regret: not that the agreement felt unfair to negotiate, but that they never got to it at all assuming there would be a better, calmer moment later. There wasn't.

03 THE STANDOUT INSIGHT

The founders most likely to skip this document are the ones who need it most.

Every founders'-agreement guide on the internet tells you to write one down because you can't predict conflict. That's true, but it's not the interesting part. The interesting part is who actually delays.

Strangers negotiate up front.

Co-founders who meet through an accelerator or a cold intro treat the agreement as due diligence on each other. There's no history to lean on, so they default to writing things down. It feels transactional and it protects them.

Friends assume the relationship will absorb it.

Co-founders with a pre-existing friendship treat the agreement as an insult as if drafting one implies distrust. So the split gets decided over dinner, in twenty minutes, and everyone moves on. This is precisely the group with the highest resentment rate three years later.

The takeaway: treat your co-founder like a stranger for one afternoon. Not because you don't trust them because the agreement is what lets you keep trusting them once the pressure starts.

Try this before you draft anything

Each founder writes down, independently, what percentage they think is fair and one sentence of reasoning. Compare notes before anyone speaks. The gap between the numbers is usually smaller than the fear of asking the question, and the reasoning reveals what each of you actually values.

04 THE FRAMEWORK

The nine clauses that carry the weight

Most templates list fifteen sections. In practice, three of them absorb almost all the risk, and the rest are bookkeeping. Here's the full map we'll go deep on the ones that actually decide outcomes.



1

Ownership Structure

Who owns how much, and on what basis



2

Equity & Vesting

The schedule that earns ownership over time



3

Roles & Decision Rights

Who leads what, and who breaks a tie



4

IP Assignment

Making sure the company owns its own work



5

Compensation

Salary, sweat equity, and reimbursement



6

Departure & Buyback

What happens when someone leaves



7

Confidentiality & Non-Compete

Protecting what the company knows



8

Dispute Resolution

Mediation and arbitration before court



9

Amendment & Validity

How and when the agreement can change

05 OWNERSHIP STRUCTURE

Equity split: there is no formula, but there is a method

Anyone who tells you there's a clean formula for splitting founder equity is selling you a calculator, not the truth. What exists instead is a set of inputs worth weighing deliberately and writing down rather than settling over a single conversation.



Time & commitment

Full-time from day one is worth more than part-time with a safety net quantify the gap honestly.



Idea & prior IP

Who brought the original concept, code, designs, or research the company is built on.



Capital at risk

Cash invested, but also foregone salary and personal runway spent keeping the lights on.



Track record & network

Domain expertise, past exits, and the investor or customer relationships someone unlocks.

The rule that matters more than the math: write down not just the percentages, but the reasons behind them. When memory gets fuzzy and it will the reasoning is what prevents a renegotiation from turning into a referendum on who was more essential.

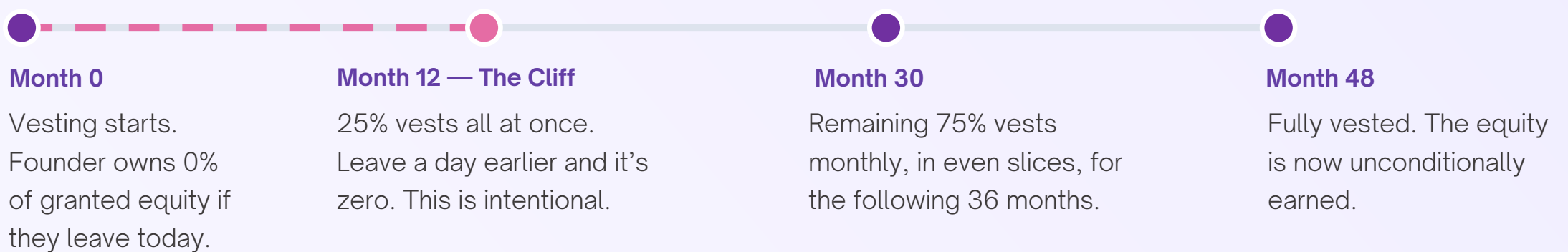
Three signals your split needs a second look

- 1 One founder has quietly reduced hours, but the equity conversation hasn't caught up
- 2 A founder joined later with a narrower scope, but received the same percentage as day-one founders
- 3 Nobody can explain the split's logic without saying "it just felt right at the time"

05 OWNERSHIP STRUCTURE

Vesting: the clause that turns a promise into a schedule

The standard structure is four-year vesting with a one-year cliff not because it's a legal requirement, but because it has survived contact with thousands of founder departures and it works. Here's what it actually does at each stage.



Why the cliff exists (and why founders resist it)

The cliff protects the company from a founder who leaves in month three with a meaningful chunk of equity for work that barely got started. Founders often push back because it feels like a lack of trust reframe it as the opposite: it's the only clause that treats every founder, including the one proposing it, exactly the same way.

One rule investors check for on day one of due diligence: vesting applies to every founder, including the CEO. An unvested founder holding a large stake with no vesting schedule is one of the fastest ways to stall a term sheet.

Two variables worth negotiating explicitly

Vesting start date

Should begin at incorporation or full-time commitment not retroactively backdated to "when we first discussed the idea."

Credit for prior work

Some agreements grant partial upfront vesting to reflect meaningful pre-incorporation contribution negotiate this explicitly, in writing.

06 THE STANDOUT INSIGHT

The 50/50 split isn't fair. It's just quiet.

An even split isn't a decision about value it's usually a way of avoiding the conversation about value. That avoidance doesn't disappear. It just gets deferred to the exact moment the company is under the most pressure to be at its most functional.

Day One

"It's the fastest way to get past an awkward conversation and start building."

Month 18

"Why am I doing twice the work for the same slice of the company?"

A better question than "50/50 or not?"

- Are contributions genuinely symmetric today: same hours, same risk, same capital, not just similar in spirit?
- Is there a mechanism to revisit the split if one founder's role or commitment changes materially?
- Does someone hold clear tie-breaking authority on operational decisions, regardless of the equity split?
- If the honest answer to any of these is "no," an equal split is postponing a conversation, not resolving it.

A pattern worth naming

Teams that pair an equal equity split with a clearly named decision-maker for operational matters report far less friction than teams that leave both equity and authority undivided. The split can be equal. The authority usually shouldn't be, not because someone is worth more, but because someone has to be able to say "we're doing it this way" when the vote is tied.

07 ROLES & DECISION RIGHTS

Equal equity does not mean equal authority and it shouldn't

The clause founders skip most often isn't equity or IP it's the tie-breaker. Two founders with 50% each and no named decision-maker for deadlocked votes will eventually hit a decision neither will yield on, and there will be no mechanism to move forward.



Define ownership by domain, not by title

Who has final call on product, on hiring, on fundraising terms name it per function, not just per org chart.



Set a threshold for "major decisions"

Raising capital, taking on debt, issuing new equity, or selling the company should require unanimous or supermajority consent, define the list explicitly.



Name a tie-breaker before you need one

A rotating casting vote, a deciding CEO on operational matters, or a pre-agreed neutral advisor. Choosing this in a calm moment is very different from choosing it mid-argument.

A structure worth studying

When Airbnb was founded, Brian Chesky and Joe Gebbia didn't split ownership and authority identically. Chesky held a larger stake and final decision authority as CEO, while both founders remained deeply committed and fairly compensated. Differentiated equity paired with clear authority is not a sign of an unequal partnership; it's often what makes a partnership durable.

A simple decision-rights matrix to adapt

Product roadmap & hiring (below leadership)

Named functional lead, informs the other founder(s)

Fundraising terms, new equity, debt

Unanimous founder consent required

Day-to-day operational tie-breaks

Named tie-breaker, decision stands unless reversed by majority

08 INTELLECTUAL PROPERTY

IP assignment: the clause everyone assumes is automatic

Most founders believe that because they built the product for the company, the company automatically owns it. In most jurisdictions, that isn't how the law works ownership follows the assignment, not the intention.



The pre-incorporation trap

Code, designs, or research created before the company existed legally still belongs to whoever wrote it personally, unless it's explicitly assigned afterward. This is the single most common gap surfaced in early-stage due diligence.



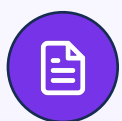
The departing-founder trap

Without a signed assignment, a co-founder who leaves acrimoniously can, in principle, argue partial personal ownership over code or designs still running in production, turning a personnel exit into an IP dispute.

The fix is mechanical, not complicated

- Every founder signs a present-tense IP assignment clause "I hereby assign," not "I will assign"
- Any pre-incorporation work gets a retroactive assignment as a condition of receiving founder equity
- The clause covers ideas, code, designs, content, and inventions created "in connection with" the company's business, not just work done on company time

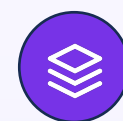
What "in connection with the business" typically covers



Product code, architecture, and technical documentation



Brand assets: name, logo, trademarks, and marketing content



Business processes, pricing models, and customer data structures

09 THE STANDOUT INSIGHT

What if you don't fix the split and you let it move?

Every guide on this topic assumes you must pick a fixed percentage on day one and defend it forever. For pre-revenue teams whose roles are still taking shape, there's a genuinely different model worth knowing about, even if you don't use it.

Dynamic equity ("Slicing Pie")

Popularized by Mike Moyer, this model tracks every contribution, hours at a fair market rate, cash, equipment, IP as it happens, and recalculates each founder's ownership percentage on a rolling basis. Instead of guessing at outcomes up front, the split reflects what actually happened.

When it genuinely fits

- Pre-revenue, bootstrapped teams where time is the main currency
- Roles and contribution levels are still fluid or evolving fast
- Founders are willing to track hours and contributions honestly

When to "bake the pie" and freeze it

- Before raising outside capital, investors require a fixed cap table
- Once salaries reach market rate and contributions stabilize
- Ahead of a major hire, partnership, or acquisition conversation

The honest caveat: dynamic equity trades one hard conversation (the initial split) for an ongoing one (tracking contributions fairly). It suits teams who'd rather have many small honest conversations than one big unspoken one.

How the mechanics actually work

Grunt Hourly Rate

Each founder's fair-market hourly rate what they'd earn elsewhere, sets the baseline value of an hour worked.

Contribution multiplier

Unpaid, at-risk contributions typically earn a multiplier (often 2x) over paid work, compensating for the risk taken.

Running "slices"

Every logged hour or dollar converts to slices; ownership percentage is simply your slices divided by the total pool at any moment.

10 DEPARTURE & BUYBACK

What happens when someone leaves - decided while everyone still likes each other

This clause exists for one reason: to remove emotion from a moment that will otherwise be entirely emotional. Vesting already handles unvested shares, they simply return to the pool. Buyback provisions handle the vested shares a departing founder keeps.

Good leaver

Death, disability, or a mutually agreed departure. The company or remaining founders typically have a right of first refusal to buy back vested shares at fair market value.

Bad leaver

Termination for cause: fraud, gross negligence, breach of the agreement. Buyback is often at a discount to fair market value, or at the original purchase price, as a deterrent.

Voluntary exit

A founder simply chooses to leave without cause. Most agreements land between the two above fair market value, but with company-favorable payment terms over time.

Right of first refusal keeps equity in-house

Without a buyback clause, a departed founder is legally free to sell their vested shares to a competitor, a difficult investor, or anyone else, the company loses all control over who ends up on its cap table.

Structuring the buyback payment itself

Lump sum at fair market value

Cleanest option, but can strain company cash reserves right after losing a founder.

Installments over 2–4 years

Preserves company cash, the most common approach for early-stage companies without a big bank balance.

Tied to a future financing or exit

Defers the cost until the company has liquidity, common when a company can't afford either option above today.

10 DEPARTURE & BUYBACK

Acceleration clauses: what happens to unvested equity in an exit

Vesting protects the company from founders who leave early. Acceleration protects founders from being pushed out right before a liquidity event by an acquirer who'd rather not pay out unvested equity. Two structures cover most situations.



Single-trigger acceleration

All unvested equity vests immediately the moment the company is acquired. Simple and founder-friendly but acquirers dislike it because it removes their ability to retain the founding team post-close, and can make a deal less attractive to negotiate.



Double-trigger acceleration

Vesting accelerates only if two events occur: an acquisition, and the founder is terminated without cause (or resigns for good reason) within a defined window afterward. This is the structure most investors and acquirers expect, it protects founders from being pushed out, without penalizing a genuine post-close retention plan.

Most standard practice today favors double-trigger, it's the version worth defaulting to unless there's a specific reason not to.

A middle path: partial acceleration

Rather than 0% or 100%, some agreements accelerate a fixed portion, commonly 12 to 24 months' worth of additional vesting, on a qualifying termination after acquisition. This splits the difference: founders aren't left with nothing, and acquirers retain a meaningful retention lever.

The negotiation point acquirers actually care about

It's rarely the acceleration itself, it's the definition of "termination without cause" and "good reason." Vague language here can be interpreted narrowly by an acquirer motivated to avoid triggering the clause at all.

11 CONFIDENTIALITY & NON-COMPETE

Protecting what the company knows, without overreaching

This clause has two distinct halves that get conflated far too often. Confidentiality protects information. Non-compete restricts future activity. Treating them as one clause tends to make the whole thing weaker and in some jurisdictions, unenforceable.



Confidentiality

Covers trade secrets, customer lists, pricing, product roadmaps, and financials. Should survive indefinitely or for a long, clearly stated period - and apply whether a founder leaves on good terms or bad.



Non-compete

Restricts founding a competing venture for a defined window after departure. Enforceability varies sharply by jurisdiction, broadly enforceable in most of the US and India if reasonable in scope, largely unenforceable in California. Check local law before relying on it.

The practical middle ground

Where broad non-competes are legally shaky, a strong non-solicitation clause, restricting a departed founder from poaching employees or customers, usually holds up better and covers most of the real risk anyway.

A quick reference on non-compete enforceability

Most US states

Enforceable if reasonable in duration, geography, and scope

California, North Dakota, Oklahoma

Broadly unenforceable against individuals, with narrow exceptions

India

Enforceable during employment; post-termination restraints are heavily scrutinized by courts

Singapore

Enforceable if protecting a legitimate business interest and reasonable in scope

12 DISPUTE RESOLUTION

Deciding how you'll fight, before you're fighting

It sounds counterintuitive to plan a fight before it starts. But a dispute resolution clause, negotiated calmly, gives every future disagreement a process to move through, instead of leaving it to whoever is more stubborn, or more litigious.

1

Direct negotiation

A defined window, often 30 days for founders to resolve the issue between themselves first.

2

Mediation

A neutral third-party mediator facilitates a resolution. Non-binding, faster, and far less expensive than litigation.

3

Binding arbitration

If mediation fails, a private arbitrator issues a decision both sides are contractually bound to accept.

4

Litigation (last resort)

Reserved for a narrow set of matters, typically injunctive relief, or where arbitration itself is disputed.

Three specifics that make this clause actually work

Name the arbitration body and rules

e.g. ICC, SIAC, or a named domestic arbitration institute — vague references to "arbitration" invite disputes about the dispute process itself.

Specify the seat and language

Which city's law governs, and which language the proceedings run in — critical for cross-border founding teams.

Carve out injunctive relief

Allow either party to seek an emergency court injunction for IP theft or fund misappropriation, bypassing the full arbitration timeline.

13 THE STANDOUT INSIGHT

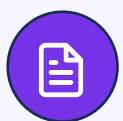
The clause almost no founders' agreement guide mentions: which country's founders' agreement are you even writing?

Almost every template online is written for a single-entity, single-jurisdiction company — usually a Delaware C-Corp. If your founding team spans India, Southeast Asia, and the US, which is increasingly the norm rather than the exception, your founders' agreement has to answer questions those templates never raise.



Which entity actually issues the equity?

A US Delaware C-Corp parent with an Indian Private Limited subsidiary is the most common structure for India-to-US growth — but your founders' agreement needs to specify explicitly which entity's shares are being split, vested, and assigned. "The company" is not a defined term until you've named one.



How does IP assignment cross borders?

Work created by an India-based founder for a US parent entity needs an assignment clause valid under both Indian contract law and US IP law — a single boilerplate clause drafted for one jurisdiction can leave a gap in the other.



Where does a dispute actually get resolved?

Naming Delaware arbitration in an agreement between two India-resident founders can mean a dispute is technically "resolved" in a forum neither founder can practically access. Match the forum to where the founders and assets actually are.

None of this means cross-border founding teams need two agreements. It means the one agreement you write needs to name its entities, its governing law, and its forum explicitly, not by default.

Cross-border structuring checklist

- Name the exact legal entity (jurisdiction and registration number) whose shares the agreement governs
- Confirm FEMA / ODI compliance for any India-resident founder holding shares in a foreign parent entity
- Align the founders' agreement's governing law with what your eventual shareholders' agreement will use

14 AMENDMENT & VALIDITY

A founders' agreement is a living document, not a founding artifact

The document you sign in month one should not be the document governing your company in year four. Build in explicit trigger points for revisiting it, waiting for "someday" means it never happens until a crisis forces it.

A new founder joins

Every existing founder's equity, vesting, and role clauses may need to flex to make room renegotiate all at once, not piecemeal.

A funding round closes

Investors will want vesting refreshed, roles formalized, and the agreement aligned with a new shareholders' agreement.

A founder's role changes materially

Someone moving from full-time to advisory, or taking on a much larger operating role, is a legitimate reason to revisit the split.

Annually, as a standing practice

Even with no trigger event, a short annual check-in prevents small misalignments from compounding silently.

Every amendment needs every founder's signature. A verbal agreement to "adjust the split a little" is worth exactly as much as the original handshake deal which is to say, nothing once someone disagrees.

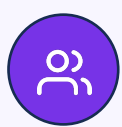
A habit worth adopting: version and date every amendment

Keep a single master copy with a clear version history "Founders' Agreement v3, effective March 2027" rather than a chain of side-emails and verbal understandings layered on top of the original. Investors will ask for this during diligence.

15 CLEARING CONFUSION

Founders' agreement vs. shareholders' agreement: not the same document

These two get conflated constantly, and the confusion causes real gaps. Here's the distinction that matters: one governs founders before institutional money arrives, the other governs all shareholders once it does.



Founders' Agreement

- Signed by founders only, usually pre-incorporation or at formation
- Covers vesting, roles, IP, and founder-specific exit terms
- Private — rarely shared outside the founding team
- Often superseded or absorbed once a shareholders' agreement is signed



Shareholders' Agreement

- Signed by all shareholders, including investors once they invest
- Covers voting rights, anti-dilution, liquidation preference, board composition
- Usually required and reviewed as part of formal fundraising
- Becomes the governing document once institutional capital enters

The practical takeaway: draft the founders' agreement early and thoroughly, it protects the exact relationship a shareholders' agreement doesn't reach.

What typically carries over into the SHA

- Vesting schedules already earned are typically preserved and referenced, not restarted
- IP assignment clauses are usually restated more broadly to cover the full company, including new hires
- Founder-specific dispute resolution terms often get folded into a broader mechanism covering all shareholders

16 GET STARTED

Where to start this week

You don't need a finished, lawyer-reviewed document to start protecting your company. You need these seven conversations, on the record, before you need them.

- 1 Agree on equity percentages and write down the reasoning, not just the numbers
- 2 Put every founder — including the CEO — on a four-year vesting schedule with a one-year cliff
- 3 Name a tie-breaker for deadlocked decisions before you're in one
- 4 Sign present-tense IP assignment covering pre- and post-incorporation work
- 5 Choose double-trigger acceleration as your default on any future acquisition
- 6 Define your escalation path for disputes: negotiation, then mediation, then arbitration
- 7 Name the entity, governing law, and forum explicitly if founders span more than one country

None of this requires a lawyer to start. It requires a shared document and an honest conversation — have a lawyer review the final draft before anyone signs.

YOUR EQUITY, ORGANIZED FROM DAY ONE

The agreement is the start. The cap table is where it lives.

Once your founders' agreement is signed, every share, vesting schedule, and future round needs a single source of truth, not a spreadsheet three people are editing from memory. Qapita gives founders a clean, investor-ready equity platform from the first share issued to IPO and beyond.



Cap Table Management

A live, version-controlled cap table that updates as your company evolves.



Vesting, built in

Set founder and employee vesting schedules once Qapita tracks the rest.



Built for global teams

Manage equity across entities and jurisdictions from a single platform.

[Book a Demo](#)

"We moved over from Carta, which was very over-priced and did not provide any kind of support. Qapita made the whole experience seamless and pain-free."

— **Colin M., HR/Ops Manager, Mid-Market Company**

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