Glossary

Acceleration event: A future event—such as a change of control, a material breach, or a death or disability—which upon occurrence automatically accelerates the vesting of all as yet unvested stock or options.

AMT: Alternative minimum tax

BOD: A company's Board of Directors

Capital gain: A taxable event arising from the sale of property, such as stock. Under federal tax law, a capital gain can be short term (if the property is owned for one year or less), which at present is taxed at the ordinary income rate, or long term (if the property is owned for more than one year), which presently is taxed at a lower rate.

Carried interest: A percentage interest of a venture fund or other investment fund. For example, a 5% carried interest typically means a right to 5% of the fund's profits.

CDA: Confidential disclosure agreement; also sometimes called an NDA, for nondisclosure agreement (not to be confused with a new drug application)

CEO: A company's chief executive officer

Change of control: A term found in consulting or stock option agreements describing situations in which a company might change hands, e.g., a merger or sale of significant assets. A change of control might trigger certain rights on the part of the consultant (e.g., the right to terminate) or option holder (e.g., the right to accelerate vesting of options).

Charter: A company's organizational document, usually filed with the jurisdiction where it is organized. Corporate charters are usually called certificates or articles of incorporation.

COI: Conflict of interest

Common stock: Ownership interests (equity) in a company. Usually includes the right to elect directors, vote on other corporate matters, and receive dividends. Holders of common stock receive corporate assets after all other creditors, including those holding any preferred shares, in the event of the company's insolvency or sale.

Compensation income: Income for services; the recipient generally is obliged to pay self-employment taxes.

Covenant: An obligation applying to future behavior or actions

CSO: Chief scientific officer

Dilution: A decline (dilution) in the percentage ownership represented by previously issued shares, generally caused by a company's issuance of new shares

D&O insurance: Directors & Officers insurance policy, obtained by a company from an insurance company to insure its directors and officers in case of certain events, often including litigation

Equity: The term "equity" has different meanings based on context. For purposes of this book, "equity" means an ownership interest in a company, usually in the form of common stock.

Evergreen: A contract that automatically renews unless one party notifies the other(s) of its election to terminate

FDA: The U.S. Food and Drug Administration

FMV: Fair market value

Including without limitation: A phrase used in contracts to signify that a list of items is not comprehensive but only illustrative

IND: Investigational New Drug application

Indemnitee: A party entitled to be indemnified by an indemnitor

Indemnitor: A party obliged to indemnify an indemnitee

Indemnity: The obligation to pay certain costs, losses, damages, etc. of another person or entity

IP: Intellectual property

IPO: Initial public offering of a company's shares

IRS: U.S. Internal Revenue Service

ISO: Incentive stock option

Liquidation event: A significant corporate event for which a stockholder might be entitled to receive cash or other consideration. Liquidation events are established under the governing corporate documents or relevant contracts. Liquidation events might include some or all of a sale, lease, license, or merger of the assets of the business or an IPO.

LLC: Limited liability company. An LLC is a different legal entity from a corporation and offers more flexibility in structuring ownership. Owners of an LLC are called "members" rather than "stockholders."

Lock-up period: A period of time following a public offering during which stockholders commit not to sell their shares

NIH: U.S. National Institutes of Health

NQSO: Nonqualified stock option

Optionee: The holder of a stock option

Ordinary income: Income that is taxed at ordinary rates—to be contrasted with capital gains income, which is taxed at lower capital gain rates. Also called ordinary compensation income, which is income for which a payee who is not employed by the payer must pay self-employment taxes

Phantom income: Taxable income incurred without receipt of cash. The receipt of phantom income can require payment of tax before payment from the underlying asset and therefore can require having cash to pay the tax before the underlying asset has generated any income.

Preferred stock: An ownership interest (equity) in a company. Usually includes right to a preferred dividend (i.e., one that is payable before payment of dividends on common stock) and special voting rights on corporate issues. Stands ahead of common stock in the event of the company's insolvency or sale. Depending on the terms, preferred stock can be "convertible" into common shares either at a certain time or upon the election of the stockholder. A company can issue more than one class of preferred stock with different rights and privileges.

R&D: Research and development

Registration rights: A shareholder's contractual right to include his or her shares in a public or other offering of the company's shares

Restricted shares: Shares of a company's stock for which there are resale or transfer restrictions imposed under the terms of the agreement by which the holder of the shares acquired them. Restricted shares can be vested or unvested.

Restrictive legend: Language appearing on a stock certificate setting forth legal restrictions relating to the underlying shares. Such restrictions might identify vesting requirements pertaining to the shares or prohibit the transfer or resale of the shares.

SAB: A company's Scientific Advisory Board

SAR: Stock appreciation right

SEC: U.S. Securities and Exchange Commission

Section 83(b) election: A tax strategy to accelerate recognition of a taxable event in connection with the receipt of unvested shares. Generally, a properly filed Section 83(b) election accelerates the recognition of a taxable event from the date of vesting to the date of receipt.

Section 409A: A federal tax provision imposing certain penalties upon stock options or SARs issued below FMV

Stock options: The right to acquire shares of a company according to specific terms, including price (the "strike price")

Strike price: The price established in a stock option agreement at which an option holder can acquire shares underlying the option

Survival: The length of time that an agreed-upon contractual term will continue to apply after the contract has terminated

Tail period: A defined period of time after the termination of a contract during which a specific contractual right or obligation (such as the obligation not to disclose confidential information) will continue to be in force

Unvested shares: Shares for which the holder has not acquired full ownership rights

VC: Venture capital, venture capital funding, or a venture capitalist

Vested shares: Shares for which the holder has full ownership rights

Vesting: The process by which the holder of an interest in a security (such as a stock option or restricted shares) acquires full ownership rights in the security