

Kentucky Enterprise Fund

Guidelines for Follow-on Investments (effective August 3, 2009)

Company Eligibility

- A company that previously applied to KSTC for a KEF equity investment and in which KSTC currently holds an investment interest is eligible to receive a follow-on investment from KSTC without going through the full application process again.
- A company shall indicate in writing to KSTC that it is opening a round of financing. Upon notification of a round of financing, KSTC may elect to participate in the round on a pro rata basis.
- A company shall give KSTC sufficient lead time prior to the closing of the round to enable KSTC to conduct its evaluation and obtain all necessary internal approvals for the investment. A minimum of 45 days is required.
- In order to be eligible, a company must be in full compliance with KSTC requirements (in KSTC's sole opinion) in connection with its current funding.

Evaluation Process

For each follow-on investment, KSTC will perform an independent review. Each evaluation will be based upon, but not limited to, the following criteria:

- Clear indication that the company is raising a round of private investment and seeking to match KSTC's follow-on investment with private investment;
- Project continues to be scalable for high growth potential;

- Verification that the company continues meet the definition of a Kentucky-based company and medium-size company or small company;
- A technology description and plan that is sufficient for external expert review;
- A detailed financial analysis that includes full disclosure of the terms of the proposed round and future valuations & projections; and
- Sufficient detail about the progress to date with the project and expected milestones to be gained from the financing.

Independent Review

The company must provide any and all information requested by KSTC, including (but not limited to) the following:

- Management – including experience, qualifications and capabilities; organizational chart; Board of Directors composition and members backgrounds; Advisory Board composition and members backgrounds;
- Technology – core technology description, feasibility, scalability, reliability, robustness, and inter-operability with existing technologies; technology development schedule and innovation strategy; compatibility, integration, and implementation to current marketplace systems; applications; pricing strategy; competing methodologies;
- Intellectual Property – IP strategy; patents, trademarks, copyrights filing status; strength of the IP; expected legal fees; IP management processes;
- Market – market analysis to include end-consumer compliance, size, growth potential, and effects of macroeconomic changes, where is the company going, what is the total target market size, timing with market need and trends (fit), which competitors could enter and why, breadth of competitive landscape, company's current differentiation from competitors, competitor's

business models, revenue models, and performance track record;

- Sales and Marketing – strategy, value chain landscape, potential partners, market research including customer adoption studies, time to breakeven, strategic partners and candidates;
- Manufacturing – manufacturing plan, accessibility of supply chain;
- Regulatory – regulatory landscape and requirements;
- Business Model – financial strategy, revenue model and underlying assumptions, current and pro forma financials, comparable businesses, revenue models, and their valuations;
- Deal – capitalization table, financing strategy, potential exit strategies, use of proceeds, valuation, terms, milestones, risks;
- All current company documents, including:
 - Current Offering Documents;
 - Current Organizational Documents (if different from those previously provided to KSTC at time of earlier funding), and any proposed amendments or restatements, all in a form containing provisions acceptable to KSTC;
 - Copies of any contractual restrictions, agreements or rights attaching to any securities having preference over common stock, as well as any debt convertible into any equity of the company;
 - Financial Statements: Supply the latest annual and quarterly accrual-based financials for the company (balance sheet, income statement and statement of cash flows.), preferably audited. Submit a monthly comparison of projected vs. actual revenue and expenses for the preceding 12 months;
 - Financial Projections and underlying assumptions;

- Tax returns and statement indicating whether the company has had or anticipates having any correspondence with any state or federal tax authority;
- List and explain any loan agreements or any other financing instruments (including convertible notes), with related documentation, to which the company was, is, or will be a party;
- Intellectual Property: Please submit copies of patents, patent applications, provisional patents, copyrights, copyright applications, and other intellectual property, if any;
- Counsel IP reports (Freedom to Operate opinion, etc.);
- Copies of all contracts;
- Schedule of all litigation, arbitration, and government proceedings to which the company or the company's directors, officers, or employees are or have been a party to within the last three years or which are threatened against any of them;
- Contact information for all outside service providers (lawyers, accountants, bankers, etc.);
- Relevant government regulations and an assessment of their effect; potential new regulations that may effect company;
- Insurance Certificate: KSTC requires investment recipients to maintain and provide evidence to KSTC of insurance coverages required by law or as reasonably requested by KSTC;
- A current Certificate of Existence for the Applicant issued by Kentucky's Secretary of State and documentation that the Applicant is in Good Standing with the Kentucky Secretary of State and authorized to do business in Kentucky if not a Kentucky entity.

- Updated Kentucky-Based Company assertion letter;
 - License Agreements: a copy of all licensing agreements with any third-parties for any intellectual property that the company does not own, if any;
 - Market research, business plan, and investor presentation (if any);
 - Design plans, photos, CAD drawings, or any other visual representation of the product or service, if any; and
 - White Papers or Drawings: submit any white-papers or drawings outlining the technology, if any.
- KSTC may require an interview with the company's management and/or board of directors.
 - KSTC will employ its thorough due diligence methodology, including the use of external technical experts, as part of the due diligence process.

Funding and Use of Proceeds

- Prior to receiving a follow-on investment, a company must negotiate an equity position with KSTC.
- Prior to receiving a follow-on investment, a company will be required to enter into a subscription agreement and a side letter agreement with KSTC. The side letter agreement will contain an approved budget and use of proceeds.
- KSTC will disburse funding to the company in accordance with the schedules set forth in the side-letter agreement.
- Under no circumstance, may KSTC's total investment in any one company exceed \$750,000 (\$780,000 if the company had received a grant).

Monitoring

- A company receiving follow-on funding under the Kentucky Enterprise Fund shall be required to submit regular project progress reports to KSTC in a form and content acceptable to KSTC in its sole discretion. These progress reports shall be accompanied by accrual-based financial statements prepared in accordance with GAAP.
- KSTC will hold an observatory seat on the company's governing board, and the company must keep KSTC informed of all board meetings.
- KSTC may require the company to work with an experienced business advisor provided to it through KSTC's Executive in Residence Program.
- If at any time a company is not performing according to plan, KSTC will enact the appropriate contractual remedies.