

# Ordinance for the Use of Software Subject to a License Agreement

LEX 6.1.5

1<sup>st</sup> December 2018, status as at 25<sup>th</sup> January 2021

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*The Direction of the Ecole polytechnique fédérale de Lausanne,*

based on the [Federal Act on the Federal Institutes of Technology of 4<sup>th</sup> October 1991](#) (FIT Act, RS 414.110);

based on Article 3, para. 1, letter a, of the [Ordonnance du Conseil des EPF du 13 novembre 2003 sur les écoles polytechniques fédérales de Zurich et de Lausanne](#) (Ordonnance sur l'EPFZ et l'EPFL, RS 414.110.37);

based on the [Ordinance on the Organisation of the Ecole polytechnique fédérale de Lausanne of 1<sup>st</sup> March 2004](#) (LEX 1.1.1), in particular Article 4;

based on the [Loi fédérale du 24 mars 2000 sur le personnel de la Confédération](#) (LPers, RS 172.220.1);

based on the [Ordonnance du Conseil des EPF du 15 mars 2001 sur le personnel du domaine des écoles polytechniques fédérales](#) (OPers-EPF, 172.220.113);

based on the [Règlement disciplinaire du 15 décembre 2008 concernant les étudiants de l'Ecole polytechnique fédérale de Lausanne](#) (RS 414.138.2);

based on the [Directive on the Use of EPFL Electronic Infrastructure of 13<sup>th</sup> November 2014](#) (LEX 6.1.4);

based on the [Directive concerning whistleblowing at EPFL of 14<sup>th</sup> August 2017](#) (LEX 1.8.1);

based on the [Loi fédérale du 14 mars 1958 sur la responsabilité de la Confédération, des membres de ses autorités et de ses fonctionnaires](#) (LRFC, Loi sur la responsabilité, 170.32);

based on the [Ordonnance du Conseil des EPF sur le corps professoral des écoles polytechniques fédérales](#) (Ordonnance sur le corps professoral des EPF, 172.220.113.40);

*hereby adopts the following:*

## Preamble

The Ecole polytechnique fédérale de Lausanne (EPFL) offers its students and staff members the possibility of using certain software within the framework of EPFL activities. This software is protected by copyright and its use is subject to certain conditions, notably the procurement of a License Agreement.

The rights and conditions for use vary from one software package to another, and also within the use of software, depending on the type(s) of license granted to EPFL. Licenses are generally restricted to educational and non-commercial use, and are generally non-transferable. The communication of data processed using software may also be subject to specific conditions.

When you plan to use a software, for each case you are responsible for verifying how it may be used in accordance with its License Agreement. Use of software without the correct license and/or use of software outside the scope of its license **may result in criminal sanctions (prison sentence or fine), civil sanctions (the amount of damages may exceed the cost of the license which should have been acquired) and administrative sanctions for you**, depending on your status within EPFL. EPFL may also be considered liable.

## Article 1 Objective

The objective of this Ordinance is to guarantee that software is used in accordance with the law and with the relevant licenses, and to prevent related abuse.

## Article 2 Definitions

For the purposes of this Ordinance, the following definitions apply:

1. **Computer Ownership:** owner of the machine, in this case EPFL or another party.
2. **User Category:** EPFL employee, member of EPFL teaching staff, EPFL student, external person under contract, third party.
3. **Category of the Person Installing the Software:** EPFL employee, member of EPFL teaching staff, EPFL student, external person under contract, third party.
4. **License Agreement:** contains all of the clauses relating to the provision of a license
5. **Work Purpose:** administrative, teaching, non-profit research, non-profit workshops, commercial, research where the data processed using the software are made available for free, research where the data processed using the software are made available to a company, commercial.
6. **Licence:** authorisation (from the licensor) for the use of the licensed software by the User.
7. **Point of Execution:** location of the machine on which the core part of the software code is run. It may not be possible to identify this location with certainty in the case of software run on the cloud.
8. **Point of Use:** location of the User at the time of software use. May differ from the Point of Execution, in particular in the case of software run on the cloud.
9. **Materiality of the Machine:** virtual or physical.
10. **User:** all persons using the EPFL electronic infrastructure.

## Article 3 Scope of application

This Ordinance applies to all persons using the EPFL electronic infrastructure (Users).

## Article 4 General regulations

<sup>1</sup> Each User must verify<sup>1</sup> the rights stemming from the license held by EPFL. Information on these rights as well as the License Agreements can be found at [support.epfl.ch](http://support.epfl.ch). All software use must be carried out in accordance with the clauses in the License Agreement, in particular regarding the following points:

- a) The Work Purpose;
- b) The User Category;
- c) The Category of the Person Installing the Software;
- d) The Point of Use;
- e) The Ownership of the machine running the software;
- f) The Materiality and characteristics of the machine running the software;
- g) The Point of Execution of the software;
- h) The transfer to third parties of the results obtained with the software, in particular for projects with commercial partners, including for project (co-)financed by public entities (Innosuisse, European funding projects in collaboration with companies, etc.);
- i) Potentially private software use;

<sup>2</sup> It is prohibited to bypass software security measures.

<sup>3</sup> Relationships with software publishers are handled by the software asset manager of the Information Systems Department. To avoid EPFL and User liability, Users shall provide no guarantee, neither express nor implied, to the publisher, and shall not share information to the publisher without consent from the software asset manager of the Information Systems Department.

<sup>4</sup> In certain cases, EPFL may negotiate special conditions with a software publisher. The Procurement Department and the software asset manager of the Information Systems

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<sup>1</sup> Only the License Agreement shall prevail in case of dispute.

Department are responsible for leading discussions with the publisher. Where necessary, the Information Systems Department manager for EPFL software assets may inform the User of the contractual clauses of the license he/she plans to use.

### **Article 5 Disclosure obligations**

Any inappropriate or wrongful use of software provided by EPFL and that carries a risk, must be communicated to EPFL's Risk Management Committee, which will decide on the appropriate course of action.

### **Article 6 Decisions and sanctions**

<sup>1</sup> The President of EPFL shall take all measures or decisions justified by the proven facts.

<sup>2</sup> Sanctions are notably laid down in the [Ordonnance sur le personnel du domaine des Ecoles polytechniques fédérales](#) or the [Règlement disciplinaire concernant les étudiants de l'EPFL](#). Sanctions range from a warning to service termination, and for students, from reprimand to exmatriculation.

<sup>3</sup> Non-authorized Users who violate the provisions of License Agreements, the law, or related instructions shall be held personally liable and shall compensate EPFL for any damage suffered. The same shall hold true for any supervisor who encourages or tolerates the use of software in a way that is inconsistent with or not covered by a License Agreement.

<sup>4</sup> Review procedures are governed by Article 37 of the [Federal Act on the Federal Institutes of Technology of 4<sup>th</sup> October 1991](#).

### **Article 7 Costs**

Costs relating to the investigation of any failures to comply with the terms of a License Agreement, to the preparation of the corresponding report for the President and for possible additional investigations shall be borne by the entity concerned by the reporting.

### **Article 8 Applicable suppletive law**

The present Ordinance is based on the [Federal Act on Administrative Procedure of 20<sup>th</sup> December 1968](#) (APA) in a supporting manner.

### **Article 9 Entry into force**

The present ordinance entered into force on 1<sup>st</sup> December 2018 (version 1.0), and was revised on 25<sup>th</sup> January 2021 (version 1.1).

On behalf of EPFL Direction:

President:  
Martin Vetterli

Director of Legal Affairs:  
Françoise Chardonnens