

Guidelines for start-ups at EPFL

Preamble

EPFL builds and supports the companies, people, and technology that will change the way the society works for the better. Whether it's through the knowledge and skills of our graduates and researchers, our collaboration with industry, or our licensing of disruptive technologies, EPFL helps turn promising ideas into new products and services.

Our startups are based on original technologies discovered and incubated at EPFL. Entrepreneurs range from students preparing their start-up project in parallel to their studies, to those working on technologies during their research activities at EPFL and to seasoned professors. However, they all have one thing in common – their passion for driving change for the greater good.

The startups coming out of our university are built on transformational technology and the brightest talents. Investors know that ideas and technologies from EPFL are ones they can trust as a solid investment.

The Startup Unit of at the Vice Presidency of for Innovation (VPI) offers funding, support, and a thriving community of passionate partners to EPFL entrepreneurs helping them build the startups of tomorrow.

The Technology Transfer Office (TTO) (<https://tto.epfl.ch>) of the Associate Vice-Presidency for Research (AVP-R) manages the intellectual property created by EPFL employees and promotes its transfer to start-ups. The TTO is responsible for licensing EPFL intellectual property and provides guidance and support for setting-up the collaboration agreements with the start-ups.

This document presents to future start-up founders the rules and practices that EPFL has put in place, based on several years of experience, regarding the creation and development of start-ups at EPFL.

What is an EPFL start-up?

An EPFL start-up is a company created with the aim to further develop and commercialize a technology originating at EPFL or benefitting from an essential contribution from EPFL before commercial exploitation, and founded by EPFL staff, student or alumni. A company created by EPFL staff, student or alumni based on their activity or knowledge acquired at EPFL is also considered as an EPFL start-up.

EPFL support to start-ups

EPFL has a long tradition of supporting start-ups. Several programs have been put in place within the EPFL Startup Launchpad aiming at supporting with funding and expertise the incubation journey of start-up projects at EPFL.

More information can be found at go.epfl.ch/startup

Licensing EPFL technologies to start-ups

A license is a contract by which EPFL gives to a company the right to use certain intellectual property (IP). The term “IP” in this document means any intangible asset, including patents and patent applications on inventions, copyrights on software or plans, drawings and the like, trademarks, or know-how. A license may also include the transfer of tangible assets such as demos, prototypes, or biological materials. A license granted by EPFL is either exclusive (i.e. only the beneficiary of the license will have the right to use the IP) or non-exclusive (i.e. EPFL may grant licenses to other companies on the same IP). Exclusivity is provided by patents, according to territorial extension. The license is generally limited to a certain field of application that the company plans to develop.

IP created by EPFL employees (including professors, doctoral and postdoctoral students) in connection with their activities for EPFL belongs to EPFL¹. This is why a start-up willing to further develop and commercialize a technology based on, or using, such IP, needs to secure a license, even if the start-up creator is the inventor of such IP.

EPFL only grants licenses to incorporated companies and not to individuals. Individuals wishing to create a start-up may obtain an option for such license, i.e. to reserve the right to negotiate a license on EPFL IP during a limited period (typically six to twelve months) in order to evaluate the related business opportunity.

A start-up willing to obtain a license on EPFL IP shall first present its business case to the TTO. In general, the business case is described in documents like investor pitches decks or business plans, and it should demonstrate that the start-up has sound development and commercialization plans for the EPFL IP, including from the financial perspective. Based on such information, the start-up and the TTO typically summarize the main agreed terms of the future license in a non-binding term-sheet. This term-sheet informs the drafting of the license agreement, which must be signed by the incorporated start-up and the TTO to take effect.

¹ Article 36 of Federal Act on the Federal Institutes of Technology (<https://www.admin.ch/opc/en/classified-compilation/19910256/index.html>)

Licensing conditions

Diligence

EPFL's primary objective is that a licensed technology translates into products and services that benefit the public and the economy. It is therefore necessary that the start-up obtaining such a license commit to diligently develop and market the technology, as well as to reach certain milestones within fixed deadlines. Such milestones reflect the start-up business case and relate to product and business development, fund raising, achieving regulatory or commercial approvals, etc.

The license for the EPFL IP will generally be for the duration of the intellectual property right. However, specific performance obligations defined in the license will condition the maintenance of the license. This will particularly be the case for licenses granting exclusive rights to the EPFL IP.

Economic considerations

For the license, EPFL is compensated according to the following principles:

- EPFL takes an equity position in the start-up, usually in the form of an option. No upfront payment is required for the execution of the license.
- EPFL receives royalties from the sale of products or services covered by the licensed IP. A minimum annual fee is requested after a few years, which is subtracted from the royalties due. The minimum annual fee represents a financial commitment of the start-up towards the development of the licensed technology, and encourages the start-up to cancel the license in case it doesn't use the technology, so that EPFL can license it to another company.
- The start-up covers the future costs of the maintenance of any licensed patent, from the date of signature of the license, so that it can manage the cost-benefit analysis of territorial patent coverage. In case EPFL has covered substantial past patent costs, e.g. for national phases, prior to the license, the start-up will reimburse them within an agreed date or upon a substantial investment round.
- Milestone payments may apply in the pharma and healthcare business.

Equity and Royalties have different rationale and purpose.

Equity is a consideration for the access to the EPFL IP as an asset enabling the company to start the business, attract funds, and grow. The equity is a form of compensation for the opportunity cost, which is monetized in the event of a future exit (acquisition, IPO), or distribution of dividends.

Royalties remunerate the rights granted to the start-up to use and sell products and processes under the EPFL IP. The payments to EPFL are proportional to the income generated from the exploitation of the EPFL IP. This ensures a fair return to EPFL in case the start-up becomes a company with regular revenue.

Equity

The equity is typically under the form of a free of charge call option to obtain shares that can be exercised by EPFL any time before an exit or IPO. EPFL participation into companies is regulated according to the ETH board directives². EPFL is not taking an active role as shareholder and does not request to be represented at the board of directors.

For exclusive licenses, EPFL obtains either a number of shares equivalent to 10% of the start-up capital stock at incorporation, or a lower share of the capital stock that is undiluted until the start-up has received a certain amount of equity investment, e.g. 5% of capital share undiluted until the total accumulated investment reaches the amount of 5 MCHF, regardless of the value of the company. In general, the agreed anti-dilution provision, if any, should be in correspondence with the first substantial financing round.

In case of non-exclusive licenses, such percentages are adapted according to the licensed EPFL IP.

Royalties

Royalties are applicable on sales and mainly depend on the industrial sector, product margins, maturity of the technology and expected time-to-market. Typical royalty ranges are shown in the table below, but can vary above those ranges in specific situations:

Industrial sectors	Royalties range (%)
Pharma	2 – 5
Medtech	2 – 4
Sensors, optics and robotics	1.5 – 3
Environmental sciences & energy	1 – 3
Computer and communication	1.5 – 3
Semiconductors	1 – 3
Software	1 – 25

The lowest royalties are applicable to cases where: i) very small product margins are expected, or ii) the technology is in a very early-phase of maturity with an anticipated time-to-market over many years and requiring large expenses with a high risk on the return on investment, or iii) the licensed products depend on third-party IP, already licensed to the start-up with royalties due.

On the contrary, the highest royalties are applicable when products have high margins or the technology is mature and can rapidly be put on the market.

The same economic principles will apply to start-ups active in the software business and accessing EPFL software through non-exclusive licenses, however in general equity will be less and royalties will be highly dependent on the maturity of the software.

² https://ethrat.ch/wp-content/uploads/2021/11/Directives_participations_Domain_des_EPF.pdf

Sublicensing

EPFL grants licenses with the expectation that the technology will be directly developed and commercialized by the start-up itself. This means that the start-up will only be authorized to sublicense the EPFL IP after a few years, once the start-up has contributed value to the EPFL technology according to the set diligence milestones agreed to in the license.

On the income received by the start-up from sublicensing the EPFL IP, EPFL will negotiate a share starting from 25% and decreasing to 15% after a few years of development (typically 3-6 depending on the industrial sector). Pass-through royalties may apply to sales made by sublicensees.

Exit

At the time of exit, EPFL will diligently consider any request of a start-up to transfer the licensed patents to an acquiring company that is committed and that has the capacity to further develop and commercialize the technology. The companies shall furnish the necessary business information to allow EPFL to understand the needs of such a transfer, and in the case of a royalty buyout to make a valuation of the licensed patents in terms of potential sales.

Liabilities and warranties

The technology licensed by EPFL needs to be further developed and tested towards a commercial product. Since EPFL does not control how this development and the commercialization are made by the start-up, it cannot be held liable for consequences of the commercialization of products or services based on the licensed technology. The start-up will assume this responsibility. Moreover, EPFL makes no warranty of any kind on the IP.

Negotiation and signatures

Licenses are established and negotiated by the TTO on EPFL's side; they are signed by the TTO and co-signed by the professor heading the laboratory from which the technology originated.

A license template, with explanations, is available on the TTO web site at <https://www.epfl.ch/research/access-technology/licensing-at-epfl> .

External start-up projects joining the EPFL Startup Launchpad

As part of the EPFL Startup Launchpad, the Startup Unit may grant financial support to start-up project holders who join EPFL to incubate/accelerate their projects. Such start-up holders may be students, before or after graduation or any future external start-up founder joining EPFL to incubate his/her start-up project.

In this case an agreement is put in place between the Startup Unit and the project holders. The results generated under such financial supports will be transferred by EPFL to the project holders subject to a compensation equivalent to 1% to 2.5% of the start-

up shares at incorporation (shadow equity). The percentage applicable depends on the funding received from EPFL during the incubation phase. The so-created start-ups are considered as EPFL start-ups.

Notwithstanding the above, in case that patent applications are filed or software is developed using pre-existing EPFL software by the project holders, the related intellectual property belongs to EPFL but will be licensed to the future start-up in accordance with the EPFL "Licensing conditions" above.

Conflicts of interests for EPFL employees creating or participating in start-ups

EPFL employees creating or participating to a start-up may be faced with situations where their personal interests and EPFL's interests are in conflict. In such a case, EPFL employees must do their utmost to avoid any actions that could be detrimental to EPFL. In case of conflict of interests the license will be cosigned by the Dean of the Faculty or a Vice-President. EPFL employees are required to formally announce being a founder or a shareholder of a start-up and to sign a personal commitment.

A written authorization must be obtained from EPFL when a conflict of interests arises in connection with an external activity for a start-up, whether remunerated or not. This applies for example to positions such as CEO and Board member.

For more information about the rules, preventive procedures and authorization requests applicable to EPFL employees in case of conflict of interest please refer to LEX 4.1.1³ and LEX 5.8.3⁴.

Use of EPFL name and resources

The use of EPFL name is strictly defined by EPFL Mediacom. Anyone wishing to use EPFL name should contact presse@epfl.ch

EPFL is a public institution that does not host companies in its laboratories. No company should use the EPFL address for its premises. Entrepreneurs may contact the EPFL Innovation Park to rent office or lab space. Further, companies should not use the EPFL URLs for their own web site.

The use of EPFL resources, in particular equipment and facilities, is possible but subject to the signing of a contract between the start-up and EPFL. Entrepreneurs should contact <https://www.epfl.ch/research/services/units/equipment-centers-management-office/> (ECO) or the TTO for any such case.

Collaborations between start-ups and EPFL

Collaborations for R&D projects between EPFL laboratories and start-ups are encouraged. They are subject to contractual agreements as for any other established companies. For more information about collaborations contracts, contact the TTO or visit its web site.

³ LEX 4.1.1 : https://www.epfl.ch/about/overview/wp-content/uploads/2019/09/4.1.1_dir_gestion_conflits_interet_an.pdf

⁴ LEX 5.8.3 https://www.epfl.ch/about/overview/wp-content/uploads/2019/09/5.8.3_r_procedure_aquisition_biens_risque_conflit_ang.pdf

Professors and employees of a laboratory who have an interest (e.g. shareholding) or a role (board member or employee) in a start-up collaborating with the same laboratory should also inform the Dean of the involved School and comply with the above-mentioned EPFL directives on conflicts of interests.

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