

Guidelines for startups at EPFL

Preamble

EPFL builds and supports 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 startup project in parallel to their studies, to doctoral candidates working on technologies during their research activities at EPFL and to seasoned professors. All have one thing in common – their passion for driving change for the greater good.

Startups emerging from 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>) within the Associate Vice-Presidency for Research (AVP-R) manages all intellectual property created by EPFL employees and promotes its transfer to startups. The TTO is responsible for licensing all EPFL intellectual property and provides guidance and support in setting-up collaboration agreements with all industrial partners including startups.

This document presents to future startup founders rules and practices that EPFL has put in place, based on several years of experience, that govern the creation and development of EPFL startups.

What is an EPFL startup?

An EPFL startup 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 startup.

EPFL support to startups

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

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

Licensing EPFL technologies to startups

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 startup wishing to further develop and commercialize a technology based on, or using, such IP, needs to secure a license, even if the startup creator is the inventor of such IP.

EPFL only grants licenses to incorporated companies and not to individuals. Individuals wishing to create a startup 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) with a goal to evaluate the related business opportunity.

A startup wishing 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 startup has sound development and commercialization plans for the EPFL IP, including from the financial perspective. Based on such information, the startup and the TTO typically summarize the main agreed-upon 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 startup 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

(a) 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 startup 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 startup 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 on the EPFL IP.

(b) Economic considerations

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

- EPFL takes an equity position in the startup, 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 by the startup towards the development of the licensed technology and encourages the startup to cancel the license in case it doesn't use the technology, so that EPFL can license it to another company.
- The startup covers future maintenance costs 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 startup will reimburse those costs within an agreed date or upon a substantial investment round.
- Milestone payments may apply in pharma and healthcare.

Equity and Royalties have different rationale and purpose.

Equity is an economic 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 startup 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 startup becomes a company with regular revenue.

(c) Equity

Equity typically takes the form of a free-of-charge call option to obtain shares that can be exercised by EPFL at any time before an exit or IPO. EPFL participation into companies is regulated according to ETH Board directives². EPFL takes no active role as a 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 startup capital stock at incorporation, or a lower share of the capital stock that remains undiluted until the startup has received a pre-agreed amount of equity investment (e.g. 5% of capital share undiluted until the total accumulated investment reaches 5 MCHF), regardless of the value of the company. In general, any agreed-upon anti-dilution provision is to 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.

(d) 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 according to the situation:

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

Lower 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 startup with royalties due.

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

(e) Sublicensing

EPFL grants licenses with the expectation that the technology will be directly developed and commercialized by the startup itself. This means that the startup will only be authorized to sublicense the EPFL IP after a few years, once the startup has added

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

value to the EPFL technology according to the set diligence milestones agreed to in the license.

On the income received by the startup 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.

(f) Exit

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

(g) Software licensing

In case the license covers only software programs (“software”), without any patent, the financial conditions under this section (g) will apply.

As a general principle, under any license agreement, whether non-exclusive or exclusive, derivatives of the EPFL software, created solely by the startup, will be owned by the startup, and can be used as long as the EPFL software license is effective.

If the EPFL software is provided under a non-exclusive license, then the equity to be awarded to EPFL will be 3% of the capital stock at incorporation and no royalties will apply. Non-exclusivity will be typically appropriate when the software code provides the startup with competitive advantage over a short time, for example when the code can be rewritten with limited efforts without infringing the related copyright. Depending on the laboratory future research and commercialization plans, EPFL may agree not to grant other commercial licenses on the software for a period of time, typically up to 3-5 years, and in this case an annual fee may apply as part of diligence conditions.

If the software is provided under an exclusive license, then the equity obtained by EPFL at startup incorporation will be 5%; additionally, royalties and annual minima will apply for a defined period of time. Exclusivity will be typically appropriate when i) the software code can provide the startup with competitive advantage over medium-long time and ii) the exclusivity is compatible with the laboratory’s future research and commercialization plans.

For clarity, in case the license includes both software and patent, the conditions under (c) and (d) will apply.

(e) Liabilities and warranties

Technology licensed by EPFL generally 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 startup, it cannot be held liable for consequences

of the commercialization of products or services based on the licensed technology. The startup will assume this responsibility. Moreover, EPFL makes no warranty of any kind on the IP.

(f) 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 startup projects joining the EPFL Startup Launchpad

As part of the EPFL Startup Launchpad, the Startup Unit may grant financial support to startup project holders who join EPFL to incubate/accelerate their projects. Such startup holders may be students, before or after graduation or any future external startup founder joining EPFL to incubate his/her startup 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 startup shares at incorporation (shadow equity). The percentage applicable depends on the funding received from EPFL during the incubation phase. The so-created startups are considered as EPFL startups.

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 startup in accordance with the EPFL "Licensing conditions" above.

Conflict of interest

EPFL employees creating or participating in a startup 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 potential conflict of interest, the license will be cosigned by the Dean of the Faculty or a Vice-President. Furthermore, all EPFL employees are required to formally announce being a founder or a shareholder of a startup and to sign a personal commitment.

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

For more information about 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's name and logo is strictly defined by EPFL's Mediacom unit. Anyone wishing to use EPFL's name or logo must first contact presse@epfl.ch.

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

The use of EPFL resources, in particular equipment or facilities, is possible but subject to the signing of a contract between the startup and EPFL. To this end, entrepreneurs should contact <https://www.epfl.ch/research/services/units/equipment-centers-management-office/> (ECO) or the TTO.

Collaborations between startups and EPFL

Collaborations in R&D projects between EPFL laboratories and startups are encouraged. Those projects are subject to contractual agreements, as for any other collaboration with established companies. For more information about collaborations contracts, contact the TTO or visit its web site (tto.epfl.ch).

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

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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