Industrial Grant Agreement between EPFL and an industrial partner

Important Notices
a. This document represents the template of the Industrial Grant Agreement. It is understood that only the full agreement shall be binding, once signed.
b. As EPFL is acting as a public entity, and subject to governmental control, the provisions of the Industrial Grant Agreement shall apply except in significantly particular situations.
c. Depending on the project a different type of agreement may apply (e.g. Research Agreement, Service Agreement, etc.). Please refer to the SUMMARIES and further information here: http://tto.epfl.ch -> Companies -> Our research agreements.

Any specific modifications and tailoring have to be prepared with the EPFL-TTO.

Ref/1.4.10-E
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Technology Transfer Office, EPFL-TTO http://tto.epfl.ch/

INDUSTRIAL GRANT AGREEMENT

between

Ecole Polytechnique Fédérale de Lausanne (EPFL)
CH - 1015 Lausanne, Switzerland

represented by Prof. .......................................................... (name and first name of Professor)

Head of laboratory .......................................................... (name of the laboratory)

and

Matthias Gäumann, Director of Research Affairs

(hereinafter referred to as "EPFL")

and

.......................................................... (name of Company)

.......................................................... (address of Company)

(hereinafter referred to as "COMPANY")

(hereinafter individually referred to as "Party" or collectively as "Parties")
Preamble

EPFL, through its above mentioned Laboratory, is carrying out research on:

................................................................................................................................................

(description of the domain of research)

COMPANY is interested in this field and is willing to make a financial contribution to EPFL for this research according to the terms and conditions set forth hereafter.

1. Statement of Work

1.1 EPFL hereby undertakes to perform the research work described in Enclosure 1 (hereinafter referred to as "the Project"), which shall be an integral part of this Agreement. The Project shall be carried out by the above mentioned Laboratory, under the supervision of Mr/Mrs:

................................................................................................................................................

(name and title of the person in charge)

1.2 In case of discrepancies or contradiction between this Agreement and any of its enclosures, the Agreement itself shall prevail.

2. Term of Agreement

This Agreement shall become effective on ......................... (effective date) and remain effective for the duration of the Project, i.e. until ......................... (end date of the Project).

3. Payments

3.1 The financial contribution of COMPANY to EPFL for the Project is agreed to be (amount in CHF and excluding VAT):

................................................................................................................................................

(financial contribution of the COMPANY)

3.2 The contribution shall be paid within thirty (30) days from the execution of this Agreement. EPFL shall send the corresponding invoice to COMPANY.

4. Results and Intellectual Property

4.1 All results, patentable or not, copyrightable or not, obtained in the execution of the Project by EPFL (hereinafter referred to as "EPFL Results") shall be communicated to COMPANY in form of common meetings, reports or publication drafts. COMPANY shall keep the EPFL Results confidential until their publication by EPFL unless otherwise agreed upon in writing.

4.2 EPFL shall remain the sole owner of all the rights to EPFL Results, save that EPFL hereby grants COMPANY an option described as follows (hereinafter referred to as "the Option"):

During the term of the Project and three (3) months thereafter, i.e. until ......................... (date), COMPANY shall have the exclusive right to negotiate with EPFL a license under EPFL Results consisting in an invention. However, if EPFL submits to COMPANY a draft publication according to article 6.2 or informs COMPANY of the filing of a patent application according to article 4.3, COMPANY may exercise the Option only within one (1) month from the draft publication submission or respectively within three (3) months from the notification of the patent application, with respect to the EPFL Results contained in said draft publication or patent application. COMPANY shall exercise
the Option by a written notice effected according to article 9 hereunder. Upon exercise of the Option, the Parties shall negotiate in good faith a license agreement under fair and reasonable terms and conditions, taking into consideration the intellectual and financial contribution of COMPANY and EPFL to the Project as well as the value of the EPFL Results at issue. Should COMPANY fail to exercise the Option within the abovementioned deadlines or should the Parties not conclude a license agreement within three (3) months from the date of exercise of the Option, then COMPANY shall not acquire any right or license under the EPFL Results.

Furthermore, during the term of the Project and three (3) months thereafter, COMPANY shall have the right to negotiate a non-exclusive license under any software developed by EPFL in the performance of the Project.

4.3 EPFL shall be free to file any patent application on EPFL Results at its own discretion. In case of any such filing occurring during the Project or within three (3) months thereafter, EPFL shall inform COMPANY in writing along with a copy of the patent application. For the avoidance of doubt, EPFL has no obligation to maintain such patent or patent application in effect.

4.4 It is hereby agreed that neither right of use nor license of any kind is hereunder granted to COMPANY on EPFL’s intellectual property obtained before, after and/or outside of the Project.

5. Confidentiality

5.1 Each Party ("the Recipient") agree to keep confidential and not to use for another purpose than the performance of this Agreement all information belonging to the other Party ("the Disclosing Party") with which it may come in contact during the course of the Project, provided that such information have been clearly labeled as confidential by the Disclosing Party or, if disclosed orally, have been confirmed in writing as being confidential within ten (10) days from their disclosure (hereinafter referred to as "Confidential Information"). Each Party shall be responsible for the compliance by its personnel with these confidentiality obligations.

5.2 The obligations under article 5.1 shall not apply to any Confidential Information that:

- were in the public domain or open to the public at the time they were transmitted to Recipient, or
- became public or open to the public for reasons other than an action or omission attributable to Recipient, or
- were in Recipient's possession, without any limitation regarding their disclosure at the time they were transmitted to Recipient, provided that such prior possession is supported by a written evidence, or
- were obtained in good faith by Recipient and without any commitment relating to confidentiality from a third party entitled to disclose them.

Such obligation shall neither apply to any portion of Confidential Information required to be disclosed as a result of a court order or pursuant to a government action, provided that the Recipient shall inform the Disclosing Party of any such order or action to give the Disclosing Party the opportunity to request a protective order.

5.3 The obligations under this article 5 shall remain effective for five (5) years after termination of this Agreement or for a period defined by the Disclosing Party at the time of communication of such Confidential Information to Recipient.

6. Scientific publications

6.1 COMPANY hereby recognizes that EPFL is entitled to publish its scientific results obtained in the performance of the Project.
6.2 Prior to the publication of such results during the deadlines for the exercise of the Option according to article 4.2, EPFL agrees to submit to COMPANY for review, a draft of the information to be disseminated. In the event that COMPANY exercises the Option within one (1) month, EPFL shall not publish the EPFL Results concerned during the negotiation according to article 4.2.

7. **No Warranties**

7.1 EPFL shall perform the Project by applying its best scientific knowledge and best scientific standards. EPFL has only an obligation of means in the performance of the Project.

7.2 EPFL makes no warranties, either express or implied, including but not limited to warranties of novelty, patentability, accuracy, non-infringement, merchantability, fitness for a particular purpose of the EPFL Results.

8. **Liability**

8.1 EPFL shall be liable towards COMPANY only in the event of fraud or gross negligence for any damages suffered in connection with this Agreement.

8.2 Neither Party shall be entitled to commit the other Party to any obligation in connection with this Agreement, without the prior written consent of the other Party.

8.3 COMPANY shall refrain from any action that would prevent obligations under this Agreement from being duly executed.

9. **Communication**

Any notice or communication to be given within the framework of this Agreement shall be forwarded to the following contact persons:

**Communication to COMPANY:**

…………………………………………………………….
(name and first name of the contact person)
…………………………………………………………….
(address)
e-mail: ......................................................
phone: ......................................................
fax: ......................................................

**Communications to EPFL:**

Ecole Polytechnique Fédérale de Lausanne (EPFL)
…………………………………………………………….
(name and first name of the contact person)
…………………………………………………………….
(laboratory)
Station .................
CH-1015 Lausanne, Switzerland
e-mail: ......................................................
phone: ......................................................
fax: ......................................................

Communications pursuant to article 4.2 (Exercise of the Option) shall also be sent to:
10. **Applicable Law and Place of Jurisdiction**

10.1 This Agreement shall be governed by the laws of Switzerland.

10.2 The exclusive place of jurisdiction shall be Lausanne.
This Agreement is executed in two originals and duly signed by the authorized representatives of the Parties hereto, as printed below:

Ecole Polytechnique Fédérale de Lausanne  COMPANY

(Place and date)  (Place and date)

(Signature)  (Signature)

(name and title)  (name and title)

(Signature)  (Signature)

Matthias Gäumann,
Director of Research Affairs

(name and title)

Enclosure 1: description of the Project
Enclosure 1
Description of the Project

(to be completed)