

# Guidelines for PSI Employees for the Establishment of Start-ups & Spin-Offs at PSI

**IMPORTANT:** This document has been prepared for informational purposes in the interest of clarity and transparency. For additional information please contact the PSI Technology Transfer Office.

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## 1 Introduction

PSI supports the founding of start-ups as an efficient method for the commercial implementation of technologies and know-how and for promoting entrepreneurial innovation.

The Technology Transfer Office (TTO) supports all PSI employees who are interested in founding a start-up company based on PSI Technology or Know-How and advises them on how to comply with the applicable PSI guidelines, how to safeguard the freedom of research and scientific independence of the PSI and its employees, and how to avoid or disclose and manage potential conflicts of interest. The best prerequisite for constructive and ethically correct cooperation is that PSI employees are aware of their responsibility for their own actions.

Setting up a company offers great opportunities, but it also involves risks.

The founders benefit from the potential profits, but they also bear the risk of possible losses.

This document has been prepared to provide general information and guidelines for potential entrepreneurs at PSI. It shows the applicable rules and practices that start-ups and their founders must follow at PSI. PSI employees who support a start-up (e.g. laboratory managers) must also follow these rules. These have been created based on extensive experience within PSI and the entire ETH Domain with regard to the creation and development of start-ups.

**Note:** In these guidelines, the terms ‘start-up’, ‘spin-off’, ‘company’, ‘spin-off company’ or ‘start-up company’ are used synonymously for all start-up companies in connection with PSI for the sake of simplicity and readability. What is meant in each case is a newly founded company based on technologies or know-how developed at PSI.

## 2 Laws and Regulations

These guidelines are based on various PSI, ETH domain, and federal laws and regulations. Wherever possible, references to the relevant documents are included in this text.

The PSI TTO is available to provide information about the rules and regulations that must be observed during employment at PSI if employees wish to launch or assist in launching a Spin-Off company while employed at PSI.

### **3 Recognition as a "PSI Spin-Off"**

Formal recognition as a "PSI Spin-Off" can be highly beneficial for a newly established company when seeking investors or acquiring initial customers. The term "PSI Spin-Off" is a protected trademark.

The formal application for recognition as a PSI Spin-Off must be submitted via the TTO, which is available to provide further information about the requirements and process.

### **4 New Ventures and Conflicts of Interest**

Conflicts of interest arise when employees pursue their personal activities or interests at the expense of PSI's interests. In the context of start-ups, conflicts of interest can occur when employees or professors (regardless of their academic affiliation) are personally involved in such companies. This involvement may include equity ownership, membership on the board of directors or scientific advisory boards, or the provision of consulting services. Personal involvement can also stem from family connections or friendships with the founders or employees of the start-up.

In addition to their duty of loyalty to PSI as their employer (or, for professors, their affiliated university or college), employees and professors involved in a start-up must observe the following:

- PSI employees must disclose any equity stakes (including options) in start-ups. This obligation also applies to holdings in other companies that collaborate with PSI, except for publicly traded companies.
- For transparency, all consulting and other supportive activities must be disclosed to PSI before commencing, even if unpaid or not governed by a formal contract.
- PSI resources or funds must not be used for the start-up company.
- PSI employees with a conflict of interest (or potential conflict) may only participate in negotiations between PSI and the start-up in an advisory capacity and not in the actual negotiations. This rule does not apply to employees who leave PSI to work for the start-up.
- Disclosures of potential conflict of interest and supporting activity must be made before the activity begins.

It is essential to note that any activity (or participation) that may lead to a potential conflict of interest requires formal approval. This approval is necessary whether the activity is compensated or not. The TTO can assist in obtaining the required authorization. Activities or participations related to spin-offs must be approved by the Director.

In all cases, it must be ensured that PSI's intellectual property rights are not infringed or misused and that public funds and other resources (infrastructure, materials, and personnel) are not used improperly.

## 5 Licensing of Intellectual Property (IP) to a Start-up

One of the most important questions for any founder is: "Can I use PSI's know-how or patented technology in my start-up, and under what conditions?"

PSI typically prefers to license its technologies to its own start-ups over other potential licensees, **provided** the founders present a solid and credible business plan for the technology's commercialization. PSI's and the ETH domain's goal is to ensure that their intellectual property achieves the greatest possible societal and economic impact. It is therefore up to the founders to demonstrate that this is their intention.

A license is a contract granting a company the right to use specific intellectual property (IP). In this context, "intellectual property" refers to any intangible assets, including patents and patent applications for inventions, copyrights on software, drawings, and other materials, trademarks, or know-how. A license may also include transferring tangible assets such as demos, prototypes, or biological material.

It is important to note that intellectual property created at PSI (including that created by professors, doctoral candidates, and postdocs) legally belongs to PSI<sup>1</sup>. Therefore, a start-up intending to develop and market a technology based on such intellectual property must acquire a license, even if the start-up's founders are also the inventors of the intellectual property.

PSI licenses can be exclusive (i.e., only the licensee has the right to use the intellectual property) or non-exclusive (i.e., PSI may license the same IP to other companies for the same defined use). Exclusive licenses are always limited to specific target markets and narrowly defined uses of the intellectual property that the company plans to develop. General, all-encompassing licenses are typically not granted. The PSI Director makes the final decision on granting licenses.

Additionally, licenses are tied to milestones and minimum payments, usually agreed upon with the relevant department head and the TTO.

PSI grants licenses only to registered companies, not to individuals. Individuals planning to establish a start-up can request a grace period for negotiating a license for specific IP while preparing their business plans.

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<sup>1</sup> Article 36 of the Federal Act on the Federal Institutes of Technology (ETH Act) and Article 332 of the Swiss Code of Obligations (OR)

An entrepreneur who wishes to acquire a license for PSI's intellectual property must first submit their business plan to the TTO. In general, this plan is described in documents such as 'pitch decks' for investors or a more detailed written business plan document, and this should show that the entrepreneur and the soon-to-be-founded company have solid development and marketing plans for the PSI's intellectual property. This information must include financial assumptions and a best estimate of the financial projections. Based on this information, the agreed terms of the future license will be summarized by the founder of the start-up and the TTO in a non-binding term sheet.

This term sheet is then used for drafting the license agreement, which must be fully signed (by both parties) to come into effect. The license (but not the term sheet) assumes the existence of a company registered in the commercial register. Any use of PSI's intellectual property without a license is not permitted. Explanations of typical license terms are provided in Appendix 1. The standard terms for PSI licenses for start-ups can be found in Appendix 2. An example of a term sheet for a PSI license and an example of a PSI license agreement can be found on the Technology Transfer intranet page.

## **5.1 Negotiation and Signatures**

Licenses are drafted and negotiated by the TTO on behalf of PSI. They are signed by the director, the Head of the Laboratory or Research Center from which the technology originates, and the Head of Technology Transfer.

The TTO leads the license negotiations with the founders, investors and/or representatives of the start-up company. PSI employees who have been identified as having a conflict of interest (or potential conflict of interest) may only participate in an advisory capacity in negotiations between PSI and the start-up company, but may not participate in the actual negotiations.

Employees who intend to transfer their employment relationship to the start-up company (usually the founders) may of course participate in the negotiations.

***Important!*** Discussions and negotiations regarding the granting of licenses can only be initiated once a convincing business plan with financial forecasts for at least 5 years has been submitted to the TTO.

## **6 Support from PSI**

### **6.1 Consultation by the TTO**

The Technology Transfer Office (TTO) provides support and consultation on most questions related to the establishment of a start-up. This includes:

- Evaluating the potential for commercialization,
- Identifying partners and investors,
- Guiding founders through the company creation process, and
- Assisting with the preparation of business plans.

All consultation and support are offered to the best of the TTO's knowledge and abilities. However, the responsibility for any decisions resulting from this advice lies solely with the founders of the start-up.

## **6.2 Confidentiality**

The Technology Transfer Office (TTO) treats all information related to the establishment of a start-up as confidential. This includes, but is not limited to:

- The business idea,
- Business plans,
- Financial plans, and
- Licensing conditions.

All shared details are handled with strict confidentiality to protect the interests of the founders and the start-up.

## **6.3 Support for PhD Students and Post-Docs**

Entrepreneurship represents an alternative career path for young scientists, and PSI supports those scientists who are interested in this career path with patenting and start-up advice. Currently, PSI offers the PSI Founder Fellowship (PSIFF) program, which is designed to support selected younger researchers with the potential to become entrepreneurs in developing their business ideas for the commercialization of a specific PSI technology. The fellowship does not oblige the fellows to start a company at the end of the fellowship. However, if a company is founded during or following the fellowship, the funds provided as part of the fellowship are to be considered an 'early-stage investment' in the founding idea. PSI, as the founding investor, therefore, receives shares in the newly founded company in return for supporting the start-up. This participation is separate and in addition to any participation agreed under a **license** agreement. The fellowship is awarded competitively and at the director's discretion, and only on the recommendation of an external jury of experts. Further information about the fellowship program can be found on the TTO intranet pages, or you can contact the TTO directly for more details.

## **6.4 Support for Permanent PSI Employees**

Employees with permanent contracts who are interested in developing a start-up idea are encouraged to contact the TTO to discuss potential support. Transparency is crucial for any PSI employee who intends to dedicate part of their time to a potential spin-off or start-up.

Before engaging in such activities, employees must disclose their intentions clearly. Early consultation with the TTO is strongly recommended. The general PSI rules and approval processes for secondary activities must be followed in these cases. Additionally, employees must ensure that their combined working hours do not exceed 100% of their total workload.

For example, if an employee plans to dedicate 20% of their time to a start-up, their full-time PSI position must be reduced by an equivalent percentage (20%). This reduction in workload must be formally approved.

Employees should also be aware that the reduction in their academic responsibilities could lead to potential conflicts with colleagues who remain focused on academic work. To avoid such issues, ideas for start-up involvement should be discussed early with the direct supervisor and any team members who might be directly or indirectly affected. This ensures that an arrangement acceptable to all parties can be reached.

## **6.5 Financial Support**

PSI does not offer direct financial support or funding instruments for start-ups. Instead, it provides indirect assistance through various means, including:

- Access to office and laboratory spaces (if available) at reasonable rates,
- Licensing of intellectual property (IP), and
- Connecting start-ups to its network of investors, funding organizations, and venture capitalists (VCs), where possible.

## **6.6 Access to PSI Infrastructure**

As a rule, there is a transition phase between PSI employment and self-employment for the founder during the initial period after the start-up. PSI can support its recognised start-up companies in this initial phase by means of contractually agreed measures for a limited period of up to three years. The services provided by PSI are subject to a fee and include, among other things, the rental of office space and preferential access to laboratories and specific infrastructure at PSI (e.g. special equipment) as well as communication and IT services (e.g. internet access).

For further information, please contact the TTO.

## **6.7 Company Foundation and Choice of Legal Form (AG vs. GmbH)**

The Technology Transfer Office (TTO) can assist founders by connecting them with external advisors and organizations that support the process of establishing a company.

Any PSI employee intending to establish a company must **obtain approval before the formal incorporation of the company** (refer to Section 4: New Ventures and Conflicts of Interest). PSI generally recommends delaying company formation as long as possible. However, under certain circumstances, early incorporation may be necessary to access funding that is only available to established legal entities.

For start-ups seeking investors, PSI strongly advises forming a public limited company (**AG**) as the legal structure. This is because investors generally prefer AGs over limited liability companies (**GmbH**) due to the AG's flexibility in issuing shares, flexible ownership structures, and anonymity of the shareholders.

If a company initially incorporates as a GmbH, it may need to convert to an AG at a later stage to attract investment. This process can involve additional legal costs and administrative challenges.

Should an entrepreneur wish to establish his company prematurely as a GmbH, this must be approved by the PSI as described above, with the proviso that the founders agree to grant the PSI an option on the agreed amount of the shareholding, which can be exercised free of charge at the time of the conversion to an AG.

Early discussions with the TTO are encouraged to ensure the choice of legal form aligns with the company's goals and funding strategy.

## **6.8 Use of Office and Laboratory Spaces at PSI**

Newly founded companies may be granted permission to use office or laboratory spaces at PSI under the following conditions:

**Age of the Company:** The company must have been established for no more than one year at the time of the request.

**Spin-Off Criteria:** The company must meet the PSI Spin-Off criteria.

**Space Availability:** The requested office or laboratory space must be available.

**Department/Laboratory Approval:** The relevant laboratory or department at PSI must agree to allocate the space.

**Incubation Period:** The duration of incubation at PSI is strictly limited to a maximum of three years.

**Service Agreement:** A provisional service agreement must be signed to define the terms of space usage (e.g., rent and access).

**Relocation Intent:** The company must demonstrate a clear intent to relocate to the "Park Innovaare" innovation park following the incubation period.



**Revenue-Free Phase:** The company must not generate significant revenue during the incubation period. Incubation ends when the company becomes financially capable of paying full rent at Park Innovaare.

Using office or laboratory spaces at PSI may create conflicts with PSI staff who are primarily focused on academic work. To prevent such issues, discussions regarding temporary space usage should occur early with the relevant teams and supervisors. This ensures that a mutually acceptable arrangement can be established.

## **6.9 Company Addresses at PSI**

Companies that have been granted office space at PSI for a limited period of time can apply for a domicile address at PSI. However, in most cases PSI will recommend that start-ups that do require an address on the PSI campus, apply for one at the Innovation Park - Park Innovaare.

## **7 Collaboration Between Start-ups and PSI**

Collaborations between PSI and start-ups for research and development (R&D) projects are encouraged. These collaborations must be governed by formal contractual agreements, similar to those established with other external companies. Further information about collaboration contracts can be obtained from the TTO or through the TTO's intranet page.

Professors or laboratory staff who hold a stake in, or have a formal role (e.g., as board members, advisors, or employees) within a start-up company collaborating with their laboratory, must:

- Inform the **TTO** and **Human Resources Department** about their involvement.
- Ensure compliance with PSI's guidelines on conflicts of interest to maintain ethical standards and transparency.

## 8 Equity Ownership in Start-ups

As stated in the 'PSI Rules for Spin-offs and Start-ups', any interest of a person integrated in the PSI organisational structure, whether or not employed by PSI, requires the prior written approval of the Director. The request for this approval must be made through the TTO. For those persons who are integrated into PSI and have employment contracts with other employers, it is important that the rules regarding participation in start-ups of both their own employer and PSI are observed. In the case of professors, the corresponding regulations of their university must also be observed.

The decision on an appropriate level of participation for those individuals who make a direct contribution and those who play a more passive role in a start-up can be a challenging process for the founders. This topic may lead to discussions between supervisors, students and post-docs, especially if the latter group is interested in starting a company based on joint work at PSI.

When determining the allocation of shares, it is important to recognise that the value of a company comes primarily from its execution. While the initial idea is crucial to the formation of the company, the value of the company grows through the efforts of those who develop it. This is why professional investors, such as venture capitalists (VCs), base their investment decisions primarily on the team, after they have approved the underlying technology or idea as worthy of investment.

Non-active shareholders who own a significant portion of the company can often deter investors, especially if the share of active founders is small. The investors want the active management of the company to remain motivated, even after several rounds of investment dilution. Therefore, the future contributions of each shareholder should be carefully considered when deciding how to distribute the shares at the beginning of the company.

The following are some rules of thumb that can serve as a starting point for passive shareholders:

Role	Suggested Range of Shareholding	Comments
Professor/Supervisor	1-3%	Consideration should only be given to participations at or above the proposed upper end of the range if the person in question continues to play an active role in the company after its establishment, see 8.1.
Board Member	0-2%	If feasible, the directors should be paid for their work on behalf of the company. Since this is often not possible (as start-ups have little free capital), shares (stocks or options) are one way to compensate them accordingly. It is suggested that these shares be 'earned' over time rather than given at the outset.
Consultant (scientific or other)	0-2%	As for the directors, the advisors should 'earn' their stakes over time, possibly in connection with milestones.

Active supporter	1-2%	People who helped with the establishment of the company may also have helped develop the ideas that led to the establishment of the company.
Co-inventor		Co-inventors of intellectual property licensed to the company by PSI will automatically share in the returns from the license fees (after the costs for the intellectual property have been covered), so that any participation agreed for 'inventors' is in addition to this return. License fees are only paid out if the invention is used in a product that is sold.

Table 1: Suggested Equity Participation for passive shareholders

It should be noted that a starting capital of CHF 100,000 is required to found a public limited company (AG). This is the type of company needed to attract investors at a later stage. The initial investors at this stage receive shares corresponding to the percentage of the starting capital they 'invest' in the company. If the founders decide in favour of an 'early seed investment' at this stage, they should be aware that they will give up corresponding shares in their company to these investors. It is therefore advisable to bring additional investors on board only **after** the company has been founded, if possible.

## 8.1 Role of Professors (or Supervisors) and Their Participation in Spin-offs

For clarity, this section primarily refers to professors. However, the same principles apply to laboratory or department heads and other supervisory roles at PSI.

### Case 1: Professor as a "part-time participant"

Professors who participate in a start-up while retaining their academic position should expect a share based on their level of involvement, expertise and the maturity of the start-up. The costs of developing the technology that is licensed to the start-up should be considered "sunk" costs. Any passive return from this work should come from the license. When an idea or technology is commercialized, it is the active work in and for the company that creates the future value. Consultative or occasionally consultative roles would typically be rewarded with up to 3% equity (see table above). If a professor, without giving up his academic post, takes a substantial and very active role, similar to the co-founders or the executives at C-level, then an acceptable equity share could be between 10 and 20%. It is suggested that this is dependent on their time commitment, risk, expertise, initial number of founders and the current and potential value of the company.

For example, in the case of a single founder (CEO), it is typical that this person will **initially** desire to hold at least 80% or more of the shares, for 100% of their time and a high personal (career) and financial risk (lost or reduced income), knowing that their share will be diluted as more investors and initial key team members are brought on board. A professor who contributes 20% of his time – assuming that 'time equals value' – should ideally claim a maximum of one-fifth of what the full-time founder receives (who works 100%), i.e. a maximum of 20%. For larger founding teams, the percentage of actively involved professors could decrease even further to maintain balance. If the professor contributes to the initial

capital of the company at the time of its founding, this can of course lead to higher percentages, but should be carefully weighed against the founders, who also contribute time and money.

### **Scenario 2: Professor as the "Lead Investor"**

A professor who finances the entire start-up phase, including the salaries of the start-up's first employees, out of his personal wealth is in a completely different situation from the one described in case 1 above, since in this case he is acting as the main **or lead** investor. In this case, a high equity stake is justified as the **professor** is taking a significant personal financial risk. This would mean that they invest significantly more than the initial CHF 100,000 to set up the company. The lead investor should then consider the distribution of the share capital to attract key talent (as fully paid employees), anticipating roles such as CEO in the early stages (5-10 %), CTO (4-6 %), COO (3-5 %) and VP of Sales and Marketing (1-2 %). For sales leadership positions, it is advisable to place more emphasis on immediate cash compensation rather than stock as an incentive to perform. It must be noted that the use of grants for the company or other non-dilutive sources of funding from public sources, even if supported by the professor, cannot be considered as justification for high equity stakes.

### **Scenario 3: Professor with a "Passive Role"**

If the professor's time commitment is minimal and he is not actively supporting the company, his equity stake should reflect his passive role (again, see the table above). The professor's connection with the company can add value by opening doors, connecting the start-up with other advisors or funding opportunities. In such a case, the equity should be aligned with the value brought to the start-up relative to the efforts of the other founding shareholders.

**Important:** It should be noted that there are no hard and fast rules for the fair allocation of equity in start-ups, only guidelines or recommendations. The founders need to feel comfortable with the decisions they make at this stage, as the consequences of these decisions will follow them as their company develops.

## **8.2 Vesting of Equity Shares**

To ensure fairness and maintain long-term commitment from founders and contributors, it is recommended that all founders agree to a **vesting plan** for their equity shares.

**What is Vesting?** Vesting refers to the process by which founders and contributors earn their equity shares over time, rather than receiving them all upfront. This ensures that equity is tied to active participation and ongoing contributions to the start-up.

### **Why is Vesting Important?**

Prevents scenarios where an early contributor leaves the start-up but retains a significant portion of equity, even if they are no longer involved in value creation.

Protects the interests of remaining founders and ensures that equity is distributed in proportion to contributions over time.

**Implementing a Vesting Plan** There are several ways to design a vesting plan. Common features include:

**Vesting Period:** Equity is earned over a specified timeframe, typically 3–4 years.

**Cliff Period:** A grace period (e.g., the first 12 months) during which no equity is vested. If a founder leaves during this time, they receive no equity.

**Milestone-Based Vesting:** Shares are vested as specific milestones are achieved, such as securing funding, developing a prototype, or launching a product.

The Technology Transfer Office (TTO) is available to assist founders in developing a vesting plan tailored to their start-up's needs.

## 9 Appendices

### 9.1 Appendix 1: Explanation of Licensing Conditions

The ultimate goal of PSI is to see a licensed technology implemented commercially in products and services that benefit society and the Swiss economy. Therefore, the start-up that receives such a license must commit to conscientiously developing and marketing the technology, as well as to achieving agreed milestones within fixed deadlines. These milestones are set to reflect the start-up's business plan and generally refer to desired and measurable outcomes, such as product and business development, fundraising, achieving regulatory or commercial approvals, etc. This applies in particular to licenses that grant 'exclusive'<sup>2</sup> rights to PSI's intellectual property.

Licenses are generally granted for the lifetime of the respective intellectual property, i.e. usually for the duration of the licensed patent(s), but in certain cases they can be extended beyond that. For example, PSI may agree not to publish or share certain know-how with other companies (as a trade secret).

#### **Commercial considerations:**

In consideration for licensing its intellectual property to a start-up company, PSI is compensated according to the following principles:

PSI typically receives:

- a small equity stake in the form of shares in the start-up company,
- royalties on sales of products or services that have been developed or sublicensed.

Share ownership and royalties have a different reason and purpose:

#### **Share ownership:**

The equity granted to PSI is consideration for access to its intellectual property as an asset, going beyond the license, and demonstrates PSI's confidence in the start-up's vision and its potential to effectively bring the licensed technology to market. Any equity returns, whether through dividends or an increase in value in the event of a successful exit (e.g. through an acquisition or an IPO), enable PSI to reinvest in future entrepreneurial ventures. These returns provide important resources to support new start-ups and spin-offs and promote a continuous innovation cycle. In addition, PSI's involvement increases the credibility of the start-up. The strategic position and the trust of the PSI in the start-up improve the chances

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<sup>2</sup> Exclusive licences are only possible for narrowly and precisely defined areas of application.

of the start-up to attract additional external capital and support from other institutions. This can attract more investors and partners and promote the growth opportunities of the start-up. Additional equity may be required by PSI if it provides additional support such as the PSI Founder Fellowship or allows the company cost-effective access to PSI infrastructure. In general, PSI does not take an active role as a shareholder and does not necessarily request representation on the board of directors. As a rule, PSI does not take a stake of more than 20% in a start-up company. If PSI does not wish to receive equity, it may request an advance payment instead of the equity normally granted.

**Royalties:**

Royalties are paid to PSI for the rights granted to the start-up to use and sell products and services using the intellectual property. The payments to the PSI are proportional to the income generated from the exploitation of the intellectual property. This ensures a reasonable return for the PSI as the start-up develops into a successful business with regular revenues.

- Royalties arise from the sale of products or services that fall under the licensed intellectual property and are usually set as a percentage of net sales.
- There are minimum annual license fees, which are usually offset against the license fees paid in the same year. The minimum annual license fee represents a financial obligation of the start-up for the development of the licensed technology.

The license fees that PSI receives are also shared with the inventors of the intellectual property and the laboratory in which the intellectual property was developed. This sharing of license fees creates incentives for the support and creation of additional intellectual property and spin-offs.

**Royalty rates for PSI spin-offs and start-ups:**

Exclusive licenses for a narrowly defined field of application can be negotiated for start-ups if PSI does not violate any existing license agreements as a result. Such licenses are strictly limited to the specific use of the technology that the company intends to develop.

Non-exclusive licenses (essentially the freedom to operate without a commercial monopoly) are associated with lower license fees than those expected for exclusive licenses. They are also associated with lower annual minimum payments.

**Upfront fees:**

All licenses are associated with a closing fee (for granting the license). However, since start-ups and spin-offs usually do not have sufficient financial resources, these are usually settled through equity participation. Increased royalty rates or annual payments in return for reduced closing fees can also be considered.

**Additional license-related costs:**

- The ongoing costs of maintaining a licensed patent, starting from the date of signing the license, are borne by the licensee. Thus, the licensee must weigh the costs and benefits of a specific geographical license area.
- If PSI has already incurred significant patent costs in the past, e.g. for national phases, before the license is granted, the start-up company must repay these costs within an agreed period or in the event of a substantial investment round.
- Additional milestone payments may be due in the pharmaceutical, medical technology and healthcare sectors.

**Sublicensing:**

PSI grants licenses in the expectation that the technology will be developed and marketed by the start-up itself. This means that the start-up is usually only entitled to sublicense the PSI's intellectual property after a few years of business activity, when the company has made a significant contribution to the PSI technology in line with the milestones agreed in the license.

**Milestones:**

Implementation milestones and deadlines for their achievement are set in the license. If a milestone is not achieved, PSI may request an updated schedule for further development of the technology. If it is not possible to agree on an updated schedule for the milestones in 'good faith', or if the licensee has ceased development, PSI may terminate the license agreement. The license agreement may provide for the possibility of postponing deadlines for achieving milestones within a reasonable time frame by paying fees.

**Transfer of intellectual property:**

As a rule, PSI will not transfer the ownership of its intellectual property to a start-up company. However, PSI will carefully consider any request from a start-up company that has reached a significant milestone (e.g., an IPO, acquisition, or similar event) to transfer its ownership of licensed patents, provided that PSI is legally entitled to transfer its ownership and does not wish to continue developing the licensed technology itself. The company will provide the necessary business information and rationale to support a compelling business case for such a transfer, including sufficient information to determine a fair valuation of the licensed patents in light of future potential sales.

**Liabilities and guarantees:**

As a rule, the technology licensed by PSI must be further developed and tested to create a commercial product or service. Since PSI has no control over how this development and commercialisation are carried out, it cannot be held liable for the consequences of the commercialisation of products or services based on the licensed technology. This



responsibility must be assumed by the start-up company. Furthermore, the PSI cannot provide any kind of guarantee for the intellectual property. Consequently, the PSI assumes no liability with regard to the subject matter of the license and provides no guarantees that the exercise of the license will not infringe the rights of third parties. The licensee shall indemnify the PSI against all claims and damages arising from the exercise of the license.

## 9.2 Appendix 2: PSI Standard Conditions for Start-ups

The following outlines the standard conditions PSI applies when licensing its intellectual property to start-ups. These conditions reflect PSI's commitment to fostering innovation while ensuring fair compensation for the use of its resources and technologies.

### **Standard Shareholding of PSI:**

- For non-exclusive licenses: 3% of the shares at the time of incorporation.
- For exclusive<sup>3</sup> licenses: 5% of the shares at the time of incorporation.

For recipients of the PSI Founder Fellowship:

- An additional 8% of the shares at the time of foundation as recognition for the high-risk early-stage investment in the founders' business idea.

For companies that receive additional support and/or privileged access to PSI infrastructure, an additional equity stake may be required.

For companies that were founded as a GmbH and later converted into an AG, the above-mentioned percentage holdings refer to the shares issued at the time of the conversion, regardless of the total number of shares issued or the valuation of the company at that time.

### **Standard license conditions for PSI start-ups:**

Determining the license conditions with a company in the early stages is fraught with uncertainty. An established, successful company knows its markets and its internal cost structures and can realistically estimate the costs for launching a new product on the market and the expected financial return. The founders of a newly established company that wants to bring a new technology to market can only create forecasts based on best estimates and assumptions. The following terms and conditions for equity investments and licenses by PSI for spin-offs and start-ups have been developed with this in mind. They are based on many years of experience in licensing technology to spin-offs and start-ups and are aligned with the terms and conditions of the other institutions in the ETH Domain and other Swiss universities.

### **Royalties:**

Royalties are proportional to the revenue generated by the licensed technology and are levied on net sales. They are determined based on the following factors:

- The investment required to bring the first product or service to market.
- Type of license (exclusive vs. non-exclusive)

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<sup>3</sup> Exclusive licenses are only possible for narrowly and specifically defined areas of application.

- The company's net sales in a given fiscal year.

Setting a fixed technology license royalty rate at a time when there are still many uncertainties for the start-up company can lead to challenging discussions and very difficult decisions. To avoid this, PSI sets its base royalty rate based on the costs the company must incur to bring its first product or service to market. This approach implicitly takes into account the technological readiness (TRL) of the technology at the time the license is signed, as well as the costs and time required to further develop the technology to bring a product or service to market.

### PSI license fees for PSI spin-offs and start-ups:

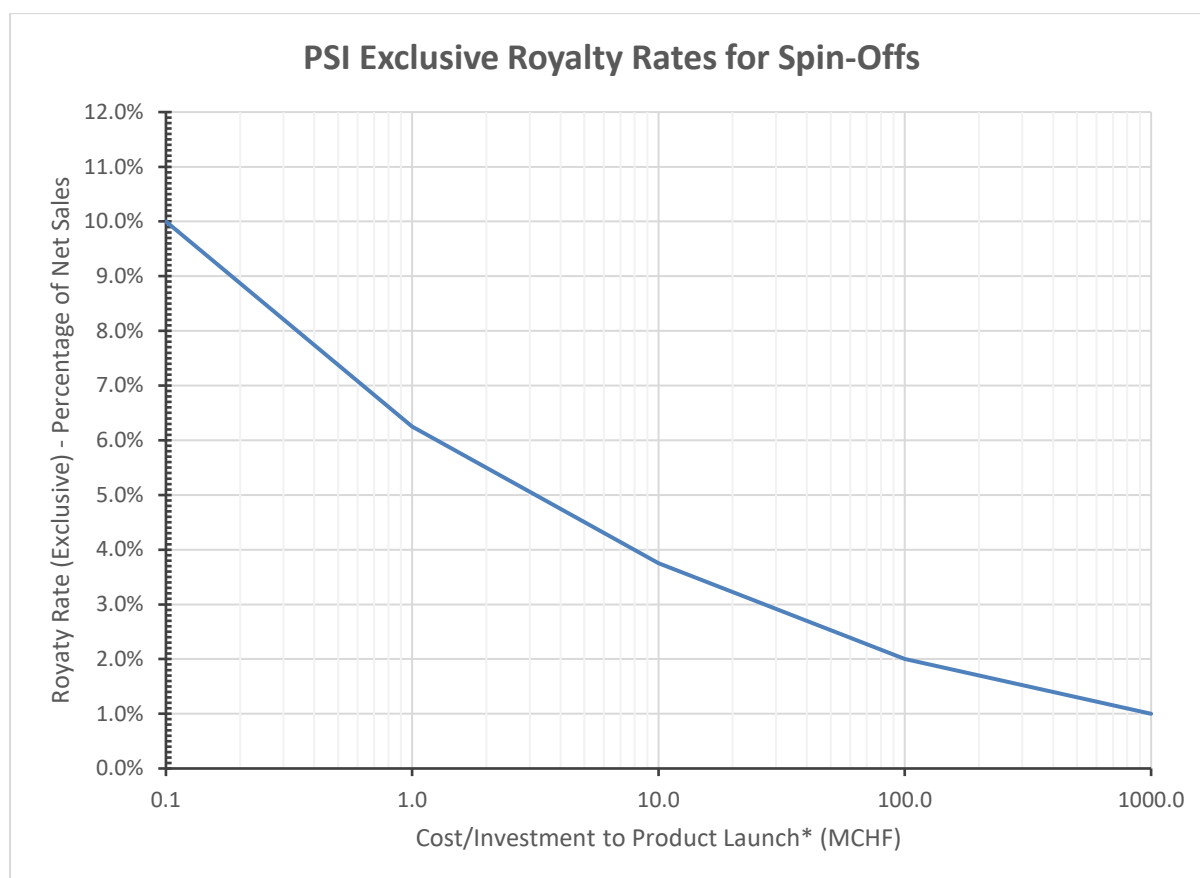


Fig 1: PSI Spin-Off Royalty Rates

Basis (definition points) for the curve shown above.

Costs incurred up to product launch (MCHF)	Exclusive License Royalties	Non-Exclusive License Royalties
0.1M	10.0%	5.0%
1M	6.25%	3.125%
10M	3.75%	1.875%
100M	2%	1%
1,000M	1%	0.5%

Table 1: Royalty Rates

The costs up to the introduction of a product or service are the amount of the cumulative costs incurred by the start-up from the time of signing the license or founding the company (whichever is later) until the first commercial sales begin. Typically, technologies with low to medium TRLs that emerge from PSI require investments in the range of several million Swiss francs. This results in exclusive license fees between 6% and 3%. The final costs up to product launch are agreed between the spin-off and the PSI in an open-book audit of the company's official financial records in the year in which the spin-off launches its first commercial product. The exact definition is company-specific and will be formulated in the license agreement. Alternatively, the founders and PSI can agree on the estimated (forecasted) total costs for the company to bring the first product or service to market and use the above curve to set a fixed royalty rate.

#### **License fee rates for software licenses:**

The same economic principles apply to start-ups in the software business that access PSI software through non-exclusive licenses. However, their equity is usually lower and the license fees depend heavily on the maturity of the software and are typically in the range of 5-25%.

#### **Sub-Licensing:**

If the license includes the right to grant sub-licenses, royalties are to be paid to the PSI on the income earned by the start-up company from the granting of sub-licenses to third parties for the intellectual property of the PSI. These are calculated by multiplying the royalty rate by a factor of five. This PSI share of sub-licensing revenue includes all upfront, annual, maintenance, and servicing fees, milestone payments, and royalties paid on sub-licensee sales. For example, a company that pays 5% royalties on products it manufactures would contribute  $5 \times 5\% = 25\%$  of all royalties or sublicensing revenue it receives from its sublicensees to the PSI.

#### **Annual Minimum Payments:**

The licensee shall pay an annual fee of CHF 5,000 (CHF 8,000 for exclusive licenses) or the costs incurred by PSI in the relevant year for the maintenance of intellectual property rights, whichever is higher, for the maintenance of the license rights. This fee will be deducted from the license fees due in a given year.

*Important: These conditions are tailored for new start-ups and spin-offs. Agreements with established companies involve higher royalty rates and fees to reflect their greater financial stability and more rapid time to market.*