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Guidelines for supporting German Cancer Research Centre (DKFZ) employees in spin-offs

As a research establishment, the German Cancer Research Centre (Deutsches Krebsforschungszentrum, DKFZ) aspires under the stated purpose of its statutes to provide long-term support for the transfer of knowledge, methods and research findings from its specialist field both into clinical applications and for commercial exploitation.

Spin-offs are a key instrument in intensifying this transfer of knowledge and technology, especially where technologies can be launched on the market through the newly-founded enterprises. Rights of use of DKFZ patents and know-how are frequently required for the foundation. In connection with this, agreements on licenses and/or equity participations are concluded between the spin-off founders and DKFZ.

These DKFZ guidelines set out a framework of action for successful use of the instrument of spin-offs, supporting the following objectives:

1. Objectives

- Enabling business start-ups by DKFZ employees with research-specific product scopes
- Ensuring the rapid availability of methods and research findings from cancer research in the clinical application
- Application-related commercial implementation of research findings and their market launch via young, research-oriented companies
- Creating jobs for next-generation scientists and research-related infrastructure personnel in knowledge-intensive, technology-oriented areas
- Opening up career prospects, particularly for scientific staff appointed on time-limited contracts, outside the DKFZ research establishment
- Maintaining and creating scope to take up new tasks in basic research
- Expanding the network of specialist contacts and cooperations between research and industry, with particular consideration given to SMEs
- Opening up the scientific departments at DKFZ to feedback of market-and application-oriented know-how.

To implement the stated objectives, DKFZ wishes to make it easier for interested researchers to make the transition to entrepreneurs, or to support them in the search for suitable business partners, for example by linking with partners from the region and beyond, such as Heidelberg Startup Partners e.V. (formerly Gründerverbund Heidelberg), Bio-RN-Clustermanagement GmbH, ifm Institut für Mittelstandsforschung at the University of Mannheim, chambers of commerce and industry (Industrie- und Handelskammer, IHK), or the High-Tech-Gründerfonds (HTGF), a leading seed funding body. DKFZ is seeking to assist in identifying projects meriting realisation and to provide help in maturing research ideas into realisable commercial projects and in obtaining financial project backing.

2. Internal support measures at DKFZ

DKFZ offers interested employees various forms of assistance in spinning off businesses. The founder(s) or the enterprise can assemble a package of measures from this offer that is matched to their proposal, encompassing

- staffing measures,
- other support measures,

for use in the business start-up. Subject to the conditions set out in section 3, DKFZ can support the business start-up or location, to the extent that there is available capacity. There is no legal entitlement to this assistance. For spin-offs, DKFZ considers itself responsible for all indirectly affected employees remaining at DKFZ.

2.1 Staffing measures

The staffing measures offered give employees the opportunity of committing their work, for a limited period, either entirely or partly to the establishment, set-up and running of the spin-off business. Specifically, the following options can be considered:

2.1.1 Secondary employment and part-time employment

DKFZ can grant consent to secondary employment for the business start-up, with or without an agreement on part-time employment, if the secondary employment is capable of being combined with the employee's concrete service requirements ("*Service requirements of main employment*"). The details concerning this derive from the provisions on secondary employment applicable for DKFZ.

The application for granting of consent to secondary employment must also contain information on whether the secondary employment is to comprise management of a spun-off enterprise or collaboration in the work of such an enterprise.

Generally, consent to secondary employment is granted for one year. To avoid any development of conflicts of interest over the long term, it is not allowed to exceed a 5 years in duration.

An extension is only approved if the secondary employment remains capable of being combined with service interests (e.g. where there is demonstrable organisational and physical separation of the spun-off enterprise and DKFZ).

The consent to secondary employment is to be revoked if there is any impairment to service interests with DKFZ. To avoid conflicts of interest, the consent to secondary employment is generally granted with a condition to abstain – when acting in the role of a DKFZ employee – on all decisions which might favour their own company.

2.1.2 *Leave of absence*

The DKFZ employee may request leave of absence for a period of up to three years, without continued payment of salary, to pursue the business start-up. This does not apply for employees on temporary contracts.

Directly following expiry of the leave of absence, DKFZ guarantees a right of return to a job corresponding to the current post classification. However, a return to the former job cannot be guaranteed.

2.1.3 *Renewed application to posts at DKFZ*

Employees who have left are accorded the status of an internal applicant when applying for posts, for a period of up to two years.

2.2 Other support measures

To the extent that there are available capacities, DKFZ can support business start-ups and company locations via the following measures:

2.2.1 *Cooperation services*

The following support can be offered:

- Joint innovation projects on the basis of corresponding cooperation agreements;
- Permitted use of rights of use to DKFZ research findings or patents on standard market terms and conditions, under usage or licensing agreements to be concluded accordingly;
- Consideration given to the enterprise when awarding research contracts, under the provisions set out in law;
- Scientific-technical consultancy as part of cooperation agreements.

2.2.2 *Short-term use of equipment*

DKFZ can provide the available scientific infrastructure (e.g. devices, computers, test units, laboratory facilities) for spin-offs during the foundation phase for a maximum of two years, on standard market terms and conditions. Evidence must be provided that other premises are available as business premises. DKFZ research work takes priority.

2.2.3 Joint use of facilities

Spin-offs may have joint use of existing DFKZ facilities, such as the library, canteen, conference rooms, and facilities for meetings and presentations etc., on standard market terms and conditions. The details are to be agreed separately where required.

2.2.4 Staffing assignment

As part of cooperation agreements, there is scope for the assignment of DFKZ employees who are not on a temporary contract of employment for a maximum period of one year. The agreement on the staffing assignment is also to contain provisions concerning the use and exploitation of the work outcomes which the DFKZ employee develops during the assignment. Discoveries made as a job-related task during the staffing assignment are available to DFKZ as a service invention. Further provisions are set out in the German law governing employee inventions (Arbeitnehmererfindergesetz, ArbEG). Existing funding options of the Federal state or of the Länder to support the exchange of personnel between the scientific and business worlds are to be taken up.

2.2.5 Advice and training on start-ups

General advice and training on start-ups (including legal advice and tax advice), together with specific advice on developing business plans, finance plans and liquidity plans, etc. does not form part of the duties of DFKZ. However, DFKZ offers training on patents and business start-ups and will support interested founders in choosing and making contact with suitable consultancy and training providers, in leasing premises, and in making contact with capital providers and obtaining funding. The engagement of external service providers by DFKZ employees must not occur at the expense of working time, and the costs of engagement are to be borne by the company founders.

3. Conditions for support

The DFKZ support services set out in Section 2 are tied to the following conditions:

3.1 Connection to DFKZ

The services or products of the company established are to be based on DFKZ know-how or have a close relationship with the research activities or infrastructure of DFKZ.

3.2 Avoiding conflicts of interest

The business relations between DKFZ and the spun-off or locating company are to be covered by a cooperation agreement and corresponding contracts governing rights of use and licenses. DKFZ and the company will ensure a clear separation of business activity and DKFZ activity with regard to premises, finance and staffing. The separation also applies for contractual relations, particularly for procurement measures.

To avoid conflicts of interest, the following points are to be respected in particular for procurement dealings with spin-offs:

- Employees connected with a spin-off are excluded from decisions concerning procurement that is to the benefit of a spin-off.
- Orders to spin-off may only – as is also the case for all other orders – be awarded in accordance with the regulations applicable for the public award of contracts.
- The approval of any requirement notification concerning the award of a contract to a spin-off must in all cases be given by an independent person. If the scientist is connected with the spin-off, then the co-signature of the Management Board is required.
- The DKFZ procurement department receives a list of spin-offs which is regularly updated from the technology transfer section.

3.3 Commercial success

The spin-off should offer the prospect of permanent commercial success and is intended to lead to posts for the founders and their employees which provide a full salary. The conditions for supporting the spin-off are:

- The existence of a detailed business plan
The business plan describes the business idea, with the opportunities and risks it presents, and contains financial and employee planning. It is intended to focus the spin-off and the team on the agreed objectives, and to convince investors of the business idea. The business plan is continuously updated.
- The existence of an FTO (*freedom to operate*) analysis containing an assessment of the portfolio of industrial property rights required for product development, taking account of industrial property rights of market competitors which already exist.
- Detailed financial and liquidity planning
- The necessary technical and commercial/business management expertise of the persons involved in the spin-off.

4. DKFZ participation

Consideration is given to DKFZ acquiring an equity participation in a spin-off, especially if the company is offering products or services based on patented DKFZ technologies. For this, DKFZ can participate in a spin-off under a licensing agreement, whereby under a balanced concept the acceptance of shares in a spin-off is often agreed by DKFZ when the agreement is signed in place of a one-off payment at standard market rates.

In compliance with the current applicable guidelines on participation by research establishments in spin-offs for the purposes of knowledge and technology transfer published by the German Federal Ministry of Education and Research (BMBF) on 1 June 2012, DKFZ is able to participate in a spin-off if the participation (contributions in kind and cash contributions) does not exceed a 25 per cent share in the enterprise and a total contribution of EUR 2.5 million.

5. Funding options with DKFZ involvement

There are wide-ranging examples of funding options for spin-offs: Heidelberg Startup Partners e.V., Helmholtz Enterprise Förderung, Helmholtz-Validierungsfonds (HVF), EXIST Förderung, ifm - Institut für Mittelstandsforschung at the University of Mannheim, chambers of commerce and industry, High-Tech Gründerfonds etc.

In most cases, application for funding requires the involvement of DKFZ. The Technology Transfer Section has the latest information available for interested parties.

6. Contacts

The point of contact for discussions or advice is the Technology Transfer section, with responsibility for spin-offs sitting with Dr. Frieder Kern, e-mail: f.kern@dkfz.de, tel.: + 49 (0)6221-422952

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