

# Information Sheet for External Theses



## Definition and Framework

The Technische Universität Darmstadt encourages contact with industry and supports the completion of theses (especially diploma, master and bachelor theses), whose themes are inspired by industry and which are completed at external institutions. These theses are considered to be external work when they are not completed at the Technische Universität Darmstadt (§23 paragraph 4 General Examination Terms of the Technische Universität Darmstadt (APB)). An “external thesis” is naturally still considered to be work at the Technische Universität Darmstadt because it is an examination that forms part of a degree completed at the Technische Universität Darmstadt. If the themes are inspired by industry but the thesis is carried out at the Technische Universität Darmstadt, the thesis is not considered to be external work. This information does not apply to these theses.

External theses offer opportunities yet also pose risks for all participants (external institutions or industrial companies, students, supervising professors, employees, faculties, etc.). Therefore, it is absolutely essential to familiarise oneself with the framework conditions.

1. External theses are considered to be work at the Technische Universität Darmstadt and are archived centrally within the university in electronic form.
2. A member of the group of professors of TU Darmstadt is always responsible for supervising the thesis and the entire formal process associated with it. Also see 3.1.
3. Usage rights are held by the author of the thesis, i.e. the student. Supervisory services provided by a member of the Technische Universität Darmstadt as part of the work on the thesis do not generally convey rights to the work. If the work on the thesis uses proprietary know-how from the Technische Universität Darmstadt, this must be indicated and will not form part of the examination being assessed.

The granting of any usage rights to the industrial partner in this context is thus excluded.

4. There are other issues faced by university professors, which will be discussed below in section 3.
5. Copyright issues must be taken into account; see section 4.

## 1. General guidelines

Theses are university examinations. The requirements specified in the APB (General Examination Terms of the Technische Universität Darmstadt (APB)<sup>1</sup>) and the Law on University Education in the German State of Hesse<sup>2</sup> (Hessisches Hochschulgesetz) must be strictly observed.

1. It is only possible for a student to complete a thesis in another faculty or outside of the Technische Universität Darmstadt with the consent of the chairperson of the examination committee (§ 23 paragraph 4 APB). In particular, the examination criteria include: Supervision by a member of the group of professors at the Technische Universität Darmstadt must be ensured; compliance with the examination regulations (APB and the associated regulations of the faculty) must be guaranteed.
2. The thesis must be completed in the time period defined by the implementing regulations of the faculty (AB). The topic for the thesis must be designed in such a way that it is possible to complete the work within this time period.
3. Theses will be digitally archived in the University and State Library Darmstadt (TUbama). This is not considered a form of publication. In its current state, TUbama is a type of electronic archiving and not a publication.<sup>3</sup>
4. Following the completion of the examination procedure, students have the right to view the examination files and assessments. This right is exclusively granted to the examination candidate and not to external partners.

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<sup>1</sup> General Examination Terms of the Technische Universität Darmstadt (APB) from 19 April 2004 (State Gazette no. 25 from 21 June 2004, p. 1998) in the version of the 5th amendment from 25 March 2015 (supplement to the statutes 2015 III, p. 3) and including the modification as of 18/05/2016 (supplement to the statutes 2016 II, p. 37)

<sup>2</sup> HHG (Hessisches Hochschulgesetz – Law on University Education in the German State of Hesse) from 14 December 2009 (GVBl. I, . p. 666), last amended by Article 2 of the law from 18 December 2017 (GVBl. p. 482).

<sup>3</sup> [https://www.tu-darmstadt.de/studieren/tucan\\_studienorganisation/tucan\\_faq/details\\_143744.de.jsp](https://www.tu-darmstadt.de/studieren/tucan_studienorganisation/tucan_faq/details_143744.de.jsp)

5. Compliance with the examination regulations (APB and the associated regulations of the faculty) must be guaranteed.

## 2. Information for students

Students who complete an “external” thesis will generally be issued a contract by the industrial company that regulates the organisational integration of the student into the industrial company, safeguards the confidentiality of internal company data and company-related data and clarifies questions regarding industrial property rights and exploitation rights or usage rights, liability issues and, if relevant, the level of compensation for expenses, etc. **Students are strongly encouraged to clarify the issues discussed here in advance before starting work on the thesis. Consent from the chairperson of the examination commission must have been received before starting work on the thesis!**

For their own protection, students should examine this contract for its compliance with the general guidelines described here and for compliance with the following additional points:

1. Any binding commitment to the industrial company that goes beyond the scope of the thesis or the time period defined for the completion of the thesis should be considered very carefully. This type of binding commitment could e.g. restrict or impede the student's ability to:
  - freely select a place of work after the completion of his/her degree;
  - exploit the results of their thesis for profit, due to e.g. commercial property rights or copyright issues;
  - develop the topic further in the future or
  - expand the specialist scope of the thesis (e.g. as part of a dissertation); difficulties can arise here if the student has committed him/herself to offer or hand over any further developments based on the thesis for use by the company or if such developments may only be made with the consent of the company.
2. Students should carefully examine whether they are also able to fulfil the commitments that they are making to the industrial company.

For example, some faculty regulations stipulate that a public colloquium must be held for the thesis. This obligation and the standard right of the university as defined in § 23 paragraph 7 APB to save all theses in electronic form at the University and State Library in Darmstadt cannot be restricted by the relationship with the industrial company if the student intends to submit the work as a thesis. In their own interests, examination candidates should raise these issues with the industrial company in order to avoid any subsequent claims for damages. If the student intends to use a restriction notice to restrict accessibility to the thesis within the Technische Universität Darmstadt, this requires approval from the examination committee. A prerequisite for its use is that it is required to safeguard commercial property rights or that a plausible explanation has been provided to prove that it is required to protect other justified interests.

3. Students are generally covered during everyday student life by statutory accident insurance. You will find more detailed information at <http://www.studierendenwerkdarmstadt.de/index.php/de/beratung/unfallversicherung>

When working on an external thesis, students are **not** covered by statutory accident insurance provided by the State of Hesse (accident insurance fund for Hesse). In the event of accidents in the EU territory for which the statutory accident insurance no longer provides coverage, it is possible that the student is covered by free-time accident insurance that is concluded for all students by the student union. The services provided by both insurance schemes in the event of damage are very different!

In the case of external activities, it is possible that the student is covered by the accident insurance scheme valid in the relevant company. All students are thus strongly advised to clarify their employment status and their accident insurance coverage with the relevant company. The accident insurance scheme at the company assumes that the students are integrated into the company in accordance with social law. This is often not the case for standard internship contracts!

If the student has any doubts about whether s/he can sign a contract that has been offered by an industrial company for the completion of an “external” thesis, s/he should first contact the university professor who is supervising their work. The Technische Universität Darmstadt cannot offer legal advice in these cases. In certain circumstances, it may be advisable to obtain private legal advice.

### **3. Information for university professors**

For university professors, the assignment and supervision of “external” theses raises the issue of whether a fee should be paid by the industrial company if the results of the thesis provide market value to the company, which is mainly attributable to the supervision by the university professor, the provision of internal specialist know-how or the use of valuable resources (equipment or software). No cash flow is permitted due to the supervision of the thesis.

#### **3.1 Official duties with respect to theses**

According to § 61 paragraph 1 no. 7 HHG, the assignment of the topic and supervision and assessment of the thesis are official duties of the member of the group of professors. The task of assigning a topic is reserved solely for members of the group of professors at the Technische Universität Darmstadt (§ 23 paragraph 4 APB). The task of assessing the thesis is reserved solely for members of the group of professors at the Technische Universität Darmstadt. The topic can be inspired by a third party but it may not be assigned solely by them.

1. The thesis must be supervised by a member of the group of professors or by a person holding a lectureship that involves the supervision and assessment of theses according to § 26 paragraph 2 APB. The supervisory services include, for example, advice on the selection of methods and type of supervision, etc. and must not constitute an original or separately identifiable part of the work. Otherwise, there is a risk of this being classified as an attempt at deception (unauthorized assistance).
2. The topic for the thesis – just like the entire formal process for this part of the examination – is the sole responsibility and within the sole competency of the supervising member of the Technische Universität Darmstadt. Good cooperation between the examiner, industrial partner and the supervised student who is employed at the company is indispensable.
3. Students are permitted to make suggestions and submit proposed topics to the supervising examiner. These suggestions should be taken into account where possible but are not compulsory.

4. External parties do not have any right to exert influence on the topic, contents of the thesis or its supervision during the work on the thesis.

Due to the fact that the supervision of theses is one of the official duties of a university professor, they are prohibited in principle from classifying this supervision work as secondary employment. Any special remuneration for the supervision of theses could be considered an abuse of trust (§ 266 StGB) and result in disciplinary action. It is irrelevant here whether the remuneration is paid to a private or university account.

### **3.2 Recommended procedures**

1. The right of the examination candidate to be issued a scientifically relevant topic within the university must be ensured. Topics suggested by students for external theses may only be accepted if they are appropriate for the faculty's research programme, can be supervised as part of the professor's official duties and do not require an excessive amount of resources beyond that required for a normal thesis.
2. It is recommended that the professor informs students (with ample time) about these guidelines so that the rejection of a proposal for an external thesis that does not satisfy these guidelines is foreseeable and understandable.
3. In their assessment of an external thesis, university professors must exclusively focus on its scientific quality and not the company-related data used for the thesis. Therefore, the university professor does not provide any consulting work for which a fee could be charged.
4. The university professor should expressly inform both the student and also the industrial company about the nature of their supervision and assessment of the thesis when assigning the topic for the "external" thesis.

### **4. Copyright issues**

1. As a general rule, industrial companies require students to safeguard the confidentiality of internal company data and company-related data. This type of obligation can be entered into under the condition that the student is able to work on the topic unhindered and fundamentally as part of the thesis.

The general right of the Technische Universität Darmstadt to archive the thesis in electronic form at the University and State Library Darmstadt may not be affected by any agreements that generally exclude the publication of the thesis. A copy of the thesis will be archived in electronic form at the University Library. It is not permitted for the student to conclude any contradictory agreements.

2. This electronic archiving is not connected to any publication outside of the Technische Universität Darmstadt.<sup>4</sup> However, the thesis could be made accessible internally within the university with the approval of the supervisor. It is only possible to limit access to the thesis internally within the university for a set period of time (using a so-called **restriction notice**) with the approval of the examination committee. The examination committee can approve the use of a restriction notice if it is required to safeguard commercial property rights or if a plausible explanation has been provided to prove that it is required to protect other justified interests.
3. The Technische Universität Darmstadt has a right to an original copy of the thesis in accordance with the examination regulations. According to § 23 paragraph 7 APB, the university also has the right to archive all theses in electronic form at the University and State Library Darmstadt. Otherwise, the Technische Universität Darmstadt can only acquire usage rights to the thesis if they are granted by the author of the thesis. An obligation to grant usage rights only exists if this has been contractually agreed to in advance.
4. The requirement in the APB for the student to independently work on the topic for the thesis excludes the possibility of any joint co-authorship with the supervising professor or other member of the Technische Universität Darmstadt, even if they have provided (substantial) input for the work. Any supervisory work that e.g. makes a relevant contribution to the work from a copyright perspective is not compatible with the use of the thesis as an examination requirement.
5. If a new technical idea in the form of a treatise or drawing is presented in a thesis, it should be considered whether this needs to be patented. This requires a corresponding application in accordance with the regulations in the German Patent Act.

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<sup>4</sup> [https://www.tu-darmstadt.de/studieren/tucan\\_studienorganisation/tucan\\_faq/details\\_143744.de.jsp](https://www.tu-darmstadt.de/studieren/tucan_studienorganisation/tucan_faq/details_143744.de.jsp)

It is important to note here that a patent can only be issued if the invention has not been made accessible to the public. Therefore, the patent application must be submitted before the publication of the thesis.

As students are not employees, they are not subject to the German Employee Invention Act. They are thus holders of the patent as independent (co-) inventors. It is recommended that only those topics that do not require any excessive access to the university's resources and the university professors themselves are approved.

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