

## **Procedures for Negotiating, Approving and Signing University Contracts and Agreements**

These Procedures are pursuant to [Policy on Contracts and Agreements](#) and should be read in conjunction with [Contract Management Guidance](#).

These Procedures apply to all contracts and agreements (new, renewing or revised) between two or more parties, one of which is the university or any of its units, including wholly-owned subsidiaries. The contracts may relate to any aspect of university administration, operations, academic undertakings, and research. Contracts may be called agreements, letters of understanding, memoranda of agreement, etc. as defined in the Policy. For research-related contracts many of the procedures outlined below are carried out through Research Grants & Contracts in RMID who should be consulted in the first instance.

Examples of contracts include, but are not limited to: purchase agreements, donor agreements, technical/professional service agreements with private industry or government agencies, leases, deeds, legal settlements, liability waivers, indemnification agreements, license agreements, student exchange agreements, student placement agreements, internship or training agreements, collaborative provision agreements, research agreements, international research collaboration agreements, and memoranda of understanding or cooperation with other institutions, organisations or governments.

### **1. NEGOTIATING AND SIGNING CONTRACTS – General Responsibility**

Employees who are authorized to enter into contract negotiations with individuals or institutions external to the university, approve contracts on behalf of the university, or sign contracts on behalf of the university, must exercise their authority in a prudent manner. While the degree of care that must be exercised in each instance will vary depending on the type and value of the contract, all employees involved in negotiating or signing contracts must review and comply with the requirements herein.

A contract manager must be assigned for every commercial contract. Information about the responsibilities of the contract manager can be found in the Contract Management Guidance issued by Procurement Services. Management of research and related consultancy contracts are managed through Research Grants & Contracts in RMID.

### **2. Negotiating Contracts**

Anyone who undertakes contract negotiations on behalf of the university must:

- 2.1 review relevant university policies to determine whether there are approvals required before negotiations can commence, in particular, whether the contract is necessary or should have been completed in accordance with [Procurement Regulations](#).
- 2.2 in consultation with the internal Legal Services Department, determine whether legal support or advice is required and have budgeted for and obtained such support as early as possible in the negotiation process.
- 2.3 consult with Tax Services to determine whether there are any tax implications for the contract being negotiated.
- 2.4 ensure that they have the requisite authority to enter into contract negotiations.

- 2.5 assess the likely impact of the transaction on other units of the university and ensure that appropriate consultation takes place with any units which may be affected by the contract.
- 2.6 ensure that university procedures have been followed for the allocation of funds for the contract.
- 2.7 determine whether there are financial issues beyond tax consequences, that should be reviewed by Financial Services (e.g., method of payment, method of acquisition).
- 2.8 undertake appropriate due diligence as to the reputation and financial viability of the other party (contact the Procurement team or Research Grants and Contracts who will help with this).
- 2.9 review the proposed terms and satisfy themselves that:
  - 2.9.1 they are sufficiently clear and accurately reflect the current state of negotiations;
  - 2.9.2 they meet the university's programme or operational requirements;
  - 2.9.3 they meet any conditions stipulated by the university authority that had approved the initiation of negotiations;
  - 2.9.4 they comply with all applicable legislation, regulatory requirements, and university policies;
  - 2.9.5 the university maintains the required insurance coverage and the other party has provided acceptable proof of coverage;
  - 2.9.6 the university can comply with its obligations;
  - 2.9.7 the other party will be able to meet its obligations; and
  - 2.9.8 the contract is in the best interests of the university.
- 2.10 bring to the attention of the appropriate Senior Vice-President or other senior manager as appropriate any proposed contract which is of sufficient importance because of its size, subject matter or specific provisions.
- 2.11 ensure that the other party is made aware that the contract is not considered final and binding until it has been approved and signed in accordance with university policies and delegations.
- 2.12 Once negotiations are completed, any necessary approvals must be obtained. The contract should then be forwarded to the appropriate individual(s) for signature. Ordinarily, there should be one copy containing original signatures for each party to the agreement. The university's copy containing original signatures should be forwarded to the appropriate contract manager for who is responsible for its maintenance and storage.

### **3. APPROVING CONTRACTS**

- 3.1 Anyone who is required to approve a contract prior to signature must satisfy themselves that the requirements set out above under "Negotiating Contracts" have been met. Approval of a contract indicates that:
  - 3.1.1 the individual is satisfied that all necessary steps have been taken to ensure that the form and content of the contract are satisfactory, and
  - 3.1.2 the individual recommends that the contract be signed by the university.

#### **4. SIGNING CONTRACTS**

- 4.1 Anyone who is authorized to sign contracts on behalf of the university must satisfy themselves that the requirements set out above under “Negotiating Contracts” have been met, that all required reviews and approvals have been obtained, and that they, in fact, have the authority to sign the contract in accordance with the [Signature Authority Register](#).
- 4.2 Electronic Signatures – contracts should be signed using electronic signatures in accordance with the [DocuSign Protocol](#) or other approved e-signature platform.

#### **5. CONFLICT OF INTEREST**

- 5.1 An individual who negotiates, approves, or signs contracts on behalf of the university must declare any interest they may have in the subject matter of any contract.
- 5.2 The Senior Vice-President (Operations) shall determine whether the interest represents a conflict and whether the individual may continue to act on behalf of the university with respect to the contract.
- 5.3 In the event that the Vice-President (Operations) declares an interest, the decision as to the conflict will be made by the President & Principal.
- 5.4 In the event that the President & Principal declares an interest, the decision as to the conflict will be made by the Chair of Council.

#### **6. LEGAL REVIEW**

- 6.1 The university’s internal Legal Services department and other legal counsel designated by that department provide legal advice and assistance to individuals who negotiate and sign contracts. Legal review ensures that those responsible for entering into contracts are made fully aware of the legal consequences of contractual provisions. It also provides added assurance that the terms of the contract fully protect the rights and other interests of the university and are consistent with all applicable laws. However, internal Legal Services do not have the capacity to conduct a detailed review of every agreement or contract into which the university enters. Consultation with Legal Services should happen early in the process to ensure that external legal support can be obtained if necessary. Contract managers and those negotiating and approving contracts are responsible for carrying out all due diligence in drafting contracts. The university’s Legal Services web site provides model clauses for a range of standard contracts and agreements and these should be used wherever possible. For most research contracts, RG&C carries out the legal review, involving central Legal Services as necessary.
- 6.2 It is the responsibility of those who are negotiating and signing contracts to ensure that there is budget available for potential legal costs.
- 6.3 The university’s Legal Services should be consulted prior to signing a contract in any of the following cases:
  - 6.3.1 there are substantial changes to the terms of an existing contract
  - 6.3.2 an existing university contract template cannot be used or elements of the template are requested to be changed by the counterparty
  - 6.3.3 the contract contains insurance clauses, indemnities, intellectual property

- provisions, guarantees, or warranties
- 6.3.4 the contract involves a significant amount of money or it may expose the university to an uncertain or potentially significant liability
- 6.3.5 there are or may be significant financial ramifications to the university
- 6.3.6 the contract involves sensitive or reputational issues
- 6.3.7 the contract includes provisions which may pose a substantial risk to the university
- 6.3.8 the contract involves a partner in a jurisdiction other than England or Wales
- 6.3.9 the contract is in a language other than English

## **7. LEGAL NAME OF UNIVERSITY**

Contracts must be entered into in the name of King's College London. The name of a Faculty or Department may be included in certain cases, but it must be clear that the contract is with King's, not the faculty or department. In the case of contracts involving King's subsidiaries, Legal Services must be consulted with respect to the legal name to be used.

## **8. CONTRACTS MUST BE IN WRITING**

All contracts into which the university enters must be in writing. Individuals must take special care in ensuring that they make no oral representations that might be construed as binding upon the university.

## **9. JURISDICTION AND CONTRACTS IN LANGUAGES OTHER THAN ENGLISH**

- 9.1 It is the university's position that the jurisdiction for all contracts into which it enters will be England and Wales and this should be stated in each contract. In the event that this is not acceptable to the other party, the university's Legal Services must be engaged.
- 9.2 The university's Legal Services must be consulted with respect to signing contracts in languages other than English or signing an English and non-English version of a contract. The English version of any multi-language contract will normally be the version in force in the event of any disagreement and this should be stated in any such contract.

## **10. CORPORATE SEAL and EXECUTION of DEEDS**

Contracts requiring the corporate seal are signed in accordance with the [Policy on Execution of Deeds and Powers of Attorney](#).

## **11. SIGNING AUTHORITY REGISTER**

- 11.1 The [Signing Authority Register](#) sets out:
  - 11.1.1 those officers and employees to whom approval and signing authority for specific types of contracts has been delegated;
  - 11.1.2 those officers and employees who are authorized to approve and sign specific types of contract; and
  - 11.1.3 the required storage site for signed original contracts.
- 11.2 The President & Principal retains the authority to sign contracts for which they have delegated signing authority in the Register even where that authority may have been delegated.
- 11.3 The College Secretary is responsible for maintaining and updating the Signing Authority Register.

## **12. RETENTION & STORAGE OF CONTRACTS**

The relevant contract managers must ensure that contracts are kept secure and retained for the period in the university's Records Retention Schedule and that they are accessible at all times.