



UNIVERSITY OF THE FREE STATE

Procedure: Signing of Contracts

These guidelines are only valid for contract research, rendering of services, tenders, international collaboration agreements, research and research related matters which fall in the portfolio of the Vice Rector, Academic Operations. The complete Council Policy for all categories is available on the Intranet.

A: Proposed Procedure

Excerpts from the Council Policy for the signing of contracts in the categories described above, are added in Section C. Paragraph 2 of the policy explains how the contract should be handled and under which conditions one is allowed to sign it and paragraph 4 specifies the persons who are authorised to sign a contract.

To simplify the process, the Entrepreneurial Office proposes that the following procedure for the signing of contracts should be followed:

1. Send the contract, via your Head of Department, to the Dean of your Faculty. The Dean approves that the work could be done in the Faculty. If not, it is referred back to the project leader.
2. If the Dean approves that the work could proceed, the contract is sent to the Entrepreneurial Office (EO) for processing.
3. The contract should be in triplicate.
4. The EO undertakes to streamline the process so that the contract will be returned to the project leader within the reasonable expected time.
5. Keep in mind that the contract has to be signed by the Vice Rector, the Director of Research Development, the Dean of the Faculty and the Head of Department.
6. In all cases where intellectual property rights (including copyright) are relevant, such contracts/agreements can only be entered into and signed once they have been submitted to and approved by the Entrepreneurial Clearance Committee via the Rector, in which case the latter is also required to sign the contract.
7. The EO takes responsibility for the filing of contracts, but the Dean and Head of Department should make copies for their own records.
8. The following template can be used to compile contracts with the correct wording.

B: Template for the correct wording of a contract.

AGREEMENT

between

Name of Company or Institution

of

Complete address

herein represented by **Name of person** who warrants that he/she is duly authorised

thereto

and the

University of the Free State

of Nelson Mandela Drive

Bloemfontein, 9300, Republic of South Africa

a university duly established under the Higher Education Act No 101 of 1997

herein represented by the signatories acting on its behalf in signing this agreement, being

duly authorized thereto in terms of a resolution of the Council of the University of the Free

State dated 10th June 2002

hereafter referred to as

("the University")

At the end of the document:

Signed at Bloemfontein on this xth day of MONTH 2004 by the following persons who warrants that they are duly authorised thereto.

Teunis Verschoor:

Vice Rector Academic Operations

Frans Johannes Cornelis Swanepoel:

Director: Research Development

XXXXXXXXXXXX:

Dean of the Faculty of xxxxxxxx

YYYYYYYYYYYY:

Head of the Department of zzzzzz

Two witnesses must sign the document (preferably the researcher and the Director of the Entrepreneurial Office) and the initials of all the signatories should be on every page, annexures included.

In all cases where intellectual property rights (including copyright) are relevant, such contracts/agreements can only be entered into and signed once they have been submitted to

and approved by the Entrepreneurial Clearance Committee via the Rector, in which case the latter is also required to sign the contract.

C: Excerpts from the Council Policy

(the complete policy is on the Intranet)

2. Conditions for exercising delegated competency to enter into and sign contracts/agreements on behalf of the University

In all cases where contracts or agreements (financial or any other commitment of the University) are entered into and signed on behalf of the University, the proxy (-ies), as the final check-point, must satisfy himself/herself/themselves of the following aspects, and should comply with the stated requirements before signing:

- 2.1 that the contract/agreement has legal validity and is comprehensive.
 - for this purpose, all contracts / agreements have to be presented to Naudes' Attorneys for approval, and where necessary, amendments have to be made as they may recommend so as to avoid any risks that they may point out. In cases where a continuation of a contract is at stake, and where it was considered before by Naudes', it is not necessary to present the contract to Naudes', and the contract may then be signed (e.g. a licensing contract for an information service).
- 2.2 that the contract/agreement is not in conflict with any Council policy or other contractual commitment of the UFS, including the following conditions:
The following aspects are also included here:
 - (a) that all rights derived from the Law of Immaterial Property (patent rights, copyright, the rights on models, plant-breeding rights and presentation rights) are seated in the UFS, and these can only be alienated with approval and in a way as approved (see par. 4.1).
 - (b) that a monetary obligation that is entered into, may only be entered into, if the said obligation is payable within a Council-approved and allocated budget, and in terms of the procedure as approved by the Council (see par. 7).
 - (c) that the contract/agreement, prior to signing, must first be approved by the appropriate university channels, and complies with all the conditions outlined in par. 2.1 to 2.7 of the document.
- 2.3 that the contract/agreement must be practicable, ensuring that all stakeholders (all persons or functional units that have to make a substantive contribution so that the contract may be executed) have been consulted, prior to signing, and it has been established that the stipulations of the contract that the signatories commit the University to in a contractual sense, can be performed or delivered.
- 2.4 that the University's interests have to be protected in all cases, and these interests should preferably be promoted. To this end, the Legal advisors and the Entrepreneurial Clearing Committee (via the office of the Chief Director:

Operations) or the Executive may be consulted, prior to signing, if any uncertainty exists in this regard.

- 2.5 that representatives of all the parties indeed have a mandate to sign (in most cases where the other party is not a legal person, such a mandate will be assigned by way of a resolution of a management body that assigns such mandates by way of delegation, as stipulated in the sections below and assigned by the Council to staff members of the UFS) the contract on behalf of the person or institution that he/she/they represent.
- 2.6 that the contract/agreement has been signed in full (initialled at the bottom of each page and full signatures at the end of the contract by the signatories).
- 2.7 that at least one original of each signed contract and a copy be sent to the Registrar: General and Strategic Planning, with the exception of operations-level contract in the domain of Finances as outlined in paragraphs 3.3 and 3.4, and in the domain of Human Resources, referred to in par. 3.8 and study loans and bursaries referred to in par. 3.9.1 and deeds of debt for study loans outlined in par. 3.9.6.
- 2.8 the herein stated proxy (-ies) must in all cases provide the above-mentioned copies of each contract to the Registrar, each of which has to be accompanied by a statement in which:
 - (a) it has to be stated that the above-mentioned procedure was followed, and
 - (b) all the stakeholders, referred to in par. 2.3 above, must have co-signed the said declaration.

3. Delegating particular competencies, with specific references to signing powers, to persons on behalf of the UFS

Subject to par. 2, the following delegations for purposes of exercising competencies on behalf of the Council, by the Council, may be assigned to the persons who are stipulated below.

Any person who acts in a way that conflicts with this policy, and signs contracts/agreements, may be held personally liable for any consequences that may emanate from such an agreement/contract.

4. Operational level contracts in the domain of the Vice-Rector(s): Academic – Operational level contracts in the domain of teaching/learning, research or other co-operation

4.1 Contract research, tenders, rendering services

- (a) The signing of agreements/contracts between the University and various bodies, where these pertain to contract research, tender documentation for contract research, (and/or the rendering of services) by a member of staff or members of staff of the UFS, and/or departments, and/or any other functional unit that has a Council-approved constitution, is delegated to the Director: Research, Frans Johannes Cornelis Swanepoel, and the Vice-

Rector: Academic Operations, Teunis Verschoor, and the dean of the faculty in which the person, persons, department or unit who wants to enter into the contract find themselves, as well as the head of the department or unit, for joint signing,

- (b) in all cases where intellectual property rights (including copyright) are relevant, such contracts/agreements can only be entered into and signed once they have been submitted to and approved by the Entrepreneurial Clearance Committee via the Rector, in which case the latter is also required to sign the contract.
- (c) The Rector, Frederick Christiaan van Niekerk Fourie, is authorised, on advice of the Entrepreneurial Clearance Committee, to transfer, on behalf of the UFS, those rights that derive from the Law of Immaterial Property, which pertain to property of the University, to other parties.

4.2 Foreign co-operation agreements/contracts/partnerships: research and research-related matters

Entering into contracts/agreements for co-operation or partnerships in the domain of research and research-related matters with a foreign institution, is delegated to the Vice-Rector: Academic Operations Teunis Verschoor, the Director: Research, Frans Johannes Cornelis Swanepoel and the dean of the faculty involved in the research in question, for joint signing.

NB Where rights that derive from the Law of Immaterial Property are relevant, para. 4 (b) and (c) are also applicable.

4.3 National and foreign joint offering of learning programmes and partnership agreements

Entering into contracts/agreements for offering/joint offering of programmes, including co-operation or partnership agreements with respect to teaching/learning with any national or foreign body or institution is delegated to Magdalena Fourie in her capacity as Vice-Rector: Academic Planning and Vernon Francis Collett in his capacity as Registrar: Academic Student Services, as well as the dean from the relevant faculty in which the teaching/learning programme is located for joint signing.