

LEGAL SERVICES NOTICE JULY 2014

IMPORTANT NOTICE FOR UNIVERSITY STAFF AND STUDENTS

UNIVERSITY CONTRACTS MANAGEMENT

University Contracts Management System

University Staff and Students are reminded that where the University is a named contracting party (or a party not necessarily named but under obligation) in a proposed contract or MOU, the contract/MOU must be submitted to Legal Services for processing and vetting in the University's Contract Management System. This includes the extension/renewal of an existing contract/MOU. Legal Services is responsible for the processing, vetting and obtaining final approval for such contract/MOU from the University's authorised signatory.

The submission is initiated by the completion of the contracts management on line submission form, uploading the proposed contract/MOU together with the required supporting documentation. The on line link to this form is located on the Legal Services Website on the Contracts Management Web Page. For ease of reference the link is as follows:

<http://legalservices.ukzn.ac.za/ContractsManagement.aspx>

If you should require assistance with the completion of the on line submission form, or with any aspect of the contracts management system, please contact Mr Rendra Phalad on X 7455 for all contracts (excluding research contracts), and Mr Deon Moodley on X 8199 (for research contracts).

Authority to Enter into Contracts on Behalf of the University

University employees and students do not have authority to enter into contracts/MOUs on behalf of the University or to do anything which may result in the University being obligated to another party in any manner whatsoever. The University Council, by law, is required to delegate authority to a university employee for this purpose. This delegation has taken place and only the personnel referred to in "Annexure A" to this notice, have the required authority to do so.

Staff and Students are advised that in the event that they should enter into contracts/MOUs on behalf of the University without the requisite authority, this may result in disciplinary action being taken against them, and being personally liable on the contract so concluded.

The Management of University Contracts

University contracts are to be managed according to the principles and regulations set out in the "University's Contracts Management Principles and Regulations Document". For ease of reference a copy of this document is attached as "Annexure B" to this notice. These principles and regulations apply to all University Staff, Students and Other Stakeholders, and it is important to be fully au fait with their provisions, as there is person responsibility and obligation associated with such application. Staff and Students are personally accountable (where it is evident from the contract terms) for the performance of the obligations of the contract and/or the management thereof. Any

damage caused to the University (reputation included) may result in disciplinary action being taken against those responsible.

Timeous Submission of Contracts to Legal Services

It is still a matter of concern that contracts are not being referred to the Legal Services Department for vetting and approval timeously, or in some instances with unreasonable expectation on the part of the referrer, expecting that such processes be completed within hours of referral, by a Legal Advisor and the Contracts Management Staff. In the case of new contracts referred to Legal Services for vetting and approval, a minimum time of ten full working days is required. Legal Services will, if possible, finalise the contract with approval within a shorter period of time. Research Contracts require an additional 5 day working days, as these contracts are routed for additional vetting/approvals to the Research Office.

In the case of existing contracts that are due to expire, and where renewal of the contract is required for the maintenance of continued service, you are advised to commence the renewal process two clear months prior to expiry of the existing contract.

Queries relating to Research Contracts

All **financial administration** queries relating to **research contracts** must be directed as follows:

- **All projects with a contract value of over R1 million** – directed to UKZN InQubate (Sipho Dlamini, Director Research, Financial Services or Helgaard Holtzhausen, Finance Manager UKZN InQubate)
- **All other research project administration** is conducted at the College level (including the finance administration fee transactions).
- Contact Details are as follows:

Michele Glasson

Finance and Contracts Manager
Research Office

Budget queries relating to research contracts

glassonmi@ukzn.ac.za

Tel: 031 260 8254

Karen Reinertsen

Administrative Officer – Contracts
Research Office

General queries regarding UKZN overheads and processing of locally funded proposals

reinertsenk@ukzn.ac.za

Tel: 031 260 8850

Zuzana Kolesarova

Administrative Officer
UKZN InQubate

General queries regarding NIH submissions/applications and the processing of internationally funded proposals

Kolesarova@ukzn.ac.za

Tel: 031 260 2202

All queries on research contracts with respect to law or contract legalities to be directed to Contracts Management Legal Services as follows:

Rendra Phalad

Phaladr@ukzn.ac.za

Tel: 031 260 7455

OR

Deon Moodley

Moodleyd38@ukzn.ac.za

Tel: 031 260 8199

Requests for General Legal Advice/Assistance from Legal Services (other than contracts and contracts management)

All requests for general legal advice/assistance referred by e-mail must be e-mailed to legalservices@ukzn.ac.za

Such requests will be registered and thereafter allocated to the Legal Advisor servicing the applicable College/Division. Legal Services will endeavour to revert to the requestor within a period of 48 (forty-eight) hours of receipt. Telephonic requests should be directed to any of the following numbers, X1257, 2810 or 3580. Your call will be routed to the Legal Advisor servicing your College/Division. The mentioned forty-eight hour period (unless urgent and immediate attention is required) will also be applied to such mode of request.

Identification Information on posted documents

Please ensure that any additional documents sent by internal post relating to a contract referred via the contracts management system, has adequate information attached to it to identify the sender and the contract to which it relates. Legal Services has received numerous documents by post from persons within the University where such information is lacking. This results in an inordinate amount of time spent trying to locate the sender and the contract to which it relates.

Employee Resignations

Please be reminded that on termination of employment of an employee who is a contract owner (as defined in the University's Contracts Management Principles and Regulations), the employee's Line Manager will become the contract owner and take full responsibility until a suitable successor has been appointed (refer paragraph 7.8. of the Principles and Regulations) . Legal Services must be informed timeously of such resignation and the details of the appointed successor. This information is vital for updating of the contracts management system and for future identification of the responsible contract owner.

DIRECTOR LEGAL SERVICES (July 2014)

UNIVERSITY OF KWAZULU-NATAL: APPROVED SIGNATORIES

With effect from 25 March 2014

It is resolved that, with immediate effect, the following persons and their successors in title, be authorised either singly or jointly, as may be necessary, and acting in their respective capacities as shown hereunder, to sign on behalf of the University as follows:

Unless indicated otherwise herein, an employee who has been duly appointed to act in a post has the same signing powers as if he/she was occupying that post.

An employee who exercises these powers shall enter his/her initials, surname and rank or acting rank below his/her signature.

Details of successors in title and persons acting in post mentioned below are reported at the next meeting of Council following the date on which that person has been appointed to succeed or act.

LEGAL DOCUMENTS

Legal documents including, but not restricted to, agreements, contracts, deeds of suretyship, deeds of pledge and acknowledgement of debts, and to institute or defend legal proceedings by or against the University and to sign all documents on behalf of the University which may be required in connection with legal proceedings by or against the University.

Vice-Chancellor	<i>Malegapuru William Makgoba</i>
Chief Finance Officer	<i>Bulelani Jacob Mahlangu</i>
Registrar	<i>Mzamane Convy Baloyi</i>
Director: Governance & Administration (to a maximum value of one million rand)	<i>Eric Njabulo Zuma</i>

Research Contracts only:

Deputy Vice-Chancellor: Research	<i>Vacant</i>
Pro Vice-Chancellor: Innovation, Commercialization and Entrepreneurship	<i>Dereah Ramjugernath</i>
University Dean of Research (to a maximum value of one million rand)	<i>Urmilla Bob</i>

Africa Centre for Health and Population Studies: to execute contracts on behalf of the Centre, where the Centre is disbursing funds already received

Director (to a maximum value of one hundred thousand rand)	<i>Deenan Pillay</i>
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Intellectual Property: All forms relating to the registration and assignment of Intellectual Property Rights and all agreements relating exclusively to Intellectual Property

Deputy Vice-Chancellor: Research	<i>Vacant</i>
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Cooperation and exchange agreements with foreign universities only:

Executive Director: Corporate Relations	<i>Lesiba Job Seshoka</i>
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Infrastructural Development (including building works, construction and plans) and Lease of University Owned Immovable Property

Infrastructural Development

Chief Finance Officer together with the Registrar (contracts where value is in excess of ten million rand)	<i>Bulelani Jacob Mahlangu and Mzamane Convy Baloyi</i>
Registrar (contracts where value is in excess of five million rand to a maximum of ten million rand)	<i>Mzamane Convy Baloyi</i>
Director: Infrastructure Planning & Projects and	<i>Vacant</i>
Director: Campus Management Services (all plans)	<i>Msawakhe Guardian Mfusi</i>

Director: Campus Management Services (contracts where value is five million rand or less)

Msawakhe Guardian Mfusi

Lease of University Owned Immovable Property

Registrar

(lease agreements to a maximum rental value of five-hundred thousand rand per annum and duration of three years)

Mzamane Convy Baloyi

Director: Campus Management Services

(lease agreements to a maximum rental value of two-hundred thousand rand per annum and duration of three years)

Msawakhe Guardian Mfusi

ACADEMIC RECORDS AND ACADEMIC DOCUMENTS ON BEHALF OF THE REGISTRAR

University wide

Director: Student Academic Administration

Beatrice Poo

Head: Central Student Records

Sifiso Selby Zulu

Head: Student Academic Administration, Westville & Edgewood

Shane Devanand Kisoan

Head: Student Academic Administration, Howard College & Medical School

Ajit Adhab Panday

Head: Applications & Information Office

Anita van Soelen

Head: Student Academic Administration, Pietermaritzburg

Sandra Naidoo

Director: Governance & Administration

Eric Njabulo Zuma

College of Agriculture, Engineering & Science

Director: College Professional Services

Kevin Kirkman

Manager: College Academic Services

Kosilam Munesar

College of Health Sciences

Director: College Professional Services

Stephanus Johannes Botha

Manager: College Academic Services

Ranjithadevi Ramdeyal

College of Humanities

Director: College Professional Services

Kishore Gobardan

Manager: College Academic Services

Hazel Rampaul

College of Law & Management Studies

Director: College Professional Services

Kathlyn Elena Cleland

Manager: College Academic Services

Marian Nicolette Soraya Kisten

Edgewood Campus

Senior Administrative Officer: Student Academic Administration

Siphesihle Renee Sibisi

Principal Academic Administrative Officer: Edgewood

Nomsa Abigail Ndlovu

Manager: School Operations: School of Education

Vacant

Medical School Campus

Principal Academic Administrative Officer: Medical School

Suvania Chetty

Manager: School Operations: School of Clinical Medicine

Antoinette Botha

Manager: School Operations: School of Laboratory Medicine & Medical Sciences

Mark Andrew Tufts

HUMAN RESOURCES RELATED LEGAL DOCUMENTS

All Human Resources related legal documents including but not limited to: recognition agreements, collective agreements, retrenchment packages and employment settlement agreements.

Executive Director: Human Resources

Mojaki Simon Mosia

Letters of appointment

Executive Director: Human Resources

Mojaki Simon Mosia

The undermentioned persons have authority to make offers and sign letters of appointment for posts Grade 7 and below, Senior Lecturer and below, honorary appointments, Research Fellows and Senior Research Associates; University wide or limited to their specific College or Division:

University wide

Director HR Reward Services

Hiraman Ramkisson

Manager: Human Resources – Professional Services

Thabisiile Gwambe

College of Agriculture, Engineering & Science

Manager: Human Resources

Shereen Mary Balkisson

College of Health Sciences

Manager: Human Resources

Nadia Lasich

College of Humanities

Manager: Human Resources

Nonhlanhla Kunene

College of Law & Management Studies

Manager: Human Resources

Fikile Vicky Sithole

Deferred compensation and other staff benefits related matters

Director HR Reward Services

Hiraman Ramkisson

Manager: Human Resources – Professional Services

Thabisiile Gwambe

STUDENT LOAN AGREEMENTS

Student Loan Agreements, on the terms and conditions determined by the University.

Executive Director: Student Services

Sibusiso John Chalufu

Head: Loans

Michael Newton Andrew Davids

" Annexure B "



CONTRACTS MANAGEMENT PRINCIPLES AND REGULATIONS

Name of document:	Contracts Management Principles and Regulations	
Reference number: <i>(supplied by Office of the Registrar)</i>		
Originator/Author: <i>(name and position)</i>	Mr. P Finden (Director: Legal Services)	
Custodian: <i>(position/office)</i>	Mr. P Finden (Director: Legal Services)	
Approved by:	Structure: EMC	Date: 12/12/13
Effective date:	12 December 2013	
Document review date:	Two years after effective date.	
Implementation responsibility:	Mr. P Finden (Director: Legal Services)	

1. **PURPOSE**

The purpose of this contracts management principles and regulations document is to formalise the management of contracts within the University, provide principles and regulation with respect to the creation, execution, retention, analysis requirements and person responsibility inherent in this management.

2. **INTRODUCTION AND BACKGROUND**

The University is committed to good governance and subscribes to the King III Report on Corporate Governance. In terms of the requirements of good governance, the process of contract creation, execution, retention and analysis must be efficiently and effectively managed. It is important to do so for the following reasons:

- (i) Maximise financial and operational performance.
- (ii) Minimise risk and liability.
- (iii) Comply with contract retention obligations imposed under South African Legislation.
- (iv) Retain contracts as evidence for use in possible litigation, mediation, arbitration and disciplinary hearings, and in such manner that their admissibility and/or evidential weight is not compromised.
- (v) Process public information requests on contracts in terms of the Promotion of Access to Information Act 2 of 2000 (PAIA).

To comply with this requirement, the University must implement an efficient contract management system, to ensure that its corporate governance obligations and those applicable to the persons with whom it has contracted, are fully executed.

3. **DEFINITIONS**

In this document, unless the context indicates otherwise, the following terms and expressions shall have the following meaning:

- 3.1. **"Approved Contract"**, shall mean a contract signed and entered into by the University Authorised Signatory on behalf of the University.
- 3.2. **"Active Contract"**, shall mean a specific contract (regardless of classification) that is required for the current operations at the University, and that is readily accessible by the contract owner.
- 3.3. **"Business Unit"**, shall mean any Support Division or Academic College or School.
- 3.4. **"Certificate"** shall mean a document, either in the form of a written letter duly signed by the author thereof, or an electronic communication in the form of an e-mail from the Contract Owner/Delegatee/ nominated representative, which serves as Proof of Authority for the University to enter into the Contract. Refer to Appendix 1 for example of the Proof of Authority that must be used. For research contracts, Appendix 2 must be used by the Contract Owner/Delegatee/nominated representative.
- 3.5. **"Confidential Record"**, shall mean a record that is classified or regarded as confidential, and that may only be accessed, used, copied and/or distributed by a university employee authorised to do so. Such record shall include a consumer's

personal information, employee's personal information, trade secrets, financial information and contractual agreements.

- 3.6. **"Consumer"**, shall mean a student of the University, or any other person (natural or legal) whom receives, or whom has received service from the University.
- 3.7. **"Contract"**, shall mean an obligatory agreement between the University and one or more parties, and shall include a party of natural or legal person. Examples of transactions in which a Contract is required are contained in, but not limited to, Appendix 3.
- 3.8. **"Contract Management Agent"**, shall mean a third party service provider that provides a service related to the management of the University's contracts.
- 3.9. **"Contracts Management Office"**, shall mean the office within Legal Services of the Registrar's Division, responsible for the management of contracts.
- 3.10. **"Contracts Storage Centre"**, shall mean the physical location for the storing of non-electronic active and inactive contracts, regardless whether such location is on site or off site.
- 3.11. **"Contract Owner"**, shall mean the natural and legal persons subject to the application of this policy, and it shall include employees (usually identified as the instructing party in the contracts management system), business units and any other person that initiates, creates, receives, accesses and/or uses contracts in the course of University business.
- 3.12. **"Electronic Contracts Management System"**, shall mean an electronic database, folder, archive or similar digital environment created and operated for the management of contract initiation, processing and retention in electronic format.
- 3.13. **"Employee"**, shall mean any person who works for or provides service to or on behalf of the University, and whom receives or is entitled to receive remuneration for such work or services, and shall include any person that assists in the carrying on of the business of the University.
- 3.14. **"Inactive Contract"**, shall mean a contract regardless of classification that contains obligations that have expired, and it shall include such contract that must be retained for regulatory, legal and/or operational purposes beyond its expiry.
- 3.15. **"On-line Contract Submission Form"**, shall mean the electronic form that requires completion by the Contract Owner for initiation of the contract into the electronic contract management system.
- 3.16. **"Retention Schedule"**, shall means a schedule (a separate document to this policy), which advises on applicable legislation that obligates the University to retain a contract for a particular period, where such contract includes a record of a transaction or terms of agreement, thereby requiring retention for a prescribed period in accordance with such legislation.
- 3.17. **"Service Level Agreement (SLA)"**, shall mean a service level agreement entered into between the Business Units and Legal Services, with respect to the obligations of each in the submission, creation, processing, vetting, approval and retention of contracts.
- 3.18. **"Supplier"**, shall mean any person (natural or legal) that provides a service to the University, and shall include the supplier of funding for the purposes of research, projects and the like.
- 3.19. **"University"**, shall mean the University of KwaZulu-Natal.
- 3.20. **"University Authorised Signatory"**, shall mean an employee who has authority to sign and enter into a Contract on behalf of the University, by virtue of such employee being provided with express delegation of authority by the Council in a Council resolution to do so.

4. SCOPE

The Contracts Management Principles and Regulations (CMP&R) document shall apply to the creation, execution, retention and analysis of all contracts as defined. Employees, students and other stakeholders shall adhere to these principles and regulations in this respect, and this CMP&R shall be binding on them.

5. PRINCIPLES

5.1. Obligations of University Employees (including Contract Owners) and Business Units

5.1.1. Contract Owners, authorised employees and business units shall at all times use the electronic contracts management system to initiate contracts, co-operate and comply with the contracts management principles and regulations document.

5.1.2. Contracts owners are only permitted to initiate a contract (i.e. to propose a contract to be entered into by the University), they do not have the authority to enter into the contract (i.e. to sign the contract on behalf of the University, signifying the entering into the contract, thereby creating a legally binding contract). Only employees authorised by the University Council (per Council resolution with express delegation of authority), have the necessary authority to enter into a contract and sign it. This shall also apply to any proposed extension, amendment or alteration to an active or inactive contract that has already been entered into. In the case of the latter the amended or altered contract shall be initiated into the electronic contracts management system by the contract owner as a new contract.

5.1.3. The unauthorised creation, amendment, distribution, identification, classification, access, use, storing, retention, destruction, extension, termination and/or deletion of a contract by a contract owner is illegal, and may result in criminal prosecution and/or disciplinary action, and where applicable, liability for damages and losses incurred by the University and/or any third party.

5.1.4. All University employees (including Contract Owners), shall report any breach (including any suspected breach) of the provisions of this principles and regulations document immediately to the contract management office. In the event that the reporter wishes to remain anonymous, the report shall be made on the University's whistle blowing service.

5.2. Authority to sign and enter into a Contract on behalf of the University

5.2.1. Only employees duly authorised by express University Council delegation, granting them authority to sign and enter into contracts on behalf of the University are permitted to sign and enter into a contract between the University and a Third Party.

5.2.2. The University shall not be liable on a contract on the basis of implied or ostensible authority in law, where an employee purports to sign on behalf of the University, and where such employee lacks authority because it was not expressly delegated to him by way of a Council resolution to this effect.

5.3. Contract Performance

- 5.3.1. The Contract Owner shall be responsible for the management and monitoring of the performances specified in the contract. The KPIs referred to in paragraph 6.3 and 6.4. below, should be used (as applicable) as a guide for the criteria for assessment of a supplier/service provider's performance.
- 5.3.2. The Contract Owner shall immediately report to the contracts management office, breaches of any obligation by the supplier/service provider contained in the terms and obligations of the contract, where such breach is material and would ordinarily warrant termination of the contract prior to expiry.
- 5.3.3. The contracts management office, shall report the breach to the Legal Advisor whom shall be responsible for providing legal advice to the contract owner on the legal processes required to have such breach remedied.
- 5.3.3. All general commercial, procurement, service and finance contracts must contain penalty clauses appropriate to the protection of the business needs and operations of the University. Penalty clauses must be invoked where a contracting party to the University is in breach of their contractual obligations.

5.4. Contract Destruction, Disposal and Deletion

The destruction, disposal and deletion of a contract shall only be made after a period of five (5) years after the expiry of the contract, unless the retention of the contract is specifically prescribed in the retention schedule.

5.5. Ownership of Contracts

The University shall own all contract to which it is a party, irrespective of whether such contract was created in whole or in part by the contract owner, employee or other third party.

6. REGULATIONS

The University shall endeavour to manage the process of contract creation, execution, retention and analysis in accordance with best practice contract management. This will include the measures set out below:

6.1. Records relating to a Contract

A contract file shall be maintained in the electronic contracts management system, which shall include all contract memos, contract amendments with associated back-up information, minutes, all applicable correspondence and notes from relevant telephonic conversations.

6.2. Legal Compliance and specific definitions

Proposed contracts shall be vetted in general by University Legal Advisors for legal and University compliance, specific definition to the following shall be included in all prospective contracts:

- (i) Performance standards with consequences or available sanctions for failure to meet the performance standards.
- (ii) Technical requirements or specifications with delivery dates.
- (iii) Timings of contract review meetings.
- (iv) Payment dates and schedules.

6.3. Supplier relationships and monitoring

Suppliers shall be treated as the extension of the University with strong strategic alliances or partnerships being formed in key supply areas. Relationship with suppliers must be constructive, built on a competitive approach that leads to cost savings and better quality. Continual market benchmarking must take place to monitor capabilities, and information should be shared with suppliers to improve expectations, service levels and pricing.

6.4. Performance management and key performance indicators (KPIs)

There must be a clearly defined acceptance level of delivery in terms of quality and quantity. This will involve defining the acceptance percentage of goods that are defective on arrival, incorrect invoices, failure under warranty and mean time failures. Other factors that affect a supplier's performance and that requiring monitoring shall include:

- (i) Number of variations requested as compared with those agreed.
- (ii) Price movement against competitors/indices.
- (iii) Quality of supplier's customer support.
- (iv) Technical support and knowledge of supplier.

Supplier performance and contract adherence shall be enhanced by monitoring against the abovementioned KPIs.

6.5. Contracts Management Office

A dedicated contracts management office shall be established within Legal Services of the Registrar's Division. The duties of the contracts management office shall include the following:

- (i) Establishment, implementation and maintenance of the electronic contract management system.
- (ii) Provide assistance and guidance to Contract Owners in the correct drafting of contracts, classification, retention, access, termination and destruction and use of contracts.

- (iii) Informing Contract Owners of University contract management governance regulations, and educating them on the maintenance of good and proper contract management standards, process and related issues.
- (iv) Establishment, management and maintenance of a contract management centre for non-electronic retention, and an electronic contract management system for electronic contract retention.

The Director Legal Services, with the permission of the Registrar, may outsource any of the abovementioned duties to one or more Contracts Management Agents.

6.6. Contract Storage Centre and Electronic Contract Management System

6.6.1. Contract Storage Centre

6.6.1.1. The Contracts Management Office shall with the assistance of the Office of the Registrar, establish, operate, manage and maintain one or more physical contract storage centres for the secure retention of active and expired contracts.

6.6.1.2. The Contracts Management Office together with the Office of the Registrar, shall ensure the physical security of the contract management storage centre, by managing access to stored contracts by contract owners, authorised employees, business units and any other persons (natural or legal) that uses or requires contracts for information in the course of university business.

6.6.2. Electronic Contract Management System

6.6.2.1. The Contracts Management Office shall establish, operate, manage and maintain one or more secure electronic contract management systems for the purposes of contract initiation, creation, execution, retention and analysis.

6.6.2.2. The Contracts Management Office shall ensure that the:

- (i) The architecture of such electronic contracts management system satisfies the "*writing*", "*signature*", "*retention*", "*original*" and "*evidence*" requirements of the Electronic Communications and Transactions Act 25 of 2002.
- (ii) Access to the electronic contracts management system is restricted to authorised contract owners and authorised employees.
- (iii) The integrity of the contracts stored in the electronic contracts management system will be secured by the inclusion of a proper audit trail.
- (iv) The classification, storage, access, copying, distribution, termination and deletion of contracts are secured by the inclusion of a proper audit trail.

7. PROCEDURES AND GUIDELINES FOR IMPLEMENTATION

7.1. Supporting Documentation

7.1.1. The Contract Owner shall be required to put up all certificates required to support the contract Initiation in the electronic contracts management system, such certificates shall include proof that all the obligations due by the university to the

contract will be met. These certificates shall be submitted together with the contract on completion of the online contract submission form to the electronic contracts management system by the Contract Owner.

7.1.2. The Contract Owner shall be required to obtain from the other contracting party/ies all certificates required by the University Legal Advisor (which shall include insurance covers, certificate of incorporation, board resolutions authorising the contract, bank statements, BBEEE certificates and Tax Clearance Certificates), which shall be submitted together with the contract on completion of the online contract submission form to the electronic contracts management system by the Contract Owner.

7.1.3 The Contract Owner is required to refer to Appendix 4, which contains a General Checklist for submission of Contracts via the Electronic Contract Management System.

7.2. Contract Classification

7.2.1. The contracts management office shall be responsible for the classification of a contract that it is initiated by a contract owner. This office shall classify such contract according to research or other, and in the case of the latter a further classification into contract types that are identified in terms of law as "nominate" with "type" (e.g.: Lease, surety etc.) and those that are "innominate" referred to as "general".

7.2.2. The contracts management office shall index the classification associated with the contract in the electronic contracts management system. This will be done to assist with contract analysis and for reporting purposes from the system.

7.3. Access to Contracts

7.3.1. The contracts management office shall be responsible for providing access to active and inactive contracts to persons whom have requested access to use or copy a contract that is retained in the contract storage centre or the electronic contracts management system.

7.3.2. The contracts management office shall keep a record of the request, with sufficient detail to identify the requestor, the date of the request, the purpose and contract accessed.

7.3.3. A request for access shall be restricted to the electronic contracts management system. Access to the contract storage system, shall only be permitted when access is in the presence of an employee from the contracts management office. The original may not be removed from this storage system.

7.4. University Signatories

University authorised signatories shall only be permitted to sign and enter into a contract on behalf of the university where:

- (i) A contract has been initiated and processed in the electronic contracts management system,
- (ii) The contract has been vetted by a University Legal Advisor as part of the contracts management process,
- (iii) The University Legal Advisor has put up a certificate that confirms such vetting, that the contract is compliant with law, University policy, procedure and that it may be entered into.
- (iv) A certificate from the Contract Owner is attached, confirming that all the obligations due by the university to the contract will be met,
- (v) The contract contains an expiry date (unless due to the type of contract or by way of exception the contract is required to be of indefinite duration); and
- (vi) The Authorised Signatory has the express delegated authority of the Council to sign and enter into the proposed contract at the time that he signs and enters into the contract on behalf of the University.

7.5. Performance and Breaches of Contract

7.5.1. On receipt of a report from the Contract Owner of a breach of contract, the contracts management office shall immediately report such breach to the University Legal Advisor, who shall then take responsibility for providing legal advice to the Contract Owner and the University Authorised Signatory on appropriate legal steps to initiate in the circumstances. These steps may include cancellation and termination of the contract. Authority to cancel and terminate a contract must be obtained from the relevant University Authorised Signatory. Authority to sue the other contracting party on cancellation of a contract must be obtained by the Director Legal Services from the Registrar. The contracts management office shall cause a report to be placed in the electronic contracts management system advising that the contract is cancelled and alter the contract expiry date to reflect the date of cancellation.

7.5.2. In the event of that a performance review shows a supplier/service provider's performance to be wanting, the Contracts Owner must advise the University's Finance Division of the supplier/service provider's non-compliance or under performance. The Finance Division shall take appropriate action in the circumstances, which may mean the implementation of penalties as provided in the contract, or the stopping of payment.

7.5.3. The Contract Owner must advise the University's Finance Division of a breach where the University Authorised signatory has authorised cancellation of the contract. The Finance Division shall stop payment.

7.6. Expiry Dates of Contracts

7.6.1. Contracts should have a fixed expiry date, and should in general be short to medium term in duration. Contracts of long or indefinite duration shall not be permitted, unless due to the type of contract, or by way of other required exception, the contract duration is required to be otherwise. Contracts of the following type, i.e. research, loan finance, registered long lease of immovable property or memorandum of understanding (MOU) will be permitted long or indefinite duration.

A contract of short duration shall be one year, medium duration shall be two years and long duration shall be five years. Where an indefinite or long duration is required, it must be demonstrated that it is required and in the best interests of the University. This must be done by the Contract Owner by way of certificate at the time of the initiation of the contract into the electronic contracts management system by submission of the referral form. Such certificate must provide detailed reasons for the duration requirement. Authorisation for a contract of indefinite or long duration may only be provided by the University Authorised Signatory, who shall require in certain instances, the prior permission of the Minister of Education in terms of the Higher Education Act 101 of 1997. The University Legal Advisor shall advise the University Authorised Signatory when Ministerial permission is required.

- 7.6.2. The contracts management office shall ensure that all on-line contract referrals into the electronic contract management system contain an expiry date, the proposed contract is of short or medium duration, and the requisite authorisation is present where the contract duration is long or indefinite.
- 7.6.3. A contract shall not be extended beyond its date of expiry, unless the Contract Owner initiates the extension in the electronic contracts management system. In such instance the contracts management office shall process the extension as a new contract in the system, subject to the extension being in compliance with the contract duration and authorisation requirements referred to above.
- 7.6.4. On expiry or extension of a contract, the Contract Owner shall notify the University Finance Division of the expiry or extension. The Finance Division shall take appropriate action to stop payment on expiry or implement further payments as per the approved contract terms.

7.7 Contract Destruction, Disposal, Deletion and Notification of Expiry

- 7.7.1. The contracts management office shall on an annual basis, prepare and circulate a certificate to the contract owners of all expired original inactive contracts in the contracts storage centre that will be due for destruction or disposal, and deletion of the same from the electronic contracts management system.
- 7.7.2. The contracts management office shall prepare a certificate confirming:
 - (i) The date upon which the contract shall be destroyed or deleted.
 - (ii) The manner in which the contract shall be destroyed or deleted.
 - (iii) The manner in which the destruction shall be audited or confirmed.
- 7.7.3. This certificate shall be retained for safekeeping by the contracts management office.
- 7.7.4. The contracts management officer shall destroy and delete the contract detailed in the certificate on the date mentioned therein.
- 7.7.5. All original contracts shall be destroyed through shredding, or a similar process that prevents reconstruction of the contents thereof in intelligible form after destruction.

- 7.7.6. The electronic contracts management system shall be set up to provide a warning notification system, to alert the contract management office of contracts that will expire. The contracts management office will be responsible for ensuring that the system is operative by capturing the necessary information into the electronic system for this purpose. The contracts management office will be responsible for timeously advising the Contract Owner of this notification, so that he is able to take the necessary steps for renewal, or securing another contract (as the case may be).

7.8. Termination of Employment of an Employee who is a Contract Owner

On termination of employment of an employee who is a Contract Owner, the employee's Line Manager will become the contract owner, and will take full responsibility for the operation of the contract until a suitable successor has been appointed. The Line Manager shall notify the contracts management office by way of certificate, of such termination and the details of the successor, which will then be entered into the electronic contracts management system by the contracts management office.

8. Service Level Agreement (SLA)

A service level agreement shall be concluded between Legal Services and the Business Units, with respect to the obligations of each in the submission, creation, processing, vetting, approval and retention of contracts.

APPENDIX 1**Proof of Authority**

Mr Randy Phalad
Contracts Management
Legal Services
Westville campus

Date: _____

Details of Contract:

(PLEASE BRIEFLY DESCRIBE THE PURPOSE, NATURE AND EXTENT OF THE CONTRACT).

I am aware of the nature and extent of the Contract. I confirm that all University procedures, regulations and policies (for example, the Procurement Policy, Research Policy etc.) which are applicable to this Contract have been complied with.

I confirm that any funds received and /or paid will be allocated to the cost centre number _____ (Specify) and I am satisfied with all obligations imposed in the Contract.

I confirm that where funds need to be paid out, the Cost Centre does contain sufficient funds.

I undertake to take full responsibility for the management of this Contract.

By signing this Proof of Authority, I confirm that I have verified all of the abovementioned statements.

Authorised Signature: _____

Name in full: _____

Designation: _____

APPENDIX 2

Proof of Authority: Research Form 1

UNIVERSITY OF KWAZULU-NATAL	
RESEARCH RELATED FORM	File Ref No: _____
FORM 1	
Name of UKZN Principal Investigator _____	
Department / School / College _____	
Name of Dean and HOS _____	
Title of Project _____	
PROJECT FOCUS AREA _____	
Funder _____	
UNDERTAKING BY PRINCIPAL INVESTIGATOR:	
As the Principal Investigator for the above Project, I confirm that I have read the documentation regulating the Project, including the contract, the annexures to the contract and all Project description documents. I confirm that:	
<ul style="list-style-type: none"> I am willing to undertake the Project on behalf of the University of KwaZulu-Natal; I will be able to meet the deliverables for the Project as specified in the contract and supporting documents, within the specified time-frames; I will be able to undertake the Project within the agreed budget. 	
Signature of Principal Investigator _____	Date _____
UNDERTAKING / APPROVAL OF DEAN AND HEAD OF SCHOOL:	
As the Line Manager for the Principal Investigator, I confirm that I have read the documentation regulating the Project, including the contract, the annexures to the contract and all project description documents. I confirm that:	
<ul style="list-style-type: none"> The Principal Investigator has the necessary approvals to carry out the Project, in terms of the University of KwaZulu-Natal's applicable policies; The Principal Investigator has the approval of the Discipline/ School / College (delete as applicable) to carry out the Project within the Discipline / School / College (delete as applicable); The Discipline/ School / College has the necessary resources to support the conduct of the Project, as required by the contract, and is willing to make these resources available to the Principal Investigator for the conduct of the Project; I am comfortable for this document to be forwarded to the University Dean of Research or DVC Research for approval. 	
Signature of DEAN and HOS _____	Date _____
SIGNATURE COLLEGE DEAN OF RESEARCH _____	Date _____
1 of 2	

PRINCIPAL INVESTIGATOR (PI)

Name	Highest Qualification eg. PhD	Race	Gender	Nationality	Affiliation to UKZN

TEAM MEMBERS

Name	Highest Qualification eg. PhD	Race	Gender	Nationality	Affiliation to UKZN

➔ Please add more if required



UNIVERSITY OF
KWAZULU-NATAL
INYUVESI
YAKWAZULU-NATALI

FORM 2

(RESEARCH AMENDMENTS, MODIFICATIONS, ADDENDUMS)

Funder Name:

Project title:

Amendment/Modification/Addendum:

Reason for the amendment/modification/addendum:

.....

.....

.....

.....
Name of Principal Investigator

.....
Signature of Principal Investigator

.....
Date

I hereby approve and I am satisfied with all obligations imposed in the above

.....

.....
Name of Dean and Head of School

.....
***Signature of Dean and Head of School**

.....
Date

***Dean & HOS to check and approve documents before signing this approval**

APPENDIX 3**TRANSACTIONS THAT REQUIRE CONTRACTS:**

1. Inter-Institutional Arrangements
 - Memorandum of Understanding with other Higher Education Institutions)
 - Memorandum of Agreements
 - Confidentiality/Non-Disclosure Agreements
2. Research Related Transactions
 - Sub-Contractor Agreements
 - Collaboration Agreements
 - Material Transfer Agreements
 - Consultancy Agreements
3. Financial Transactions
 - Credit Agreements
 - Loan Agreements
 - Acknowledgement of Debt
 - Cession Agreements
 - Negotiable Instruments
 - Novation/Compromises and Settlements
 - Pledge
 - Sale of Business
 - Suretyship Agreements
 - Donations
4. Student Specific Contracts
 - Bursary/Scholarships
 - Student Funding Agreements
 - Sponsorship Agreements
 - Student Exchange Agreements
5. Industry Specific Contracts
 - Building and Engineering Contracts (JBCC Contracts)
 - Purchase and/or Sale of Movable/Immovable Property
 - Lease Agreements
6. Intellectual Property Transactions
 - Deed of Recordal
 - Benefit Sharing Agreements
 - Deed of Assignment

- **Licensing Agreement**

7. Service Level Agreements

- **Transportation**
- **Cleaning/Maintenance Services**
- **Printing Services**
- **Security Services**

KINDLY NOTE that this is not an exhaustive list and you are obliged to contact Legal Services to ascertain whether a Contract is required for a particular transaction.

APPENDIX 4

**GENERAL CHECKLIST FOR SUBMISSION OF CONTRACTS VIA THE
IMAGENOW CONTRACT MANAGEMENT SYSTEM**

Is this a New Contract / Renewal or Addendum of an existing Contract? State which is applicable. NB: If a Renewal or Addendum of an existing Contract, provide the existing signed Contract.		
Is this a Main Contract or Subcontract Agreement? NB: If Subcontract Agreement, provide the Main Agreement.		
NO.	DESCRIPTION	YES / NO / N/A
1.	Have you provided a draft Contract in Word format or a Standard Template Contract?	
2.	Have you provided Proof of authority from Dean/ Head of School/ DVC/ Member of EMC in the format stipulated by Legal Services indicating the cost centre and amounts payable/ received? If NO, the Contract must be returned to the Instructing Party/Department to ensure compliance.	
3.	If RESEARCH Contract, have you provided <u>FORM 1</u> duly signed by Principal Investigator, Dean and HOS <u>and</u> College Dean of Research? If NO, the Contract must be returned to the Instructing Party/Department to ensure compliance.	
4.	What is the value of the Contract?	
5.	Have you provided other party company documentation If not on the UKZN Supplier database? <ul style="list-style-type: none"> • Certificate of Incorporation issued by CIPC or its predecessor; • If a partnership, certified copy of partnership agreement; • If a trust, certified copy of trust deed and current letters of authority issued by the relevant Master of the High Court; • If a voluntary association, certified copy of constitution; • Current BBBEE certificate issued by an organisation accredited by South African National Accreditation System (SANAS) or exemption certificate from Accountant; • Current & valid Tax clearance certificate; • VAT registration certificate; 	
6.	If other party is an individual, have you provided a certified copy of SA identity document (or foreign passport)?	
7.	Has the Contract been approved by the relevant Executive/ Board of Directors/ Members of the other party?	

	If YES, provide resolution. (If NO, get a resolution)	
8.	Has the procurement process been complied with? If NO, the Contract must be returned to Instructing Party/ Department to ensure compliance.	
9.	Have you provided proof of banking account: original letter from banker confirming banking details and good standing of account; not older than 3 months?	
10.	Have you provided proof of insurance: original letter from insurance broker's confirming the type and level of cover (for example, public liability cover in the amount of R 5 million per event etc.)?	
11.	Have you submitted a copy of the quotation/s received indicating amounts payable?	
12.	Have you submitted a copy of proposal/s, project plan/s or application/s applicable?	
13.	Have you submitted a copy of a budget or estimated budget?	
14.	Have you checked the budget availability in the applicable cost Centre?	
15.	Have you submitted or uploaded a copy of any tender documentation including: <ul style="list-style-type: none"> • Advertisement calling for bids • Bid Document • Bid submission document for successful bidder • Adjudication Report • Resolution of MFST • Contracts from recognized authority e.g. JBCC, PROCSA, etc • Letter of appointment or similar document 	
16.	Have you clearly described the deliverables and obligations of the parties to the Contract?	
17.	Does the Contract have a Commencement Date and Termination Date?	
18.	Is there a penalty or breach clause?	
19.	Is there an intellectual property rights clause?	
20.	Have you submitted supporting documentation or Annexures referred to in the Contract?	

By signing this Checklist, I confirm that I have verified all of the abovementioned items and should there be information found to be incorrect, I may be subject to disciplinary action.

Signature: _____

Name in full: _____

Date: _____