

**University Policy  
Adopted by the President  
October 6, 2010**

**University of Rochester  
Policy on Contracts, Signatures and Financial Authority**

Purpose: Establishes University-wide Policy on:

1. Contracting
2. Approval and Signatory Authority for Commitments and Contracts
3. Required Contract Review
4. Required Contract Terms

Applies to: All faculty and staff

Covers: All Contracts between the University and others, including employees, outside vendors, non-profit and for-profit entities

Questions: Contact Office of Counsel 273-5824.

**I. CONTRACTING POLICY**

Employees may sign Contracts in the name of the University only if they have authority to sign as set forth in this Policy. Students, faculty, consultants and independent contractors do not have authority to sign Contracts that bind the University. The term “Contract” is defined, broadly, to mean any document intended to set forth an agreement or arrangement between the University and an outside party (see Section VI of this Policy for further definition). This policy does not apply to internal memoranda of understanding or similar agreements that govern internal relationships between University schools, divisions or subsidiaries.

It is the responsibility of anyone who presents a Contract for signature and who signs a Contract in the name of the University to read and understand the terms of the Contract, assure that the Contract has been reviewed and approved as set forth in this Policy and that the business terms of the Contract are fair and reasonable to the University. This policy assumes that those who present Contracts for approval and signature have followed the normal business practices and policies of the University relating to initiating a business relationship or transaction, getting approval for capital spending, and the like.

Under the Code of Conduct, an employee who has a conflict of interest with respect to a Contract does not have authority to sign the Contract and should not be involved in the approval process with respect to the Contract. The Code of Conduct applies whether the subject of the Contract is commercial or academic. <http://www.rochester.edu/working/codeofconduct/index.html>

Signing a Contract on behalf of the University is an important responsibility and should be done only by someone with authority and an understanding of the obligation being undertaken. A person who signs a Contract on behalf of the University without authority may be subject to disciplinary action up to and including termination. A person who signs without authority in some cases even may be liable for the obligations, debts and risks under that Contract. The individual's liability may be personal. The University will not be bound by the terms of a Contract signed by an individual without authority unless an Officer of the University subsequently agrees that the University will honor the Contract.

All University Contracts must be in writing, which may include electronic (but not email) form. No contract will bind the University unless in writing and signed according to this policy.

This Policy applies equally to amendments and terminations of Contracts.

This Policy supersedes any conflicting practice, policy, delegations or guidelines.

## **II. CONTRACT APPROVAL AND SIGNATURE AUTHORITY**

### **A. The President**

The President of the University must be informed in advance about all Significant Commitments, before the commitment is communicated to any Counterparty. Contracts relating to Significant Commitments must be reviewed and signed by an Officer of the University and reviewed by the General Counsel of the University.

A Significant Commitment is one that meets any ONE of the following criteria:

1. Goes to the Board of Trustees or a committee thereof for action or approval (see table under Section II.G)
2. Involves international or out of state operations or establishment of a University office or corporation, joint venture or partnership in a foreign country (other than study abroad or individual, intermittent faculty research.)
3. Involves use of the University's name by another entity particularly through affiliation or endorsement (other than a license for University name or marks or appearance on a client list or the giving of credit to University as author or donor) or the naming of all or part of a University building, facility or school.
4. Has the potential to generate significant internal or external publicity or controversy.
5. Has the potential to result in unusual or significant risk or liability.
6. Involves a joint venture with another entity, profit or non-profit, including academic affiliations (except those limited to medical resident or medical/nursing student placements or routine student exchanges.)
7. Creates a subsidiary or other type of controlled entity.
8. Creates a gift or pledge of at least \$1 million or the donor is a Trustee, but not including reoccurring or smaller gifts such as donor society memberships and benefit sponsorships.

9. Involves a significant expenditure of funds or one that is otherwise unusual in terms of the relevant budget – an expenditure of \$10 million or more in the aggregate under a contract (excluding a routine contract for medical supplies or pharmaceuticals) is presumed to be significant, although lesser sums in context may also qualify as significant. For example, in a school or division with an annual budget of \$25 million, a non-recurring expenditure of \$2.5 million would be considered a significant expenditure. This example is intended as a guide, not to be a rigid 10%-of-budget rule.

#### B. University Officers

University Officers have authority to approve and sign all Contracts except those reserved to the President. It is expected that Officers will only sign Contracts within their general areas of authority.

#### C. Deans

Deans have authority to approve and sign Contracts that:

1. impact solely the programs and budgets they oversee;
2. involve total expenditures (including any renewal or option terms) that do not exceed \$1M;
3. do not affect central systems or budgets, or those of other divisions or units of the University; and
4. do not contain terms that could result in unusual risk or liability for the University such as and only by way of example: (a) requiring insurance in excess of normal University policies (see Appendix 5), (b) requiring unusual indemnification (e.g. for the Counterparty's own negligence or for consequential damages like lost profits), or (c) obligating the University for more than five years in the future.

Deans, and not Department Chairs or other faculty with administrative appointments, have the sole authority to make verbal or written offers to and sign appointment letters with faculty in their schools.

#### D. Medical Center Officers

Medical Center Officers have authority to approve and sign Contracts that:

1. impact solely the programs and budgets they oversee;
2. involve total expenditures (including any renewal or option terms) that do not exceed \$5M;
3. do not affect central systems or budgets, or those of other divisions or units of the University; and
4. do not contain terms that could result in unusual risk or liability for the University such as and only by way of example: (a) requiring insurance in excess of normal University policies (see Appendix 5), (b) requiring unusual indemnification (e.g. for the

Counterparty's own negligence or for consequential damages like lost profits), or (c) obligating the University for more than five years in the future.

A contract that impacts central systems or budgets or those of divisions or units of the University other than those that are the responsibility of the Dean or Medical Center Officer can be signed by a University Officer after consultation with those responsible for the other areas potentially impacted. A contract that exceeds \$1 million, but is not otherwise described as beyond the signature authority of the Dean or Medical Center Officer, can be signed by an Officer of the University. If a contract contains terms that could result in unusual risk or liability for the University, the President and the Office of Counsel must be consulted before the contract can be signed.

E. Department Chair, Unit Head, Administrators and Individual Faculty Members

The Department Chair or head of the Unit whose budget will bear an expense does not have authority to sign Contracts by virtue of the budgetary effect alone. Contracts can be signed only by the administrators who are named elsewhere in this policy or by administrators who have been delegated authority to sign that kind of Contract by a delegation on file with Office of Counsel. *See the Office of Counsel Website for current delegations.* Individual faculty members do not have authority to sign contracts that bind the University. However, if the budget of a department or unit will be charged for an expense related to a Contract, other than through allocation of central University, Medical Center, School or Division expenses, the head of the department or unit must be given an opportunity to understand the essential terms of the Contract before it is signed.

F. Office of Counsel

The Office of Counsel reviews certain Contracts and parts of Contracts, as described below, but it does not sign Contracts for the University, except as specifically provided in the table in Section F.

G. Delegation

Those who are authorized to approve and sign Contracts may delegate their authority to others. Delegation must be in writing and specifically limited by agreement type and dollar amount. (See Appendix 3 for Sample Delegation Document). A person to whom authority is delegated cannot further delegate that authority to another, without the written approval of the person who made the original delegation. The person who delegates authority retains responsibility for the actions of the person to whom authority is delegated.

A copy of all delegations, re-delegations, or revocation of delegations of authority to approve and sign Contracts must be sent to the Office of Counsel to be effective and honored by the University. Delegations currently in effect are posted on the Office of Counsel website. <http://www.rochester.edu/counsel>

H. Approval, Review and Signatory Authority for Contracts

The following table identifies who must approve and sign various types of common obligations or contracts (except in cases of unavailability, when any University Officers may sign.) Others may not sign unless they are University Officers or unless they have been delegated authority elsewhere in this Policy or in a written document on file with the Office of Counsel. (Check the Office of Counsel website <http://www.rochester.edu/counsel> ) The table also lists review and approval required before signature. If a Contract does not appear on the table, consult the Office of Counsel to determine appropriate review and signature. All of the authority below is subject to the limitations described in Section II A-G of this policy, above.

<b>Contract Type</b>	<b>University Officer that should sign and/or others who may sign</b>	<b>Prior Internal Consultation Required</b>	<b>Counsel Review Required</b>	<b>Trustee Approval Required<sup>1</sup></b>
<b><i>Academic Affiliations and Collaborations</i></b> 1. Faculty exchanges 2. Joint programs	President; Provost (Senior Vice President for Health Sciences for MC); or Dean	President; Provost	Yes	
<b><i>Athletics agreements (incl. camps)</i></b>	Dean of the College	President if Significant Commitment; Director of Athletics	Yes	
<b><i>Confidentiality or Non-disclosure agreements (NDAs)</i></b>	Deans; Medical Center Officers; Directors of ORPA, OTT, Corporate Purchasing	President if Significant Commitment	No if standard approved terms used (see Office of Technology Transfer website for standard). Yes otherwise.	
<b><i>Estates and Trust Receipts and Releases (and related agreements)</i></b>	Senior VP and General Counsel	Office of Trusts and Estates	Yes	

<b>Contract Type</b>	<b>University Officer that should sign and/or others who may sign</b>	<b>Prior Internal Consultation Required</b>	<b>Counsel Review Required</b>	<b>Trustee Approval Required<sup>1</sup></b>
<b><i>Facilities</i></b>  1. University Facility Use Agreements (short and long term, including leases)	Deans; Medical Center Officers; Director of Conferences and Events (for short-term)	President if Significant Commitment	For short-term use, no if standard approved terms used. Yes otherwise.  Yes for all long-term use agreements and leases.	
2. Construction or renovation and related agreements (non-CON)	Executive Director of Planning and Project Management (if under \$500,000); Senior VP for Admin. & Finance if \$500,000 or above	President if going to Board; Facilities PPM Office (all)		Facilities Committee of Board of Trustees if over \$1M (or if over \$500K if not within approved Capital Budget); and for all Design & Consultant Contracts over \$100K
3. Construction or renovation and related agreements (CON required)	Executive Director of Planning and Project Management (if under \$500,000); Senior VP for Admin. & Finance if \$500,000 or above	MC CFO		URMC Board approval required
<b><i>Financial</i></b> 1. Banking agreements	Senior VP/CFO <sup>2</sup>	President, if Significant Commitment	Yes	Yes

<b>Contract Type</b>	<b>University Officer that should sign and/or others who may sign</b>	<b>Prior Internal Consultation Required</b>	<b>Counsel Review Required</b>	<b>Trustee Approval Required<sup>1</sup></b>
2. Debt (including loans or lines of credit; bond issues; loan guarantees)	Senior VP/CFO <sup>2</sup>	President, if Significant Commitment	Yes	Required for all debt transactions, including guarantees. Facilities Committee for capital lease less than \$1 million or a non-capital lease over \$1 million; full Board or Executive Committee if capital lease above \$1 million.
3. Accounting and audit services	Senior VP/CFO <sup>2</sup>	President, if Significant Commitment	Yes	Yes, by Audit and Risk Committee
4. All equipment leases (both capital and operating) unless signed by Corporate Purchasing	Senior VP/CFO <sup>2</sup>	Treasury Manager	No, unless terms are unusual (per Treasury Manager)	
5. Credit cards (including processing services and University-branded affinity cards)	Senior VP/CFO <sup>2</sup>	Treasury Manager	Yes	

<sup>2</sup> This abbreviation refers to the Senior Vice President for Administration & Finance and Chief Financial Officer.

Contract Type	University Officer that should sign and/or others who may sign	Prior Internal Consultation Required	Counsel Review Required	Trustee Approval Required <sup>1</sup>
<p><b><i>Gift Agreements (See also University Advancement gift policy)</i></b></p>	<p>Senior Vice President and Chief Advancement Officer [link to Advancement Gift Policy];</p> <p>President, if available, for leadership gifts/pledges or gifts pledged by a Trustee</p> <p>Relevant Dean and Advancement Representative, in addition to the above, in most circumstances</p>	<p>President if Significant Commitment</p> <p>General Counsel and Sr. VP/CFO if professorship.</p> <p>General Counsel if race, gender or similar restriction.</p> <p>Senior VP and Chief Advancement Officer, General Counsel, and Sr. VP/CFO if real estate</p> <p>Senior VP for Institutional Resources if split-interest gift and non-liquid security or financial asset.</p> <p>Dean, Director or Department Head overseeing any office that will maintain or dispose of gifts in kind (e.g. books, art collection)</p>	<p>No if standard approved terms and templates used. Yes otherwise.</p>	

<b>Contract Type</b>	<b>University Officer that should sign and/or others who may sign</b>	<b>Prior Internal Consultation Required</b>	<b>Counsel Review Required</b>	<b>Trustee Approval Required<sup>1</sup></b>
<b><i>Human Resources</i></b>			Yes	
1. Employment Contracts (excluding standard offer letters that are not for a definite term)	Deans for all faculty contracts and appointment letters and for their staff with contracts;  President if employee is Dean, Officer, MC Officer, Assistant or Associate Vice President; Chair of Board of Trustees if employee is President			Compliance and Compensation Committee if officer or key employee or involves any unusual provision such as, but not limited to, loans, club dues, tax gross up, deferred compensation or any benefit other than generally available University retirement plans and benefits
2. Severance/Separation Agreements	For all other staff, Associate Vice President for Human Resources		Yes	
3. Benefits-related	Sr. VP/CFO	Assoc VP for Human Resources	Yes	
4. Lease of University employees to outside entity	Sr. VP/CFO		Yes	
<b><i>Information Technology</i></b>				
1. Major systems, projects or services	(a) University CIO or ISD CIO (for MC Contracts.) and (b) Senior VP/CFO or MC VP/CFO (for MC Contracts)	All: University or ISD Chief Information Officer (CIO) should be consulted;	No if standard approved terms used. Yes otherwise.	

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2. Servers whether stand alone or connected to University systems	Deans and Medical Center Officers	President if Significant Commitment or cost is over \$10 million;  Provost if the good or service will significantly impact central University or MC critical IT systems or those of divisions other than the division making the purchase		
3. Hardware or software that will be exposed to the internet or be used to store or transmit personal identity information (PII) or personal health information (PHI).	Deans and Medical Center Officers			
4. Software or design services to create or support Internet viewable content that function to represent the University, or any division, department or unit	Vice President for Communications			
<b><i>International Programs, Offices, or Joint Ventures (does not include study abroad, fund-raising or individual faculty research in other countries)</i></b>	President	Sr. VP Admin. & Finance or MC CFO; Provost or SVP MC; Dean; Controller; General Counsel	Yes	
<b><i>Investment Agreements</i></b>	Senior VP for Institutional Resources	President if Significant Commitment	No	Investment Committee

<b>Contract Type</b>	<b>University Officer that should sign and/or others who may sign</b>	<b>Prior Internal Consultation Required</b>	<b>Counsel Review Required</b>	<b>Trustee Approval Required<sup>1</sup></b>
<b><i>Legal</i></b> 1. Settlement Agreements (litigation or claim)	Office of Counsel	Dean, Officer or Medical Center Officer if amount is over \$500,000;  President if significant liability or probable adverse publicity	Yes	
2. Legal Services and related	Office of Counsel	President if significant liability or probable adverse publicity	Yes	
3. Insurance policies (excluding health insurance or employee benefits)	Office of Counsel	President if significant liability or probable adverse publicity	Yes	
<b><i>Medical Center Miscellaneous</i></b> 1. Contracts for medical services provided to outside entities	MC CEO and MC CFO	President if significant commitment	Yes	
2. Physician Practice Acquisitions	2. MC CEO and MC CFO	President if significant commitment	Yes	
3. Contracts with third-party payors	3. MC CEO	3. MC CEO and MC CFO	Yes	
<b><i>Off-site Events (hotel, caterer, event managers e.g.)</i></b>	All Officers; Deans; MC Officers	President if significant commitment	Yes, if vendor-supplied contract	
<b><i>Out of State Operations (offices, employees or faculty located or operating in US outside of New York State)</i></b>	Sr. VP Admin & Finance	Controller; Provost or SVP MC; Dean; General Counsel	Yes	

<b>Contract Type</b>	<b>University Officer that should sign and/or others who may sign</b>	<b>Prior Internal Consultation Required</b>	<b>Counsel Review Required</b>	<b>Trustee Approval Required<sup>1</sup></b>
<b><i>Professional Services (including consulting, but excluding construction-related, legal, accounting and medical services)</i></b>	All Officers; Deans; Medical Center Officers; plus either (a) Director of Purchasing (if on a Purchase Order and \$500,000 or less in total value); or Sr. VP for Admin. & Finance or MC VP for Finance if above \$500,000	President if \$10 million or Significant Commitment	No unless medical, accounting, or legal services, or contingent fee arrangements	
<b><i>Publicity; Outside Party's Use of University Name and Marks (e.g. shield logo)</i></b> 1. Filming/ Photography on University property for non-University purposes	Vice President for Communications; Associate Vice President for Medical Center Public Relations and Communications and Directors of PR/Communications for the Schools, MAG and LLE, for Contracts exclusively affecting their respective units.	Vice President for Communications; President if Significant Commitment	No if University standard contract used	
2. Trademark-related agreements (all use of names or marks)		Vice President for Communications; President if Significant Commitment	Yes	
3. Advertising	Deans, Medical Center Officers	Vice President for Communications (or Associate Medical Center Vice President for Public Relations and Communications for MC)		

<b>Contract Type</b>	<b>University Officer that should sign and/or others who may sign</b>	<b>Prior Internal Consultation Required</b>	<b>Counsel Review Required</b>	<b>Trustee Approval Required<sup>1</sup></b>
<b><i>Purchases of goods or services (not otherwise specified elsewhere in this table)</i></b>	Director of Corporate Purchasing - Up to \$500,000 for non-MC - Up to \$1m for MC  Sr. VP/CFO or MC VP for Finance if over those amounts	President if Significant Commitment or over \$10 million	As decided between Counsel and Corporate Purchasing	
<b><i>Real Estate</i></b>				
1. Leases/Amendments	Senior VP/CFO	President if Significant Commitment  VP/CFO of URMIC if affecting the Medical Center  Director of Real Estate Services	Yes	
2. Easements	Senior VP/CFO	President if Significant Commitment  VP/CFO of URMIC if affecting the Medical Center  AVP Facilities	Yes	
3. Disposition or Acquisition of Real Property (not investment related) Note: Acquisition of donated real estate must be approved per University policy on the same.	Senior VP/CFO	President if Significant Commitment  VP/CFO of URMIC if affecting the Medical Center  Director of Real Estate Services	Yes	Facilities Comm. of Board of Trustees if total cost to the University is \$1m to \$5m; Board or its Executive Committee if over \$5m

<b>Contract Type</b>	<b>University Officer that should sign and/or others who may sign</b>	<b>Prior Internal Consultation Required</b>	<b>Counsel Review Required</b>	<b>Trustee Approval Required<sup>1</sup></b>
<b><i>Research &amp; Intellectual Property</i></b>				
1. Sponsored Research	Director of ORPA	Department Chairs and Deans	No if standard approved terms used. Yes otherwise.	
2. Clinical Trials	Director of ORPA	Department Chairs and Deans	No if standard approved terms used. Yes otherwise.	
3. Materials Transfer Agreements	Director of ORPA		No if standard approved terms used. Yes otherwise.	
4. Technology license, assignment or option (including license for copyrighted software or similar materials)	Technology Transfer Directors	President; Technology Transfer Policy Committee and Dean if Significant Commitment and/or potential revenue of over \$10 million	No if standard approved terms used. Yes otherwise.	
5. Copyright Assignments, Licenses, or Permissions covering University intellectual property as defined by the University Intellectual Property Policy	Provost (Senior Vice President for Health Sciences for MC) Note: routine copyright permissions required by journals may be signed by Deans	Deans		
6. Collaborative research	Director of ORPA	Department Chairs and Deans		

<b>Contract Type</b>	<b>University Officer that should sign and/or others who may sign</b>	<b>Prior Internal Consultation Required</b>	<b>Counsel Review Required</b>	<b>Trustee Approval Required<sup>1</sup></b>
7. University licenses of journals and databases owned by others; subscriptions	7. Dean of River Campus Libraries; Assoc VP and Director, MC Libraries and Tech; Associate Dean of Sibley Music Library.		No if standard approved terms used. Yes otherwise.	
<i><b>Selling Services or Products to or Joint Ventures with For Profit Entities and any activity potentially subject to taxation (does not include teaching or research, includes product testing)</b></i>	President	Sr. VP Admin. & Finance; Controller; Provost or SVP MC; Dean; General Counsel	Yes	

### **III. PURCHASES OF GOODS OR SERVICES**

#### **A. PURCHASE ORDERS**

All Contracts that involve the provision of goods or services to the University should be on University purchase orders, except for those Contracts that are within the approval and signing authority of others besides the Director of Corporate Purchasing according to the above table. Preferably, even those Contracts should be in the form of University purchase orders if for goods or services normally acquired by a purchase order. The only exceptions are those Contracts that typically contain unique terms, such as for construction/renovation and contracts for accounting, public relations creative, legal and investment services.

#### **B. STANDARD UNIVERSITY TERMS AND CONDITIONS AND SUPPLIER QUALIFICATION PROCESS**

All Counterparties, before entering into a Contract with the University to provide any goods or services, whether or not in the form of a purchase order, must complete the Supplier Qualification Process. This process insures that resulting contracts with the Counterparties are governed by standard terms that the University has developed to protect its interests. Completing the Supplier Qualification Process is done by visiting the Corporate Purchasing website at <https://www.urmc.rochester.edu/purchasing/supplier/qualification.cfm> and providing

the required information and forms to Corporate Purchasing. No Contract should be presented for signature until each Counterparty has completed the Supplier Qualification Process.

Note: The University's standard terms and conditions are not intended to serve as a Contract in its entirety. A Contract also must include the business terms, outlined in the sample term sheet in Appendix 2 of this Policy. Other unique terms may be appropriate depending on the nature of the transaction. It is the responsibility of the person presenting a Contract for signature to properly document and make part of the Contract the relevant business terms.

Some Counterparties may ask for changes to the University's standard terms or may present their own form of contract to be used along with, or instead of, the University's terms. In such cases, Corporate Purchasing will review the Counterparty's requested changes. Corporate Purchasing may negotiate changes to the standard terms that do not require review of Office of Counsel per this Policy.

#### **IV. REVIEW PROCESS**

##### **A. REVIEW BY OFFICE OF COUNSEL**

Unless the Contract is in a standard format previously approved by the Office of Counsel and the essential terms have not been modified, the following Contracts require Office of Counsel review before they can be signed:

1. Contracts with TERMS that do any of the following:
  - Obligate the University for \$100,000 or more (except if on a University Purchase Order, in which case legal review is needed if the aggregate committed University spending is \$1,000,000 or more);
  - Commit the University for three or more years (unless Contract allows the University to terminate earlier for convenience without penalty);
  - Obligate the University to defend, indemnify or hold harmless the other party(ies) or add them as additional insured's to University insurance policies;
  - Limit the amount or types of liability of the other contracting party, its subcontractors, agents, or successors;
  - Disclaim or limit warranties;
  - Require University operation, facilities or employees outside of New York State;
  - Say the Contract is governed by the laws of another country;
  - Require dispute resolution anywhere outside New York State Results in creation of a subsidiary, joint venture or partnership, or any form of controlled entity;
  - Are commercially unusual;
  - Inhibit or prevent publication of research by faculty;
  - Involve export control laws;
  - Grant the University or its faculty equity interests in a venture;
  - State a time within which the University must make a claim (e.g. under a warranty) or bring a lawsuit.

2. Contracts with SUBJECTS that are any of the following:

- Affiliations – academic, business or service;
- Construction (including structural renovations);
- Use of University Facilities by outsiders, except if University standard form agreements are used for (a) rental agreements for weddings, parties and other similar events at the Interfaith Chapel and Memorial Art Gallery (b) rental of ESM facilities for performances and (c) rental of meeting, housing or event space by the University’s Office of Conferences and Events;
- Intellectual Property-related (e.g. technology or copyright or trademark licenses);
- Information Technology, including purchases and licenses with terms and conditions that are negotiated (single-user “click through” or shrink wrap-type licenses that cannot be negotiated do not need review);
- Physician practice acquisitions;
- Professional services – all medical, accounting, , and legal, and those public relations creative or consulting that have contingent fees or other unusual terms;
- Medical services provided by URMC to another institution or physician group;
- Real estate (including leases, easements, purchase/sale, and licenses);
- Employment Contracts for non-faculty and senior administrators;
- Endowments and major gift agreements or gift agreements with unusual terms;
- Minors present on campus or in programs;
- Endorsements of products/services;
- Clinical Trials;
- Industry Sponsored Research;
- Lobbying or political events;
- Dispute Settlements;
- Use of UR site for film or television
- Financing, including bonds, loans and guarantees.

Contracts presented to counsel for review or to the appropriate signatory ideally should be accompanied either by a term sheet (See Appendix 2 for a sample) or a memorandum describing the core business terms agreed upon with the other parties, but at a minimum should be discussed with counsel and not simply sent to the office without any detail about the arrangement. All exhibits, appendices and other documents referred to by, or incorporated into the Contract must be provided because they are part of the legally binding agreement. This can include requests for proposal and responses, statements of work or services, policies and procedures, insurance requirements and certificates of insurance, and property or equipment descriptions.

In general, Office of Counsel review is limited to legal terms and not business terms, for which the signatories remain ultimately responsible. In particular, where the Office of Counsel reviews a contract because it contains one or more of terms on the above list, the Office of Counsel is not therefore responsible for review of the business terms in the agreement or for the decision to enter into it. Other offices, including Corporate Purchasing and/or the department initiating or implementing the Contract, have the primary responsibility to negotiate and review the overall

agreement to make sure that it is in the best business interests of the University and consistent with University policy generally.

Contracts can include terms that may seem innocuous or insignificant to administrators, but may be legally important. All personnel are encouraged to consult with the Office of Counsel if they have any question about the meaning of language in a Contract.

## B. EARLY REVIEW BY SENIOR LEADERSHIP AND COUNSEL OF SIGNIFICANT COMMITMENTS

Anyone that initiates or becomes involved in a potential Significant Transaction on behalf of the University should report this fact to senior leadership and the Office of Counsel even before a memorandum of understanding, letter of intent or a Contract is prepared. A potential Significant Transaction is one that (1) involves expenditure of funds that are significant in relation to the budget of the department, unit or school that will be the source of funding, or (2) is likely to generate significant positive or negative publicity or controversy, (3) could result in unusual or significant liability or (4) involves international or out of state operation. See further the definition in Section IIA of Significant Commitments that require review by the President, Senior Leadership and the General Counsel.

## C. REVIEW OF INSURANCE TERMS

### 1. Contracts Requiring Proof of University Insurance

Contracts often require the University to maintain and show proof of certain types and amounts of insurance coverage. Some Contracts also require the other party to be named as “additional insured” under University insurance policies. Appendix 4 describes the assurances and representations that can be made in a Contract about the University’s insurance coverage, without further review by the Office of Counsel. Contracts that call for the University to provide insurance of different types or in greater amounts than in Appendix 4 must be reviewed by the Office of Counsel and may require senior leadership approval.

### 2. Contracts Requiring Proof of Other Party Insurance

The University has standard insurance requirements that generally apply to other entities doing business with the University (see Appendix 4). If the Counterparty cannot or will not meet University insurance requirements, consideration should be given to selecting an alternate business partner. Waivers of or changes to these required coverages must be approved by the office authorized to sign the particular Contract, with input from the Office of Counsel.

## D. INTERNATIONAL AGREEMENTS

Because of the unusual compliance and risk issues associated with transactions involving other countries, any University transaction or arrangement that involves permanent University operations, presence or offices in a state outside NYS or a country outside the U.S., or the transfer of material or technology outside the U.S., must be reviewed with the Office of Counsel

and the President. Such an agreement must be signed on behalf of the University by the President. The only exception to the above concerns study abroad arrangements or individual, intermittent faculty research. Review is particularly critical if an office will be maintained by the University or employees or agents paid in a foreign country.

## **V. RECORDS**

The Official Repository (as identified by the Policy on Retention of University Records <http://www.rochester.edu/adminfinance/records.html> ) should keep the original, signed Contract for the period indicated in that policy. A copy of the signed final Contract (if reviewed by the Office of Counsel) should be sent to the Office of Counsel (to the attention of the attorney who reviewed it).

## **VI. DEFINITIONS**

“University” includes all of its constituent divisions, departments and units. Appendix 1 lists the divisions that are legally part of the University of Rochester, to which this policy applies.

“Officer” means Officer of the University. It includes (1) the Chair of the Board of Trustees, (2) the President, (3) the Provost, (4) the Treasurer, (5) the Secretary, and (6) the full Vice Presidents of the University (which include the Dean of the Faculty of Arts, Sciences and Engineering and the Dean of the School of Medicine and Dentistry). Officers of the University do not include Deans (other than noted above), vice provosts, assistant or associate vice presidents, or Medical Center Officers (who are not also University Vice Presidents.)

“Medical Center Officer” for purpose of this policy only means: (1) CEO of Strong Memorial Hospital, and (2) the Chief Financial Officer of the Medical Center.

“Deans” means the Deans of (1) the School of Arts and Sciences, (2) the Hajim School of Engineering and Applied Sciences, (3) the College, (4) the Eastman School of Music, (4) the School of Nursing, (5) the Warner School of Education, (6) the Simon School of Business, and (7) the River Campus Libraries as well as (8) the Directors of the Eastman Institute for Oral Health, the Memorial Art Gallery and the Laboratory for Laser Energetics. The term “Deans” does not include deans other than those listed above, Center directors, or assistant or associate deans.

“Vice President” includes titles that imply a higher level of authority, such as “Senior” or “Executive,” but does not include those that imply a lower level of authority, such as “Associate” or “Assistant.”

“Contract” means any document intended to set forth an agreement or arrangement between the University and an outside party. A document need not be labeled “contract” to be covered by this policy. A document labeled “agreement,” “memorandum of understanding,” (or MOU) “lease,” “license,” “letter of intent,” and even a letter, or any other similar written item indicating or implying a legally enforceable document, is a Contract under this policy if it describes an obligation of the University, either to do or not do something or to pay money. A purchase order is a Contract, although an internal requisition is not, because it is purely internal and does not document an agreement with an outside party. A Contract can be in electronic form. This policy does not apply to internal memoranda of understanding or similar agreements that govern

internal relationships between University schools, divisions or subsidiaries. Any question whether a document is a Contract should be referred to the Office of Counsel.

“Counterparty” means any person or entity that is a party to a Contract with the University.

A “Joint Venture” is an undertaking or arrangement between the University and a Counterparty whereby the two work toward a common purpose and in which the University and the Counterparty have equal control over operations or governance and both share in the profits or losses.

“Significant Commitment” is defined in Section IIA and in Section III C.

## **VII. RESPONSIBLE OFFICE – WHERE TO GO FOR HELP**

The responsible office for the Policy on Contracts, Signatures and Financial Authority is the Office of Counsel. Questions about this Policy can be addressed to the Office of Counsel (<http://www.rochester.edu/counsel/>)

## **VIII. OTHER POLICIES**

The following policies relate to this policy and should be consulted:

Capital Spending Policy

Business Code of Conduct

Policy on Retention of University Records

Policy on Transactions and Ventures with For-Profit Businesses

## **Appendix 1**

### **Parts of the University of Rochester to which this Policy Applies:**

The School of Arts and Sciences  
The Faculty of Arts, Sciences and Engineering  
The College  
The Hajim School of Engineering and Applied Science  
The School of Medicine and Dentistry  
The University of Rochester Medical Faculty Group (URMFG)  
The University of Rochester Medical Center (URMC)  
The School of Nursing  
The Eastman School of Music  
The Margaret G. Warner Graduate School of Education & Human Development  
The William E. Simon Graduate School of Business Administration  
Strong Memorial Hospital  
Eastman Institute for Oral Health  
Eastman Dental Center  
The Memorial Art Gallery  
The Laboratory for Laser Energetics

## Appendix 2

### **Term Sheet Sample (See Office of Counsel Website for additional contract guidance):**

Name of other party to the Contract:

Goods or Services Provided to or by the University:

Quantity (if goods):

Payment terms (include amounts, time when due, method of payment):

Total value of all payments required:

Is the University paying or receiving fair market value for goods/services (and how was that determined):

Performance obligations of University aside from payment:

Date(s) and place of performance:

Term (length) of Agreement:

Termination or Exit Strategy:

Funding source:

Any unusual or essential terms:

The Contract accurately reflects the business agreement between the parties and includes all substantial business terms: Yes or No

---

Name: \_\_\_\_\_

Department: \_\_\_\_\_

Date: \_\_\_\_\_

**Appendix 3**

**Sample Delegation Document**

I, [name and title] \_\_\_\_\_, hereby delegate to \_\_\_\_\_ my authority under the University of Rochester Policy on Contracts, Signatures and Financial Authority to sign the following type(s) of Contracts:

- .....
- .....
- .....
- .....

This delegation is limited to Contracts involving a total University expenditure of \$ \_\_\_\_\_ or less.

This delegation shall remain in effect until revoked by me or my successor. [Alternative: It shall remain in effect for a period of XX years/months/days]

cc: Office of Counsel

## Appendix 4

### Insurance Coverage

#### A. University's Coverage

The University of Rochester maintains the following types and levels of insurance coverage, and can agree in a Contract to maintain the coverage as indicated:

1. General Liability with limits of \$1 million per occurrence/\$3 million aggregate; ability to name other party(ies) as additional insured
2. Excess ("umbrella") coverage up to \$3 million
3. Automobile Liability of \$1 million per occurrence
4. Professional Liability [describe]
5. Property (coverage of University property only)

The University is generally able to add a Contracting party as additional insured, but only to liability policies, and not to professional liability policies. Additional insured status should be limited to claims arising from the work done under the Contract.

The University can also grant waivers of subrogation on its property insurance, when required by a Contract.

#### B. Required Vendor's Coverage:

1. Commercial General Liability insurance written on occurrence basis with the following limits:

General Aggregate Limit	\$2,000,000
Products/Completed Operations	\$1,000,000 aggregate
Personal Injury and Adv. Injury Limit	\$1,000,000 ea. person/organization
Bodily Injury & Property Damage Limit	\$1,000,000 each occurrence
Fire Damage	\$50,000 (any one fire)

Medical Expense	\$5,000 (any one person)
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Pollution Liability Endorsement of \$1,000,000 per occurrence will also be needed in the event hazardous materials are to be involved.

No exclusions for: Product/Completed Operations; Contractual Liability; Independent Contractors; Personal & Advertising Injury.

2. Automobile Liability: Any Auto Owned, Hired and Non-Owned

Pollution Liability of \$1,000,000 each accident will also be needed in the event hazardous materials are to be involved.

Combined Single Limit for Bodily Injury & Property Damage \$1,000,000 ea. accident/aggregate

3. Excess "Umbrella" Liability

\$3,000,000 ea. occurrence/aggregate

The umbrella coverage should be no more restrictive than underlying coverage.

4. Workers' Comp. & Employers Liability

Statutory Coverage as required by law.

University is to be named as an additional insured on all liability policies, except for Workers Compensation and Employers Liability. The foregoing insurance and limits of coverage are to be considered as minimum requirements under this Agreement, and in no way shall limit Supplier's liability. Each policy of insurance shall be issued in a company or companies licensed to do business in New York State and shall provide for written notification to University at least thirty (30) days prior to termination or restrictive amendment.