



Agreements and Memoranda of Understanding

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Caution

This presentation contains legal advice that is specific to the management of contracts at the University of Alberta. It cannot be relied upon by or shared with anyone outside of the University, or for any other purpose.

What is a Contract? What is an MOU?

What is a Contract?

- Any document with a third party that creates a legally binding commitment on both/all parties; this includes agreements, memoranda of agreement and can include letters of intent. Contracts can also be made verbally.

What Is A Contract? What Is An MOU?

- What is an MOU?
- Generally, the term “Memorandum of Understanding” or “Letter of Intent” is used to describe a document with non-legally binding commitments. A court will look to the overall content of the document to determine if it is legally binding or not, so an MOU or Letter of Intent should specifically say that it is not legally binding.

Who Signs and Reviews Contracts On Behalf of the University?

Contract Review and Signing Authority Policy and Procedures

- Outlines:
 - a) who can sign which types of contracts (Schedule A);
 - b) who must review a contract prior to it being signed; and
 - c) how to sub-delegate signing authority.
- Generally Vice-Presidents, Associate Vice-Presidents and Deans have signing authority

Who Signs and Reviews Contracts On Behalf of the University?

- In many cases, a contract needs to be reviewed and approved by the General Counsel's Office (including the Information and Privacy Office, or "IPO"), Risk Management Services and the Responsible Department
- Exceptions are made for contracts handled by RSO, TEC Edmonton, SMS, or UAI.
- The Contract Review Procedure includes an approval form to be used.

Who Signs and Reviews Contracts On Behalf of the University?

Some examples

-Deans sign contracts for:

- The University to provide services to someone else
- Sponsorship agreements

-The Provost signs contracts for:

- joint ventures, partnership or other similar agreements not mentioned in Schedule A

Common Legal Issues

One single legal entity

- The Governors of the University of Alberta
- This name should be used on all contracts the University enters into
- May add “as represented by [insert unit name]”
- One part of the University cannot enter into a contract with another part of the University

Common Legal Issues

Use of the Word “Partnership”

- Partnership Act:
 - Defines “partnership” as the relationship that subsists between persons carrying on a business in common with a view to profit
 - States that each partner is jointly liable for the debts and obligations of the partnership that are incurred by the other partner.

Use of the Word “Partnership” continued

- University generally does not carry on business with others with a view to profit, but sometimes there can be room for argument
- Recommend trying to use phrases like “collaborative arrangement” instead

Common Legal Issues

Intellectual Property

- Generally, consider when:
 - a University employee is creating something to be used by a third party,
 - a third party is creating something to be used by the University, or
 - a University employee and a third party are collaborating on creating something.
- Patent Policy and Copyright Regulations
 - Are both Schedules to the various academic collective agreements

Common Legal Issues

Patent Policy

- “Patentable Intellectual Property” or “PIP” is owned by the inventor at the University
- The University has certain rights and powers in relation to PIP

Copyright Regulation (currently under review)

- Deals with ownership of copyright works created at the University
- Copyright belongs to the staff member, unless the production of the work was part of the normal responsibilities of the staff member



Other Common Legal Issues

Privacy Legislation

- *Freedom of Information and Protection of Privacy Act (FOIPP)*
- *Health Information Act* (can apply to health information collected, used or disclosed in the performance of a health service)

Other Common Legal Issues

Privacy Legislation

- If you are preparing a contract, consider privacy legislation and contact the IPO for assistance if:
 - any personal information will be collected or used (other than for research purposes, or employment information);
 - Any health information will be collected, particularly if it is from a health care provider; or
 - any personal information or health information will be disclosed from the University to a third party.



University Resources for Agreements

General Counsel's Office – Point of first contact for general legal questions

General Counsel:

- 492-8997

Legal Counsel:

- 492-1237

University Resources for Agreements

Information and Privacy Office

Information and Privacy Officer:

- 492-2252

Information and Privacy Advisor:

- 492-3840
- Resources – www.ipo.ualberta.ca
- Review and provide advice on dealing with any personal or health information, FOIPP or Health Information Act issues.

University Resources for Agreements

RSO – first point of contact for many research agreements

Research Facilitator, Research Services Office

- 492-0639
- Coordinate and sign research funding agreements, research affiliation agreements, and site or facility access agreements to access a third party's site for a research project.

University Resources for Agreements

TEC Edmonton

- 492.8977
- info@TECedmonton.com
- Coordinate commercialization of IP, material transfer and data sharing agreements

SMS

For contact information, go to:

<http://www.sms.ualberta.ca/en/ContactUs.aspx>

- Coordinate and sign purchase contracts for any goods or services that do not fall within the scope of the Low Dollar Purchase System Procedure

University Resources for Agreements

Office of Insurance and Risk Assessment

Manager, Insurance & Risk Assessment

- 492-8886
- Assistance in relation to risk assessment and mitigation. Specifically, review waivers and clauses related to liability, indemnity, and insurance.
- If contract is coordinated by one of the other resources on this list, they will likely contact this office to assist with the contract review.

University Resources for Agreements

University of Alberta International (UAI)

International Partnership Coordinator

- agreements@ualberta.ca
- 492-8398
- Coordinate international contracts; Provost signs these.

Marketing and Communications

Trademarks & Licensing

- 492-5044
- Authorize use of a University logo, trade-mark or official mark by a third party.

University Resources for Agreements

Real Estate Services

Director

- 492-4164
- Coordinate most leases and licenses on behalf of the University

Faculty Relations

Faculty Relations Officer

- 492-7813
- Coordinate secondment agreements, signed by Provost.



University Resources for Agreements

Office of Advancement

Recording Secretary

- 492-6565
- Coordinate gift agreements



Questions and Answers?