Research Contracts - A Basic Guide for UCL Researchers and Support Staff

Research Contracts are the legal agreements which define the detailed terms and conditions under which specific research projects and related activities are undertaken.

The purpose of this document is to provide a basic understanding of the issues, processes and policies relating to the negotiation of Research Contracts at UCL. Reference to more detailed information and guidance on specific aspects is also provided.
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1. Introduction

1.1 Contracts Managers negotiate Research Contracts on behalf of UCL Researchers. Research Finance Officers are responsible for checking and approving all UCL research project costings prepared by Departments.

1.2 A dedicated Contracts Manager and Research Finance Officer are allocated to each UCL Department.

1.3 The majority of research awards or contracts held directly with funders such as Research Councils, Charities and many Government Departments are subject to standard terms that are largely non-negotiable. New funding terms are checked by your Contracts Manager – subsequent awards on the same terms can be accepted without being referred. Your Contracts Manager will advise you (the UCL Researcher) of any non-standard terms that pose significant risk as well as any specific non-standard obligations.

1.4 Research Contracts with Industry are generally considered to be of higher risk than charitable or government sources and are often subject to significant negotiation. This takes time and requires the UCL researcher(s) to work in close co-operation with their Contracts Manager.

1.5 Funding that is received indirectly via third parties (e.g. NHS Trusts and other Universities) is normally subject to a contract. In addition an increasing number of Research Council awards also require collaborative research agreements to be put into place before any expenditure can be incurred against the project. These will be checked and may also be subject to negotiation by the Contracts Manager.

1.6 The key contractual terms that are subject to negotiation are intellectual property (IP), price, publication, confidentiality and liability.
1.7 If you are considering working with industry or entering into a collaborative arrangement please read the following guidance:

<table>
<thead>
<tr>
<th>PLEASE DO</th>
<th>PLEASE DON’T</th>
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<tbody>
<tr>
<td>✓ Contact the Contracts Manager responsible for your Department at an early stage</td>
<td>✗ Disclose any valuable information relating to your background IP – in particular if it has been subject to any current or pending patents and/or other agreements</td>
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<tr>
<td>✓ Consider putting in place a Confidentiality Disclosure Agreement (CDA) with your collaborator(s) before undertaking any detailed discussions on proposed projects – your Contracts Manager will be able to advise and provide suitable documentation</td>
<td>✗ Agree the price of your contract with the funder until a UCL costing has been approved</td>
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<tr>
<td>✓ Discuss the research project details with your collaborator(s) in order that all parties are clear about their respective contributions, expectations and activities</td>
<td>✗ Agree to assign or otherwise commit any arising IP from the project until you have discussed the details of the project with your Contracts Manager</td>
</tr>
<tr>
<td>✓ Ensure that you discuss the contract price with your Contracts Manager</td>
<td>✗ Agree any restrictions on your rights to publish until you have discussed the details of the project with your Contracts Manager</td>
</tr>
<tr>
<td>✓ Set a realistic time frame for the start date and delivery of the project</td>
<td>✗ Sign any agreements on behalf of UCL as the legal party</td>
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<tr>
<td>✓ Make sure that you and your Contracts Manager are aware of any deadlines for conclusion of the studentship contract</td>
<td>✗ Provide any template agreements to your collaborator unless agreed with your Contracts Manager</td>
</tr>
<tr>
<td>✓ Provide your Contract Manager with all necessary information/contacts, ideally by completion of a Contract Information Form</td>
<td>✗ Assume that UCL can accept the same terms for a new project that may have been agreed under a previous arrangement with the same collaborator</td>
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Notes / Useful Links:

1. Contract Information Form, used for each contract required, found HERE
2. Studentships do not ordinarily require a costing to be prepared but the commercial contribution must comply with the co-funders requirements and terms and conditions see: Studentship Types
3. Project Budget Approval Form, used for studentships only, found HERE
2. Contract Negotiation Process

The following points briefly summarise the steps from initiation to completion for a typical contract negotiation. The process is also shown schematically with more detailed notes in Appendix 1:

- Researcher discusses the project and any contractual requirements with their Contracts Manager (CM).
- Researcher and/or Administrator prepares a research costing through pFACT and submits it to the Research Finance Unit (RFU) for checks and approval.
- Contracts Manager conducts initial contract drafting / review and performs internal diligence checks.
- Researcher provides feedback on Contracts Managers review / comments / queries.
- Contracts Manager conducts negotiations with external funder or collaborators (in consultation with Researcher).
- Dean of Faculty Approval may be required where the price and/or IP terms fall outside UCL’s relevant policies / standard practice.
- Contract finalised (terms agreed, signature process initiated and completed)
- Account Code Notification
- Project commences

3. Information Required from Researchers

3.1 We have endeavoured to simplify and streamline the contract negotiation process by requesting that Researchers complete a single Contract Information Form (CIF). This will enable the Contracts Manager to draft an appropriate agreement.
3.2 That said, we recognise that completion of the form may not always be appropriate or desirable for all cases, particularly where some of the basic information required has already been clearly communicated to the Contracts Manager. Nevertheless we strongly encourage Researchers to talk directly to their Contracts Manager who will advise what information is required for the agreement under consideration.

Please note: It is essential that you provide your Contracts Manager with sufficient information at the beginning of the process and during negotiations since without this it will not be possible for them to advise on, draft and/or negotiate your contract effectively and in a timely fashion to meet your requirements.

4. Timelines and Service Standards

UCL aims for the majority of agreements to be concluded within 90 days. Contracts Managers are also subject to the following specific Service Standards:

- To respond to queries within two working days. Where classified as urgent, every effort will be made to provide a response within half a working day.

- Where specific action needs to be taken with regard to reviewing documentation or communicating with a research partner such action will be taken within five working days.

- To sign formally on behalf of UCL and return contract proposals within one working day of receipt provided that (a) the research costing has been approved by the Research Finance Unit and authorised by the Head of Department/Dean; and (b) any necessary changes to the proposed contract have been previously agreed.

5. Costing and Pricing

The British Government requires all research activities at UCL be costed according to full economic costing (fEC). However the price of a given piece of research activity can be
subject to negotiation which is dependent on the funder and the value that is placed on the work. Contracts with Industry are also subject to UCL’s Pricing Policy below.

5.1 Confidentiality of Policy

Please note that it is extremely important that UCL’s pricing policy is kept confidential to UCL staff and not revealed to or discussed with outside organisations. Please leave discussion of contract price to your Contracts Manager, as to do otherwise may seriously undermine negotiations.

5.2 Pricing Policy

5.2.1 The ideal price for an industrial research project would be in excess of 100% fEC from a commercial viewpoint, as there is no requirement to limit the price to the cost of the work. However, provided that the price proposed is at least 80% of the fEC the Contract Team within Research Services are authorised to accept this price without further reference to the Dean. With the inclusion of Industrial QR this will ensure a return to UCL of over 100% fEC provided the funder pays at least 80% fEC.

5.2.2 If the department wishes to accept less than 80% this will be referred to the Dean for their approval. A list of all projects accepted at less than 80% will be maintained by Faculty and reported to the VP Enterprise at regular intervals. Any contract that the Dean accepts at less than 80% fEC will only be accepted on the basis that this does not establish a precedent contribution rate for the funder.

5.3 Coverage of Policy

This pricing policy applies to simple 1:1 funding arrangements between UCL and industrial partners (i.e. excluding co-funded studentships / TSB Awards and other schemes involving industry co-funding with public funding).

5.4 Minimal Value Contracts

Contracts up to a price of £60,000 that fall outside the above guidelines may be handled within Research Services, without being referred to the Dean for a decision.
6. Important Contractual Terms

In addition to determining the price of the contract, when preparing or assessing a contract your Contracts Manager also takes a contextual view of the form and content of the agreement and the project to which it relates, including review and risk-assessment of each provision in the agreement, with emphasis on the following:

6.1 Intellectual Property (IP)

For projects funded by industrial collaborators, the ownership and usage rights in relation to any arising IP can often be subject to lengthy negotiation. In order to minimise the time involved it is essential for Researchers to make a realistic assessment of the likelihood and also the potential value of any potential arising IP that may result from a given project, as well as identifying any background IP necessary to undertake the project. You are advised to discuss in detail your expectations with regard to IP with your Contracts Manager, who may also need to liaise with the Business Manager responsible for technology transfer in your department within UCL Business PLC where appropriate.

UCL’s current guidance on resolution of issues in relation to IP negotiations in research contracts is shown in Appendix 2.

6.2 Publications

Researchers should expect to publish the results of their research without undue delay or hindrance as part of their academic mission. However some funders, particularly industry partners, may wish to delay publication for a variety of purposes, including for example to allow time for registration of valuable arising IP or background IP (patent filings etc.). In addition there may be information required for the project that is proprietary to the funder and that it may need to keep confidential. The Contracts Manager will negotiate to ensure the Researchers’ right to publish with minimal delay and restrictions is protected. Researchers
will also need to consider whether any restrictions being proposed are acceptable and whether any delays will hinder their future research activities.

6.3 Confidentiality

Researchers should not be required to hold information confidential ad infinitum since this may restrict their future research activities, as well as imposing an administrative burden in term of maintaining material in confidence. Contracts Managers negotiate contractual terms in order to limit the amount of confidential information supplied by either party to that and for confidentiality to be protected only for a reasonable duration after the end of the project.

*Please note:* Intellectual property provisions that are biased in favour of the external funder, when combined with excessive restrictions in respect of publications and confidentiality, may contravene the Charity Commission's public benefit requirements for academic research. As a consequence, UCL may also be exposed to corporation tax liability in respect of the funding for your project. Your Contracts Manager will advise if the proposed terms present such a risk.

6.4 Liability

The level of liability that can be accepted is subject to UCL’s insurance cover but also depends upon the potential risks in undertaking a specific project. This can be a complex area, covering all aspects any applicable terms and conditions within the context of the proposed work. In essence your Contracts Manager will negotiate to limit the exposure of UCL, its Researchers and its students to unacceptable levels of risk.

Once a project is underway, it is the responsibility of the Principal Investigator / Supervisor to monitor and manage the risks associated with conducting the work, although UCL Research Services and other UCL offices (e.g. Translational Research Office; UCL/UCLH Joint Research Office; UCL Procurement Services, UCL Estates & Facilities, UCL Legal Services) can provide advice and support where appropriate.

Ideally, a typical research contract will include terms which confirm that:

1. The results of the research cannot be guaranteed
2. Individual Researchers and UCL cannot be held liable for the funder’s use of the research results
3. Individual Researchers and UCL are not responsible for any indirect or consequential losses arising from the research
4. There is a financial cap on any liability

6.5 Other Terms

Naturally, research contracts will contain other provisions, depending on the funder, the type of agreement and the proposed work. Such provisions may cover areas such as finance / payments, performance and milestones, reporting etc.. Your Contracts Manager will review and advise you on these as appropriate in each case.
Appendix 1 – Research Contracts Process

Step 1 – Preparation
- Identification of collaborator / outline project by PI, possibly supported by UCL CDT Manager and/or other UCL liaison staff – School Research Facilitator, Business Development / Enterprise Officer
- Discuss with your Contracts Manager / provide background information (CIF) and funder contribution (submit a pFACT costing for fEC projects, PBA for research studentships)
- Your Contracts Manager will undertake internal diligence checks and prepare the appropriate UCL template, or make an initial review of terms offered by funder in order to advise you

Step 2 – Negotiation
- Your Contracts Manager will discuss the proposed terms / suggested changes with funder – this may include negotiation on performance, contract price, IP rights, publications (including theses), liability provisions, timing of payment etc. where appropriate
- Your Contracts Manager will consult with you and your department and advise on pertinent issues throughout the negotiation process, in order to allow informed decisions to be made. The aim is to reach a mutually acceptable position for UCL and the funder that is fit for purpose, within a reasonable timeframe

Step 3 – Finalisation
- Once terms are agreed in principle and any authorisations and consents are in place (e.g. ethical approval, Dean of Faculty approval, where appropriate) your Contracts Manager will co-ordinate the signature process
- After signature process is complete the file is updated and passed for FIS account activation. You will then receive an email from Research Services announcing the account code, with a scanned copy of the agreement attached

Note: Further detail regarding the above stages of the process can be found on the following pages.
Appendix 1 Continued - UCL Research Contracts: Process Description

Step 1 - Preparation

• Discuss the project and any contractual requirements with your Contracts Manager (CM) as early as possible

The most important step in ensuring smooth and timely contract negotiations is to ensure that full disclosure of all relevant information is made to your CM at an early stage – i.e. contact details for External Funder(s); full project description; costs; expectations in relation to IP (see UCL IP Policy) etc. plus any logistical and strategic considerations, including any relevant milestones or deadlines for conclusion of the contract(s). Please complete and submit a full project description and a Contract Information Form (CIF). The CIF covers most of the key points necessary to allow your CM to prepare a draft and/or review any draft agreement that has originated from the External Funder(s) – see also Initial Contract Review and Drafting. A unique reference number for the case will normally be issued either by your CM or by the Research Finance Unit.

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• Research Costing

In parallel with consulting the CM on the contractual elements, please ensure that a pFACT costing is prepared and submitted to the Research Finance Unit (RFU). In the case of research studentships, please send a Project Budget Approval (PBA) form directly to your CM (studentships are not currently subject to fEC). The RFU will also inform your CM once any costs are approved. Ideally this would be available for your CM to incorporate the agreed contract price into the draft agreement in consultation with the Host Department although we can issue agreements with a future price to be agreed. A unique reference number for the case will normally be issued either by the CM or by the RFU.

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• **Internal Diligence Checks**
As part of the contracting process, your CM will perform various checks and risk assessments in relation to the contractual requirements. These checks include investigating whether UCL has any suitable precedent agreements with the funder / collaborator; checking new funders for financial risk in accordance with UCL’s [Sponsor Credit Checking Policy](#); referral to the [UCL / UCLH Joint Research Office](#) where the project is a clinical trial or may otherwise involve clinical governance issues; and discussion with [UCL Business PLC](#) regarding protected UCL background IP and specific field definitions or licensing / revenue sharing provisions, where relevant.

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• **Initial Contract Review and Drafting**
Your CM will review the terms of the contract in detail and/or draft appropriately based on UCL’s templates, in order to ensure that the proposed terms are fair, transparent, fit for purpose and legally enforceable (See also [PI Feedback](#)).

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**Step 2 – Negotiation**

• **PI Feedback**
Throughout the negotiations (and also during [Initial Contract Review and Drafting](#)), your CM will contact you with any pertinent observations or points for consideration / confirmation. These usually centre on the main items of the contract (publication rights, Intellectual Property (IP) rights, reporting and performance obligations, contract price, liability etc.) but may also address any special circumstances surrounding the project and the contract. It is important to discuss any questions or comments you have with your CM, so that they can advise or clarify potential issues with you before proceeding. Your CM will work in consultation with you in order to reach agreement with the External Funder(s) - see also [Negotiation](#).

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• **Negotiation**
Your CM will lead discussion with the External Funder(s) on your behalf and update you on progress (including copying you and your staff on external correspondence unless otherwise requested). Any discussions with the External Funder(s) that are outside of the scientific / technical aspects of the project should be undertaken through your CM - see also PI Feedback.

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• **Timeframes and Service Standards**
Your CM will always aim to conclude any contract(s) as swiftly as possible (see Contracts Service Standards). It is important to establish a realistic timeframe for completion of the contract(s) and any supporting subcontract(s). Negotiation time varies from case to case, depending mainly upon the number and complexity of the issues to address but also dependent on the responsiveness of the External Funder’s legal departments – as such this period can range from a few weeks to a few months to conclude. This can be materially reduced by establishing the expectations of the parties at the outset, in particular with regard to Contract Price and IP ownership and exploitation arrangements (see also Discuss the Project with your CM).

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**Step 3 – Finalisation**

- **Dean of Faculty Approval**
  This will only be sought for research contracts where (i) the contract price falls below any threshold set in UCL’s Pricing Policy for a given funder type; and/or where (ii) after due assessment and negotiation, the CM reasonably deems that the terms of the proposed contract are disproportionately unfavourable or onerous for UCL. Examples include fixed price offers from industry funders in the case of (i) and imbalances in provisions covering performance, IP, publications and liability in the case of (ii).
  
  [Back to process diagram]

- **Finalised Contract**
  Once the terms are agreed your CM will co-ordinate the signature process with the External Funder and the Host Department as necessary. UCL’s authorised signatories are senior members of Research Services (such as the Assistant Directors or the Director), or in limited cases the Director of Finance Division. Research Services aims to sign finalised agreements within 1 working day of receipt / submission, however the time taken to complete the signature stage of the contract varies according to the availability of signatories on all sides. This can take a few days or possibly longer, particularly if the External Funder has numerous administrative steps to their signature process.
  
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- **Account Setup**
  Once all signatures are in place, your CM will issue completed contract(s) and pass the file over to a Contracts Assistant to set up an account on UCL’s Financial Information System (FIS). The time taken to progress from this point to Account Code Announcement is usually 1-5 working days depending on workload and is prioritised according to project start date.
  
  [Back to process diagram]

- **Account Code Announcement**
  Once FIS setup is complete a RACA or Contracts Assistant will issue the Host Department a unique account code via email. This code allows you to incur expenditure, thus marking
formal commencement of the project by UCL. Once the account code is announced, the Post Award section of Research Services will help you to manage your grant (including invoicing, reconciliations and reporting etc.) for its lifespan. However, your CM should be contacted if queries on the contractual elements arise or if any formal amendments are required.

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Appendix 2 – Resolution of Issues in Relation to IP Negotiation

The guiding principle is that for non-standard conditions (IP and financial) Deans make the decision with advice from the relevant Contracts Manager from Research Services (in conjunction with advice from UCL Business where appropriate). The responsible Contracts Manager will work with the funder and UCLB to try to reach a mutually acceptable position.

See the Protocols for Industrial Contract Negotiation web page