

# Contracts Policy

## Section 1 - Key Information

<b>Policy Type</b>	Governance – Council
<b>Accountable Executive - Policy</b>	Chief Operating Officer
<b>Responsible Manager - Policy</b>	General Counsel & Director of Assurance
<b>Review Date</b>	5 December 2025

## Section 2 - Purpose

(1) To set out the principles applicable to all contracting at La Trobe University.

## Section 3 - Scope

(2) Applies to:

- a. all staff
- b. all contracts to which the University is a party and any potentially binding arrangements (e.g. pre-contractual discussions and contract negotiations, including tender or grant applications, letters of intent or letters of support that create legally binding obligations on the University).

## Section 4 - Key Decisions

<b>Key decisions/Responsibilities</b>	<b>Role</b>
Execute contracts on behalf of the University	Authorised Signatory - See University's <a href="#">Contract Signing Instrument of Delegation</a> for list of duly Authorised Signatories to University Contracts.
Contract accountability	Authorised Signatory
Contract drafting and legal review	Legal Services
Approve Template Contracts and prescribed Contract Review Tools for use by specific staff or business areas	University General Counsel

## Section 5 - Policy Statement

(3) Contracting is an essential part of University operations to achieve its strategic objectives. The University aims to have a streamlined and efficient contracting process and ensure there are appropriate governance arrangements in place to effectively and appropriately manage accountability and risk.

(4) Verbal commitments and other conduct can, in some circumstances, give rise to binding obligations (e.g. where staff accept proposed contractual terms and conditions as part of a grant or tender process or agree to letters of intent/support where they include binding terms). Staff must not conduct themselves in a manner which gives rise to a binding obligation on the University without a written contract in place and the proposed contractual terms being reviewed by Legal Services. No work, supply, purchase or acquisition of goods or services should occur or commence without an executed contract in place. This is to ensure transparency and certainty as to the terms of the contract.

(5) Contracts must be reviewed or drafted by Legal Services prior to execution by the University. The only exception to this is where a currently approved Template Contract or prescribed Contract Review Tool is used. Wherever possible, a University Contract should be used over third party terms.

(6) All University contracts must:

- a. be in the best interests of the University;
- b. be consistent with the University's objects and functions as described in section 5 of the [La Trobe University Act 2009](#);
- c. comply with all applicable laws, University policies and any existing contractual obligations owed by the University;
- d. ensure the intended benefits outweigh any resourcing and/or risk assumed by the University, and not expose the University risk outside Council's prescribed risk appetite;
- e. be free from conflicts of interest;
- f. have received all necessary internal and, where applicable, external approvals prior to execution;
- g. clearly outline the respective parties' rights and obligations;
- h. be actively monitored and managed to achieve the best outcomes and minimise exposure for the University;
- i. be registered on the relevant business contract management system (including PRIME, PRM, Inteum, InPlace or LawVu);
- j. be stored, along with supporting and associated documentation for the Contract, in accordance with University record keeping requirements.

(7) Contracts must only be signed by an Authorised Signatory in accordance with the University's current [Contract Signing Instrument of Delegation](#) and the [Delegations and Authorisations Policy](#).

(8) Staff who are authorised to execute contracts are accountable for the decision to contract and are responsible for ensuring that all necessary approvals have been obtained, the Contract complies with relevant legislation, this and other applicable University policies, and appropriate contract management arrangements are in place for the life of the Contract.

(9) The General Counsel may approve and make available Template Contracts or prescribed Contract Review Tools for use by specified staff, within parameters determined by the General Counsel. Template Contracts and Contract Review Tools, if made available, must only be used by authorised staff in accordance with the most current versions, parameters and guidance published by Legal Services on the intranet or its online platform LawVu.

### **Consequences of a Breach**

(10) Non-compliance with this Policy does not affect the legal validity or enforceability of a Contract.

(11) A breach of this Policy or its associated procedures may result in internal disciplinary action and, in serious cases, referral to public agency bodies, such as the Independent Broad-based Anti-corruption Commission (IBAC).

## Section 6 - Procedures

(12) The following procedures set out the steps as to how to comply with this Policy.

### Contract Sponsor

(13) Every proposed Contract must have a clearly identified Contract Sponsor. The Contract Sponsor is the person or office responsible for progressing the proposed arrangement, ensuring there is an appropriate business case and approval for the proposed endeavour, completing or ensuring all pre-contractual steps are followed, negotiating, implementing and then managing the Contract throughout its life in line with this Policy.

(14) Generally, the Contract Sponsor will be the administrative area responsible for the primary subject matter of the Contract. Where multiple areas are responsible for initialising and performing the Contract, for example the Research Office provides contract administration for academic delivery of a project, or Information Services purchases software for department end use, the Contract Sponsor role may be mixed. However, the office authorised to execute the relevant Contract (in accordance with the University's current [Contract Signing Instrument of Delegation](#)) will take primary carriage of establishing and ultimately approving the matter.

### Administrative Area

(15) The following administrative areas are deemed the Contract Sponsor for the following Contract types, in accordance with the applicable policies below (for all other areas, refer to the current [Contract Signing Instrument of Delegation](#)):

Contract subject	Administrative area	Policy
Educational partnerships	<a href="#">Educational Partnerships</a>	<a href="#">Educational Partnerships Policy</a>
Research	<a href="#">Research Office</a>	<a href="#">Research Contracts and Grants Policy</a>
Work-based learning	<a href="#">Office of the Provost – Partnerships</a>	<a href="#">Educational Partnerships Procedure - Work-Based Learning</a>
Property and infrastructure	<a href="#">Infrastructure and Operations</a>	
Purchasing	<a href="#">Finance and Procurement</a>	<a href="#">Procurement Policy</a>
Employment and honorary appointment	<a href="#">Human Resources</a>	<a href="#">Recruitment Policy</a> <a href="#">Honorary Appointments Policy</a>
Philanthropy	<a href="#">Alumni and Advancement Office</a>	<a href="#">Fundraising Policy</a>
Information and communications technology	<a href="#">Information Services</a>	New policies under development
Intellectual property (other than statutory educational licences)	<a href="#">Business Development and Commercialisation</a>	<a href="#">Intellectual Property Policy</a>

### Due Diligence and Risk Management

(16) As part of entering into any Contract, a degree of risk must be assumed. The level of due diligence, risk analysis and measures required to mitigate risk will depend on the nature and value of the proposed undertaking. Pre-contractual due diligence and risk management for Contracts should, however, at a minimum include:

- having a good understanding of the background and reputability of the proposed contractual partner;
- having a clear understanding of what is intended to be achieved, how it will benefit the University, resourcing impact(s) and how it aligns with the University's objectives as set out in the [La Trobe University Act 2009](#) or its

strategic plan;

- c. ensuring any actual or potential conflicts of interest are declared and managed in accordance with the [Conflict of Interest Policy](#);
- d. understanding how the arrangement is intended to work in practice, including the proposed roles and responsibilities of the respective parties and any staff involved;
- e. considering all commercial and other potential risks, including but not limited to:
  - i. the liability of the parties and potential exposure to the University
  - ii. appropriate insurance coverage for the proposed activities, by the University and its contractual partners
  - iii. the proposed intellectual property ownership and licensing arrangements
  - iv. the proposed commercial arrangements, including all financial and resourcing implications
  - v. reputational risks to the University
  - vi. applicable compliance, regulatory and health and safety risks
- f. considering possible risk mitigation measures; and
- g. being satisfied that the overall risks are acceptable having regard to the intended benefit(s) and ensuring that they fall within Council's prescribed Risk Appetite Framework.

(17) International contracts are subject to additional due diligence requirements and, depending on the nature of the undertaking and contracting party/parties, additional regulatory approval (including potentially via the University's Foreign Arrangement Review Group and DFAT). Contracts Sponsors must ensure that University due diligence processes relevant to international contracts are adhered to, including referral to the Office of the Deputy Vice-Chancellor (Future Growth) as required.

### **Internal Approvals and Legal Compliance**

(18) All business areas potentially impacted by the proposed arrangement should be consulted as early as possible so that the potential cost/administrative impact can be taken into account as part of the overall business decision as to whether to proceed with the proposed arrangement.

(19) All other internal approvals must be obtained, and processes followed in accordance with University policies and procedures relevant to the subject matter of the contract. For example, an educational undertaking with a third party must comply with the approval processes set out in the [Educational Partnerships Policy](#) and relevant procedures, and any purchase or general goods and service must comply with the [Procurement Policy](#).

(20) The proposed contract must also comply with applicable laws, for instance:

- a. [Australian competition and consumer law](#) prohibits misleading and deceptive conduct, unconscionable and/or anti-competitive behaviour. In particular, the following conduct is prohibited:
  - i. imposing an 'unfair contract term', which is a contract term which would cause a significant imbalance in the rights and obligations of the parties under the contract, are not reasonably necessary to protect the legitimate interests of the party who gets an advantage from the term, and would cause financial or other harm to the other party if enforced (e.g. a clause which allows one party to unilaterally alter terms and conditions of a contract);
  - ii. reaching an agreement with competitors to fix/control prices, share/allocate markets, rig bids or tenders, boycott customers, suppliers or other competitors (e.g. entering an agreement with another university about the fees that each will charge for certain courses or offer in a particular market/region);
  - iii. where the University supplies goods or services to a reseller, it must not specify a minimum or a particular resale price (e.g. specifying a minimum resale price to book sellers of a university publication);
  - iv. making it a condition of supplying any goods or services (or a condition of providing a discount) that the consumer also acquire goods or services from a third person/entity (e.g. offering a discount on the hire of

- a university venue if the hirer separately acquires the catering from an unrelated third party);
  - v. imposing restrictions on the ability of a supplier or customer to deal with others where that restriction would have the effect of substantially lessening competition (e.g. prohibiting a supplier of unique educational software from supplying any other universities);
  - vi. the University must not take advantage of any substantial degree of market power or market share that it may have for an anti-competitive purpose (e.g. if the University has a substantial market share in a particular market, it must not supply goods or services below cost for an anti-competitive purpose).
  - vii. the University must not engage in unconscionable conduct in trade or commerce when dealing with consumers (this particularly applies to dealings with any persons who are disadvantaged or in a significantly weaker bargaining position).
- b. Foreign Engagement – if the proposed contract is with a foreign entity/individual or involves Critical Technology, then staff are expected to complete the [Foreign Engagement Risk Assessment Tool](#) beforehand and otherwise comply with the [Foreign Engagement Policy](#) to mitigate against the risk of breaching a range of foreign-related legal compliance requirements.
  - c. Property – if the proposed Contract involves the sale or acquisition of land or entering into a lease, the University must comply with any approvals required under Part 2 of the [La Trobe University Act 2009](#), the [Victorian Government Land Transactions Policy](#) (except where exemptions in that Policy apply), and, for any retail leases, the requirements of the [Retail Leases Act 2003](#), and any other regulatory or tax obligations applicable to the relevant transaction.
  - d. Commercial Activities – if the proposed contract involves a Commercial Activity (as defined in the Ministerial Guidelines concerning commercial activities in accordance with Part 7 Division 6 of the [La Trobe University Act 2009](#) “Commercial Activity Guidelines”), including the University becoming a member of or forming, managing or participating in a company, association, trust, partnership or entering into a joint venture, then the University must comply any approvals or other requirements set out in Division 5 of the [La Trobe University Act 2009](#), the Commercial Activity Guidelines, relevant University policies and regulatory or tax obligations applicable to the relevant transaction.

(21) Depending on the nature of the undertaking and policy, additional approvals may be required by Quality and Standards, Finance and Procurement, Insurance, Foreign Arrangements Review Group, Insurance, the Senior Executive Group or Committees of Council.

(22) There are also certain decisions which are reserved for Council, including the requirement to approve the business cases (or the implementation of the business cases) for transactions that relate to an issue or subject matter that involves a significant financial or reputational risk to the University, and transactions over \$5,000,000 (see Decisions Reserved for Council for more information). Where Council approval is required, this should be factored into the contracting process and time allowed to seek Council's approval.

(23) Pre-Contractual documents requiring signature by the University, including signed terms sheets, heads of agreement, memoranda of understanding (MOUs), or any University applications or proposals that include terms binding upon award, may only be signed by an Authorised Signatory. Pre-Contractual documents must be reviewed by Legal Services prior to signing and administered in accordance with this Policy.

## **Contract Terms must be approved by Legal Services**

(24) All Contracts to which the University will be a party must be written and include appropriate terms and conditions that have been prepared or reviewed by Legal Services unless pre-approved in accordance with this policy. Legal advice on Contracts forms part of proper due diligence and ensuring that an informed decision can be made by the Contract Sponsor and Authorised Signatory regarding legal risk to the University.

(25) Requests for legal advice can be made by staff to Legal Services via its online platform LawVu or

[legal.services@latrobe.edu.au](mailto:legal.services@latrobe.edu.au). This Policy should be read in conjunction with the [Legal Advice Policy](#).

(26) The following Contracts are considered pre-approved by Legal Services where the most current version (as published on Legal Services' online portal LawVu) is used by authorised staff and all instructions made available by Legal Services are correctly followed:

- a. Legal Services Template Contracts, provided any amendments to those Templates are approved by Legal Services; or
- b. Contracts reviewed in accordance with the following prescribed Contract Review Tools: the Research Office Contract Review Tool and the Confidentiality Agreement Review Tool for use by the Research Office.

## **Contract Signing**

(27) Contracts should be signed by the University and the other party or parties to the Contract before any work is performed or other contractual obligations commence.

(28) Contracts must only be signed on behalf of the University by a duly Authorised Signatory in accordance with the University's [Contract Signing Instrument of Delegation](#). Whether a staff member is an Authorised Signatory depends on the Contract type and Contract Value, and the [Contract Signing Instrument of Delegation](#) should be checked each time as powers delegated by the Vice-Chancellor can change (e.g. where role/titles or area of responsibility change).

(29) Contracts should only be submitted for signing to an Authorised Signatory with a prescribed Contract coversheet or memorandum prepared by the Contract Sponsor, setting out the applicable Contract background, details, risks and endorsements and recommendation for signature. Coversheets are available on Legal Services' online platform LawVu or from the relevant Contract Sponsor administrative areas above. Coversheets should be stored as a University record alongside the Contract.

(30) Contracts for execution by the University Senior Executive must only be submitted for signature by Legal Services. Legal Services may require any documentation from the Contract Sponsor, including any background documents, coversheets, endorsements or confirmations, prior to submitting for signature.

(31) Contracts may be signed physically or electronically, depending on Contract type and applicable law. If electronic signing is permitted, the University's approved electronic signing tool, Adobe Sign, must be used. Adobe Sign may only be used by authorised staff trained and licensed by Legal Services to use the program. To become an authorised user, contact [legal.services@latrobe.edu.au](mailto:legal.services@latrobe.edu.au) for approval and training prior to use.

## **Contract Accountability**

(32) The Authorised Signatory is ultimately accountable for the contracting decision made. Prior to signing a Contract, the Authorised Signatory must therefore be satisfied that:

- a. they have been fully informed as to how the proposed undertaking/arrangement will operate and affect the University;
- b. all advice and internal approvals required have been obtained (including a completed Contract signing coversheet with relevant confirmations); and
- c. appropriate contract management processes are in place for the life of the Contract (e.g. a Contract Sponsor is clearly identified and satisfactory contract management practices are in place).

## **Record Keeping**

(33) After a Contract has been fully executed (i.e. all parties have correctly signed the Contract), the Contract Sponsor must ensure that it is stored in accordance with the [Records Management Policy](#) including:

- a. except with the prior written approval of the Records Office, sending the Contract to the University Records Office for storage in accordance with the legislative retention period requirements set out in the [Public Records Act](#); or
- b. where Legal Advice has been obtained, sending a copy to Legal Services so that a copy can be held as part of the legal file record, and Legal Services will arrange for storage in the University's enterprise record storage system.

## Contract Management

(34) The contracting process does not end once a Contract is executed. All Contracts must be monitored and managed throughout the life of the Contract to ensure the proper performance of it by all parties and limit the risk of breach, which can be costly to the University.

(35) The Contract Sponsor is responsible for ensuring the proper performance of the Contract by the University and the other party/parties to the Contract for the life of the Contract, as well as ensuring;

- a. variations and renewals are negotiated in advance of the Contract's expiration date as required;
- b. the early termination or expiry of the Contract is properly managed;
- c. advice from Legal Services is sought in relation to variations, renewals or potential breaches or disputes under the Contract; and
- d. appropriate records are kept in relation to each of the above.

## Section 7 - Definitions

(36) For the purpose of this policy and procedure:

- a. Authorised Signatory: means the staff member duly authorised by the Vice-Chancellor to execute University Contracts in accordance with the University's [Contract Signing Instrument of Delegation](#) and the Delegations Framework.
- b. Contract: includes an agreement, contract, deed and memorandum of understanding.
- c. Contract Sponsor: the University staff member or office responsible for implementing and managing a Contract.
- d. Contract Review Tool: means a contract review and risk tool approved by the General Counsel for use by authorised staff for local review of third party contract terms.
- e. Contract Template: means a University template Contract for a specified purpose with terms pre-approved by the General Counsel, as published on Legal Services' online platform LawVu.
- f. Contract Value: means the total monetary value of consideration under the Contract including any binding commitments for cash, in-kind, co-contribution, assets or royalties, but excluding GST, calculated over the full term of the Contract (including any variations or binding options to renew or extend the term of the Contract);

## Section 8 - Authority and Associated Information

(37) This Policy is made under the [La Trobe University Act 2009](#).

(38) Associated information includes:

- a. [Contract Signing Instrument of Delegation](#)





## Status and Details

<b>Status</b>	Current
<b>Effective Date</b>	13th December 2022
<b>Review Date</b>	5th December 2025
<b>Approval Authority</b>	University Council
<b>Approval Date</b>	8th December 2022
<b>Expiry Date</b>	Not Applicable
<b>Responsible Manager - Policy</b>	Linda Robertson General Counsel & Director of Assurance
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## Glossary Terms and Definitions

**"staff"** - Staff means any person employed by the University as per the definition in the La Trobe University Act 2009 (Vic).