

## CONTRACT CHECKLIST

<b>Parties</b>		<input type="checkbox"/> Yes	<input type="checkbox"/> No
	○ Is the University entity accurately identified? <sup>1</sup>		
	○ Is the other party to the contract accurately identified?		
	○ Does the contract accurately identify each party's legal status or type of entity?		
	○ Are abbreviated identities of parties consistent throughout the contract?		
	○ Can either party assign the contract to another entity that is not identified in the contract?		
<b>Business Terms</b>			
<b>Business Terms</b>		<input type="checkbox"/> Yes	<input type="checkbox"/> No
	○ Are the business terms <sup>2</sup> defined?		
	○ Do the business terms conform to the department's needs and expectations?		
	○ Have the business terms been reviewed and approved by the department supervisor and VP of Division?		
<b>Duties / Obligations</b>			
<b>Duties / Obligations</b>		<input type="checkbox"/> Yes	<input type="checkbox"/> No
	○ Is the purpose of the contract described accurately?		
	○ Is each obligation described with clarity so that the parties know how it will be performed?		
	○ Can the department perform the obligations set forth in the contract?		
	○ If the contract involves goods, services, or the use of facilities or equipment, is the description of the goods, services, facilities, or equipment promised under the contract correct (i.e., quantity, size, type, time and place of delivery, and standards of quality)?		
	○ Does the contract refer to any promise, standard, or other terms or conditions not contained in the contract or its attachments, but available in external documents, websites, or other resources?		
	○ Have all documents, websites, or other resources referenced in the contract been reviewed to confirm that they are consistent with the contracts' terms?		

<sup>1</sup> The University shall be identified as the University of the Incarnate Word in all contracts. Schools or Departments within the University may not contract in their own name on behalf of the University, and must identify the University as the contracting party. The School or Department seeking to enter into a contract on behalf of the University may be identified in the contract as the office through which the contract is being made. The University's official address is: 4301 Broadway, San Antonio, TX 78209.

<sup>2</sup> "Business terms" means the commercial provisions in a contract that include, but are not limited to, services or goods to be received and provided, deliverables, fees, duration, and deadlines.

<b>Consideration</b>		<input type="checkbox"/> Yes	<input type="checkbox"/> No
	○ Is the consideration <sup>3</sup> of the parties accurately stated?		
	○ If the contract involves the payment of money, is the payment amount promised under the contract correct?		
	○ Does the contract specify when and where payments are due?		
	○ Is the cost within the Department's approved budget?		
	○ If a purchase for goods or services in the amount of \$1,000 or more, has a purchase requisition been submitted to the Purchasing Department a/k/a Procurement Services for processing and approval?		
	○ If a purchase for goods or services in the amount of \$10,000 or more, has a University approved Purchase Order Rider been made part of the Purchase Order (P.O.)?		
<b>Duration</b>		<input type="checkbox"/> Yes	<input type="checkbox"/> No
	○ Is the duration (the beginning and end of the contract's term of the contract) correct?		
	○ Can the University perform its obligations within the contract's duration and set deadlines?		
	○ Does the contract's term automatically renew? Should it automatically renew, and if so, is that in the University's best interest?		
<b>Modification</b>		<input type="checkbox"/> Yes	<input type="checkbox"/> No
	○ Have the parties agreed that they can modify the terms of the contract?		
	○ Can either party modify the terms through unilateral action?		
	○ Can the parties modify the terms by mutual consent?		
	○ Does the contract state that a writing signed by parties is required to show their mutual consent to modifications?		
<b>Insurance</b>		<input type="checkbox"/> Yes	<input type="checkbox"/> No
	○ Has the University or the other party requested or required that the other party carry certain types of insurance or amounts of insurance?		
	○ Does the contract require the other party to provide proof of insurance, i.e., a certificate of insurance, to the University before the contract is signed?		

<sup>3</sup> Consideration: something of value exchanged for something else.

	<ul style="list-style-type: none"> <li>○ Does the contract require the University to provide proof of insurance, i.e., a certificate of insurance, to the other party before the contract is signed?</li> </ul>		
	<ul style="list-style-type: none"> <li>○ Does the contract require the other party to name the University as an “additional insured” through an endorsement to the other party’s liability insurance policy?</li> </ul>		
	<ul style="list-style-type: none"> <li>○ Does the contract require the University to name the other party as an “additional insured” through an endorsement to the University’s liability insurance policy?</li> </ul>		
	<ul style="list-style-type: none"> <li>○ Does the contract state that the other party’s insurance will provide primary coverage for claim arising out of the contract?</li> </ul>		
<b>Indemnification</b>			
		<input type="checkbox"/> Yes	<input type="checkbox"/> No
	<ul style="list-style-type: none"> <li>○ Does the contract contain a risk-shifting provision that: <ul style="list-style-type: none"> <li>▫ Allocates the risk on the other party by requiring that party to defend, indemnify, or hold harmless the University in the event of a claim, injury, lawsuit, or damages arising out of the negligent act or omission of the other party?</li> <li>▫ Allocates the risk on the other party by requiring that party to defend, indemnify, or hold harmless the University in the event of a claim, injury, lawsuit, or damages arising out of the University’s own negligent act or omission?</li> <li>▫ Requires the University to assume full responsibility and pay for all claims arising out of the contract, including claims caused by the other party’s negligence?</li> <li>▫ Requires the University to assume full responsibility for losses caused by the joint negligence of both parties?</li> <li>▫ Requires each party to remain responsible for losses caused by its own negligence?</li> </ul> </li> <li>○ Is the risk allocation provision conspicuous (in bold or upper-case letters)?</li> <li>○ Does the contract place a monetary limit on the amount of liability assumed by the other party? Is this limitation mutual (applicable to both parties)?</li> </ul>		
<b>Termination</b>			
		<input type="checkbox"/> Yes	<input type="checkbox"/> No
	<ul style="list-style-type: none"> <li>○ Is the termination mechanism clear and reasonable?</li> <li>○ Can either party, in their sole discretion, terminate the agreement?</li> </ul>		

	○ Does the contract state the circumstances under which either party can terminate the agreement before the end of its term?		
	○ Does the contract clearly define the circumstances that can prompt a for-cause termination?		
	○ Does the contract allow either party to terminate the contract without cause?		
	○ Does the contract require written notice of a party's intent to terminate the contract before the end of its term?		
	○ Is it specified when the notice of termination must be given?		
	○ Does the contract include a <i>force majeure</i> clause allowing either party to terminate the contract or delay performance due to extraordinary circumstances that cannot be controlled by the parties or due to acts of God?		
	○ Does the contract allow the breaching party the opportunity to cure or correct its breach within a reasonable time frame?		
	○ Does the contract state that a breach of its terms entitles the nonbreaching party to injunctive relief, accelerated payments, automatic damages, or penalties?		
	○ Is it specified that the other party is required to return and/or destroy University data / user information upon termination?		
<b>Dispute Resolution</b>			
		<input type="checkbox"/> Yes	<input type="checkbox"/> No
	○ Does the contract require that any dispute be brought and litigated in the State courts located in Bexar County, Texas or in the United States District Court for the Western District of Texas?		
	○ Are the contract terms to be interpreted under Texas law in the event of a dispute?		
	○ Does the contract permit the use of mediation to resolve disagreements or claims arising out of it?		
	○ Does the contract require arbitration to resolve disagreements or claims arising out of it?		
	○ Does the contract require the other party to pay for attorney fees, court costs, or other litigation expenses of the other party in the event of a dispute?		
<b>Signature</b>			
		<input type="checkbox"/> Yes	<input type="checkbox"/> No
	○ Does the person signing the contract on behalf of the institution have authority to commit the institution to the contract?		

	<ul style="list-style-type: none"> <li>▫ Authorized contract signers on behalf of the University include: the CFO &amp; VP of Administrative Services Dr. Darrell Haydon; and the University President Dr. Thomas Evans</li> </ul>		
	<ul style="list-style-type: none"> <li>▫ Authorized signers of Clinical Affiliation Agreements include the Dean of the School seeking to enter into the agreement on behalf of the University; the CFO &amp; VP of Administrative Affairs; and the University President</li> </ul>		
	<ul style="list-style-type: none"> <li>○ Are the names and titles of the individuals signing the contract accurate?</li> </ul>		