



# Contract Approval and Management Policy

## Purpose

The purpose of this policy is to:

- Ensure all Agreements entered into by Unitec comply with the law, adequately document the contractual arrangement and minimize the financial and reputational risk to Unitec; and
- Provide Staff with direction on the negotiation, formation, management, review, renewal and signing of Agreements.

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## Audience and Scope

This policy is relevant to all staff and applies to any Agreement (as defined in the glossary) which commits Unitec New Zealand Limited (Unitec) in financial or legal terms.

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## Policy

Only staff with the relevant delegation and authorization may negotiate, form, review, renew and sign Agreements on behalf of Unitec.

Owners must manage Agreements proactively and responsibly.

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## Procedures

### 1. Negotiating Agreements

- 1.1. Before an Agreement is submitted for signing, the Owner must liaise with the appropriate School or service department for guidance and assistance where the Agreement will impact on the finances or other resources of that School or service department. The Owner shall ensure that all appropriate approvals, consultations and reviews have taken place, and appropriate action taken if necessary.
- 1.2. Where Agreements involve the acquisition of goods and/or services, the Procurement Policy must be followed. The Procurement Officer must review and approve the draft Agreement for all procurement-related Agreements (being Agreements involving the acquisition or disposal of goods and/or services) that exceed \$50,000 in value.
- 1.3. All Agreements with a value exceeding \$1,000 must be in writing. Whenever practicable, approved document templates and Unitec standard terms and conditions will be used as the basis for Agreements entered into by Unitec (also refer section 3.7 of this policy).
- 1.4. For the purposes of this policy, the value of an Agreement shall be assessed having regard to the actual lifetime value of the Agreement. Where the actual value of the Agreement cannot be determined in advance, a reasonable estimate shall be used.

- 1.5. Unitec Legal Counsel must be consulted in connection with the drafting and/or review of all Agreements. Unitec Legal Counsel is available to provide assistance and advice in relation to proposed Agreements.

## 2. Approving Agreements

- 2.1. The Owner shall ensure an Agreement Authorisation Sheet (hardcopy and/or electronic version) is completed by Unitec Legal Counsel for each Agreement before the Agreement is signed on behalf of Unitec, except in the case of:
  - (a) variations or renewals exempted in accordance with section 5 of this policy;
  - (b) template Agreements signed in accordance with section 6 of this policy; or
  - (c) other Agreements or classes of Agreements exempted by the Chief Executive.
- 2.2. Every Agreement Authorisation Sheet will include the name of the staff member accountable for the management of the Agreement. This person will be known as the **‘Owner’**.
- 2.3. An Agreement Authorisation Sheet must be reviewed and signed by Unitec Legal Counsel and the Owner (who must confirm that all relevant Unitec policies have been followed, including this policy, the Procurement Policy, the Delegated Authorities Policy and the Academic Development and Approval Policy). Where applicable, with reference to the Delegated Authorities Policy, the Agreement Authorisation Sheet must also be signed by an endorsing DCE, the DCE Operations, and/or the Chief Executive.
- 2.4. Irrespective of the Agreement value, the following classes of Agreement are subject to additional approvals:
  - (d) Agreements relating to software, internet or other technology-related goods and/or services shall be approved in advance by the Director Information Technology;
  - (e) Agreements relating to land or property that is owned or controlled by Unitec (such Agreements not including short term room bookings in accordance with policy) shall be approved in advance by the DCE Operations;
  - (f) Independent contractor agreements are subject to prior approval by the Director People and Culture, the relevant Head of School (if any) and the relevant DCE in accordance with the appropriate approval process; and
  - (g) In accordance with the Delegated Authorities Policy, finance leases, hire purchase agreements or any other financial arrangements that are subject to the provisions of the Education and Training Act 2020 must be referred to the DCE Operations for review and to determine the appropriate approval process
- 2.5. Where required under the Board’s Register of Permanent Delegations and Authorisations, the Constitution of Unitec, the Operational and Financial Parameters Direction or any other direction issued by Te Pūkenga, certain classes of Agreement must be approved by the Board and/or Te Pūkenga.
- 2.6. For the avoidance of doubt, Agreements may only be signed/approved by a person with the appropriate delegated authority.

## 3. Record keeping

- 3.1. The Owner is responsible for ensuring that one (preferably original) signed copy of the Agreement is forwarded to Unitec Legal Counsel for filing. Unitec Legal Counsel is responsible for ensuring the details of all Agreements are entered onto the Contracts Database and that electronic and physical copies of signed Agreements are retained on file.

## 4. Contract Management

- 4.1. The Owner shall ensure that Te Noho Kotahitanga guiding principles are observed in the way that Unitec contracts with external parties.

- 4.2. The Owner is responsible for managing the relationship with the other party (or parties) and reviewing and managing Agreements to ensure Unitec's rights and obligations under the Agreement are met. The Owner will comply with the obligations and responsibilities outlined in the Contract Management Manual.

## 5. Varying or Renewing Agreements

- 5.1. Any variation to or renewal of an Agreement must be approved in accordance with the agreement approval procedures outlined in section 1 of this policy. If the Unitec Legal Counsel assesses that the variation and/or renewal (as applicable) of the Agreement presents little or no risk to Unitec, the Unitec Legal Counsel may, at his or her discretion, dispense with the requirement for the completion of an Agreement Authorisation Sheet, and such other requirements of this policy to the extent that he or she may consider appropriate in the circumstances.
- 5.2. In accordance with the Procurement Policy, the Procurement Officer must be consulted prior to renewal of any procurement-related Agreements that exceed \$50,000 in total value (including the value of both the current term and the renewed term of the Agreement).

## 6. Template Agreements

- 6.1. Except as provided in section 6.2, if the following circumstances apply, the Owner is not required to consult Unitec Legal Counsel for review/approval of an Agreement before signing:
- (a) a standard approved Unitec template agreement which is used as the basis for an Agreement; and
  - (b) the template is being used for its designated purpose; and
  - (c) the standard terms of the template are not varied; and
  - (d) the Owner has used the template previously and/or is familiar with the terms of the template.
- PROVIDED that a signed copy of the Agreement must still be forwarded to Unitec Legal Counsel for filing in accordance with section 3.1 of this policy.
- 6.2. Irrespective of whether or not a template agreement is used, the classes of Agreement specified in sections 2.4 and 2.5 remain subject to the additional approvals specified in those sections.
- 6.3. If the Owner has not used the template agreement before and/or is not familiar with the terms of the template, the Owner shall consult Unitec Legal Counsel for review/approval of the Agreement before signing.
- 6.4. It is recommended that the Owner checks with Unitec Legal Counsel prior to using any template agreement, to ensure that the template is appropriate for the proposed use and that the Owner is using the most recent version of the template. Where possible, current versions of template agreements should be downloaded from the NEST by the Owner.

## 7. Conflict of Interest

- 7.1. Under no circumstances may a staff member be the Agreement Owner, Agreement signatory or Agreement negotiator on behalf of Unitec if they or a member of their immediate family are the owners of, or have a financial interest in, another party to the Agreement.

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## Exemptions and Dispensations

The Chief Executive must approve in writing any dispensations from the requirements of this policy for one-off circumstances.

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## Evaluation/Outcomes

Performance against the requirements of this policy will be measured by inclusion in Unitec's audit framework and may be the subject of external audits.

## Definitions

Term	Means
Agreement	<p>Any agreement which commits Unitec in financial or legal terms. This includes, but is not limited to, agreements relating to:</p> <ol style="list-style-type: none"> <li>1. Education</li> <li>2. Finance</li> <li>3. Licensing</li> <li>4. Property</li> <li>5. Services</li> <li>6. Equipment</li> <li>7. Sponsorships/Scholarships/Grants/Funding</li> <li>8. International</li> <li>9. Tender submissions/proposals which, when accepted, will constitute a contract.</li> </ol> <p>For the purposes of this policy, an Agreement includes written agreements not intended to be legally binding which may include letters of intent, memorandums of understanding or similar documents.</p> <p>This policy does not apply to employment agreements but does apply to independent contractor agreements (also called CFS) and supplier agreements. To determine whether a third party should be engaged as an employee, contractor or supplier, please consult People and Culture or Unitec Legal Counsel.</p>
Agreement Authorisation Sheet	<p>Provides a summary of the key terms and features of an Agreement, including:</p> <ul style="list-style-type: none"> <li>• Parties</li> <li>• Value</li> <li>• Term</li> <li>• Key terms</li> <li>• High-risk/unusual terms</li> <li>• Key dates/milestones</li> <li>• Other matters to note</li> <li>• Any special signing instructions for the Agreement</li> </ul>
Contracts Database	The database maintained and held by Unitec Legal Counsel that records the key details of all of Agreements that are held by the Unitec Legal Counsel.
Owner	The staff member named in the Agreement Authorisation Sheet and Contracts Database as the person accountable for the management of the Agreement, and responsible for ensuring that Unitec's rights and obligations under the Agreement are met.
Staff	Includes employees and independent contractors.

## Delegations

As per:

- Board's Register of Permanent Delegations and Authorisations

- Delegated Authorities Policy; and
- Academic Development and Approval Policy.

## Reference Legislation

- Commerce Act 1986
- Companies Act 1993
- Consumer Guarantees Act 1993
- Construction Contracts Act 2002
- Contract and Commercial Law Act 2017
- Copyright Act 1994
- Education and Training Act 2020
- Fair Trading Act 1986
- Health and Safety at Work Act 2015
- Privacy Act 2020
- Public Records Act 2005
- Resource Management Act 1991

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## Associated Documents

- Agreement Authorisation Sheet
- Contract Management Procedure
- Independent Contractor (previously CFS) Process Documentation
- Delegated Human Resources Authorities Schedule
- Financial Delegations Policy
- Academic Development and Approval Policy
- Interests Policy
- Procurement Policy
- Boards Register of Permanent Delegations and Authorisations
- Constitution of Unitec New Zealand Limited
- Operational and Financial Parameters Direction

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## Approval Details

<b>Version number (this version)</b>	Version 1 Draft	<b>Issue Date (this version)</b>	19/03/2021
<b>Version History (Amendments made to this version)</b>	New Policy		
<b>Consultation Scope (if appropriate)</b>	Key stakeholders consulted in the creation of this policy: <ul style="list-style-type: none"><li>• Executive Leadership Team</li><li>• Heads of Schools</li></ul>		

	<ul style="list-style-type: none"> <li>• Director Ngā Wai a Te Tūi; Director Tuapapa Rangahou; Director IT; Director Business Performance;</li> <li>• Infrastructure Operations Manager; Supplier Manager IT; Contract Quality Manager FM;</li> <li>• Procurement Officer; Research Contracts Specialist</li> </ul>		
Approval authority	Executive Leadership Team	Date of Approval	29 July 2021
Policy Sponsor (Has authority to approve minor amendments)	DCE Operations	Policy Owner	DCE Operations
Contact Person	Legal Counsel	Date of Next Review	March 2023