



SOCIETY OF
RESEARCH
ADMINISTRATORS
INTERNATIONAL

The Hooks, Lines and Sinkers of Contracts. Words That Matter and What They Mean



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Poll of Audience

In what area of research administration do you work?

- a. Cradle to Grave
- b. Pre-award
- c. Post-award (non-financial)
- d. Research Finance
- e. Contracts Office
- f. Compliance

Poll of Audience

What level of legal training do you have?

- a. None
- b. I completed the SRAI Research Law Certificate
- c. I have a JD

Objective

Understand:

- Elements of a research contract
- Why certain terms are used
- Potential problems and how to avoid them

Poll of Audience

What is the best estimate of the percent of your job duties that is related to contracts and agreements?

- a. 0%
- b. 25% or less
- c. 50%
- d. 75%
- e. 100%



What is a Contract?

Definition: A contract is a legally binding agreement between two or more parties that creates mutual obligations, where each party promises to perform a specific action or set of actions, usually in exchange for something of value from the other party; essentially, it's a formal agreement with enforceable terms that outlines the rights and responsibilities of all involved parties.

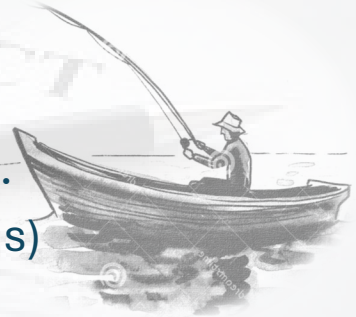
Generally, take the form of:

Written agreement, verbal agreement, handshake, actions.

What is a Contract?

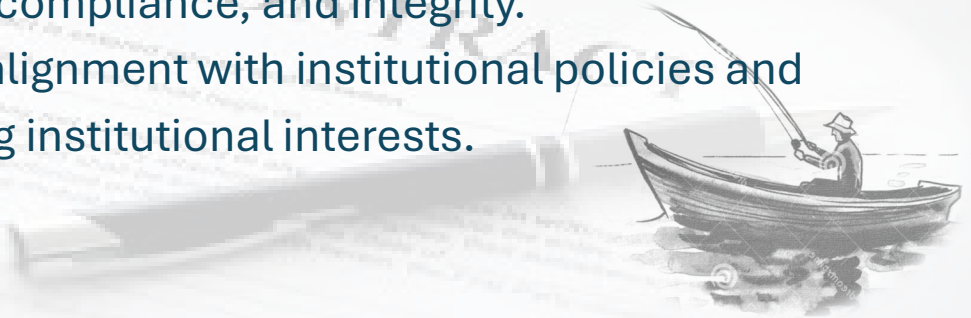
Types within Research Administration:

- Sponsored Research Agreements (SRAs)
- Grants & Cooperative Agreements
- Purchase Orders
- Intellectual Property/Licensing Agreements
- Material Transfer Agreements (MTAs)
- Data Usage Agreements (DUAs)
- Confidentiality Agreements (CDAs), etc.
- Memorandums of Understanding (MOUs)



Why Understanding Contracts Matters To Research Administrators

- Provides a record
- Provides clarity, context
- Protects rights and interests of all parties
- Funding, compliance, and integrity.
- Ensures alignment with institutional policies and protecting institutional interests.



Basic Contract Elements

- Offer and Acceptance
- Consideration
- Mutual Intent (Meeting of the Minds)
- Legality of Purpose
- Capacity



Basic Contract Elements

Offer and Acceptance

- Offer: Promise / commit to do/not do (Perform) something
- Acceptance: Receives the benefit of the promise.

Consideration

- Definition: Something of value exchanged between the parties.
- Examples: Money, services, peace of mind.
- Why it matters: A contract is not enforceable without it.

Mutual Intent (Meeting of the Minds)

- Definition: Clear purpose, objective
- Why it matters: Without this, there may be no valid contract.



Basic Contract Elements

Legality of Purpose

- Contracts must be for lawful purposes to be enforceable.

Examples:

Real Life: A contract to sell a home you don't own; Contract on someone's life.

Research Admin: Terms that require something the law doesn't allow.

- Why it matters: Only legal agreements can be enforced.

Capacity

- Legal authority to enter into a contract
- Why it matters: Protects vulnerable parties

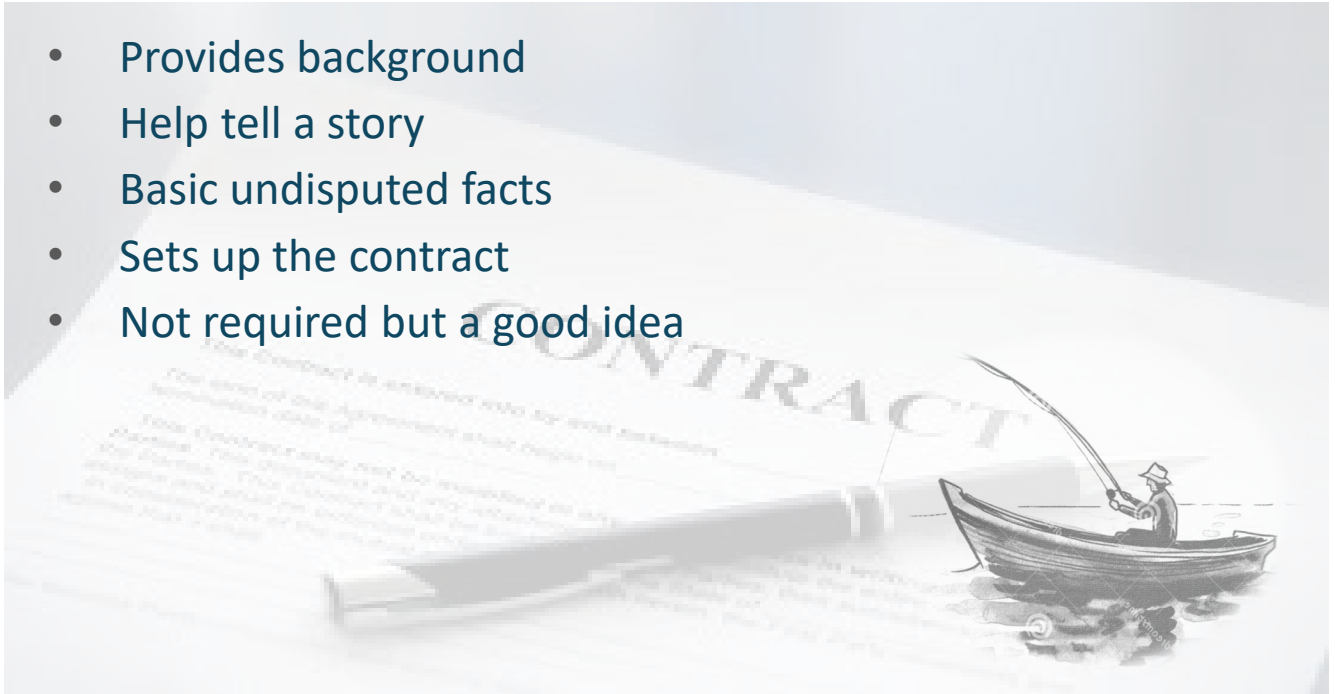
Typical Elements of a Research Contract

- Preamble and/or recitals
- Payment Schedule
- General provisions
- Special provisions
- Statement of Work (SOW)
- Key personnel
- Period of performance
- Reports/deliverables
- Publishing copyrights
- Patents and licensing
- Records and audits
- Termination
- Governing Law/Venue
- Budget



Foundation Statements “Whereas”

- Provides background
- Help tell a story
- Basic undisputed facts
- Sets up the contract
- Not required but a good idea



Effective Date vs. Term vs. Period of Performance

- **Effective Date:**
The date the contract becomes valid and enforceable.
- **Term:**
When the contract ends.
- **Period of performance:**
Start and End date
(If contract is for a particular service or activity)
- Term and Period of Performance may be the same.

Warranties, Representations, Covenants

Promises or guarantees

Warranties

- Implied or Express
- Assurances that something is useable or suitable “fit” for a particular purpose.

Representations

- Statements of fact.

Covenants

- Promise to act or refrain from acting
- Not all warranties are “Warranties”
- Why it matters: Create risks for the Party making the promise.

Default

Failure to perform obligations.

Government:

- Problematic because contractor may be on the hook. (See FAR 52-249-6; 9)

Re-procurement

- Replace, re-produce, re-perform.
- Unknown Liabilities.

Industry

- Only problematic if re-procurement language is included.
- Termination for default in an industry contract better than breach of contract?

Indemnification

One party agrees to compensate or assume responsibility for damages or losses caused by another party.

Why it matters:

- Sponsor: Protects against unforeseen potential legal and financial liabilities – at the university's expense.
- University: Protects the institution from unforeseen potential legal and financial liabilities.

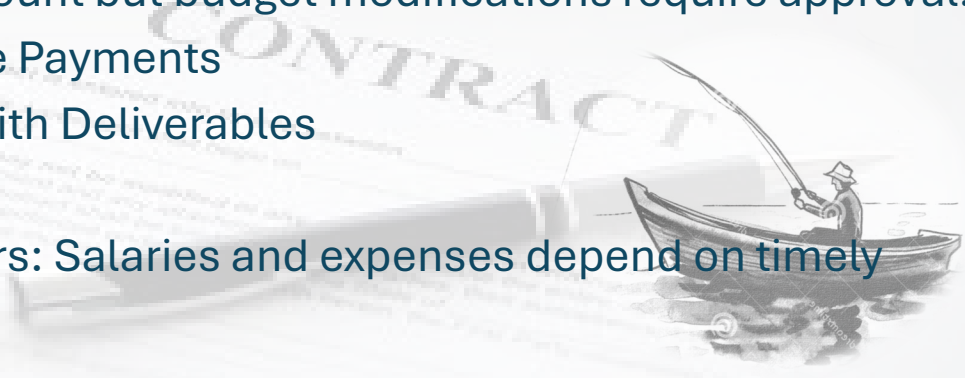


Cost Reimbursable vs. Fixed Price

Cost Reimbursable or Fixed Price ?

- Monthly invoice for costs incurred – NTE amount
- Fixed price with return of residual
- Fixed amount but budget modifications require approval.
- Milestone Payments
- Invoice with Deliverables

Why it matters: Salaries and expenses depend on timely payment.



Intellectual Property

Intellectual property (IP) is a creation of the mind that has value. This includes inventions, artistic works, literary works, designs, symbols, names, and computer code. IP categories include Copyrights, Patents, Trademarks, Trade secrets.

If federally funded, the Bayh-Dole Act, 37 CFR 401, governs ownership of inventions created as a result of federal funding.

Why it matters: Follow institutional policies. Typically, Institution and PI must retain ownership of all Intellectual Property (e.g. copyrights, patents) developed during the course of any sponsored program using institutional facilities.

Publishing Rights

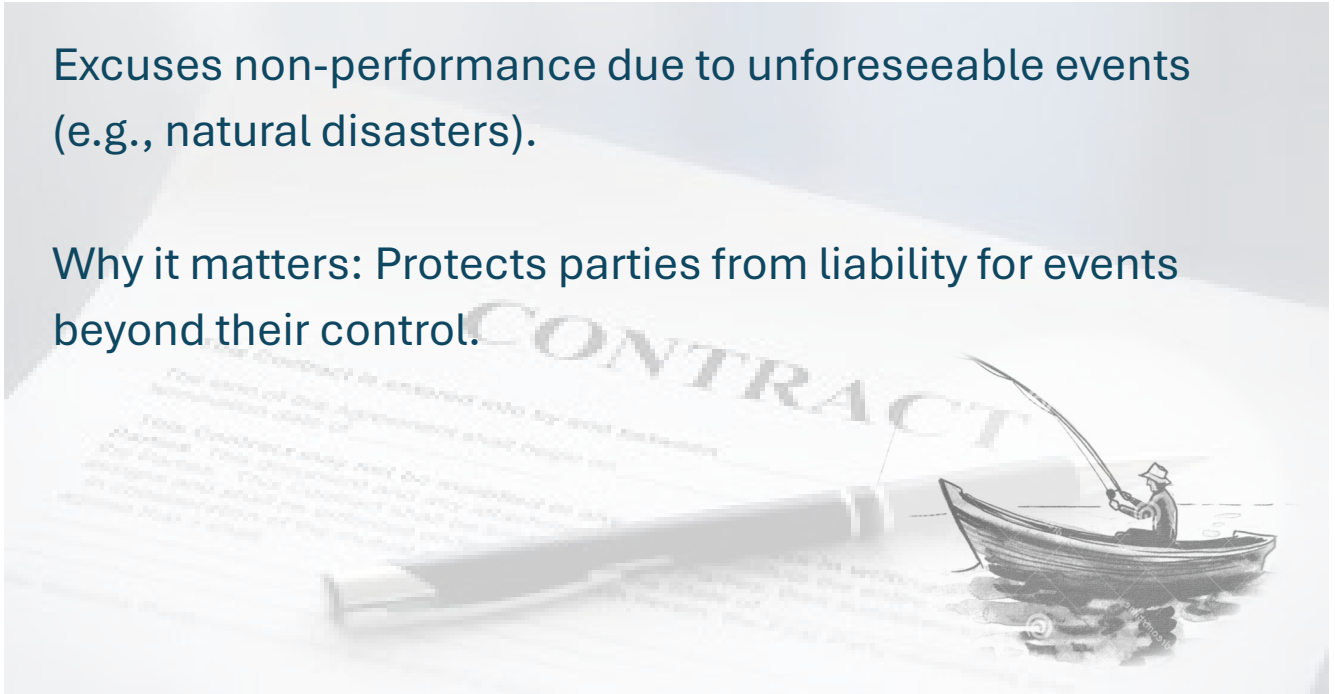
- Academic Freedom
- Restrictions on Publishing
- Approval/Review

Why it matters: Maintaining publishing rights in research is crucial as it allows researchers to control the dissemination of their work, ensures broader access to research findings thus maximizing the impact of their research. It also allows researchers to reuse their work in future projects without undue restrictions. Essentially, it provides them with agency over the use and sharing of their intellectual property.

Force Majeure

Excuses non-performance due to unforeseeable events (e.g., natural disasters).

Why it matters: Protects parties from liability for events beyond their control.



Jurisdiction and Choice of Law

Jurisdiction

- Where disputes are resolved

Choice of Law

- How disputes are resolved

Why it matters:

Law gives parties the ability to choose.



Other Considerations

- When to Consult Legal Counsel or Compliance Offices.
- PI/Department/College buy-in.



The word "CONTRACT" is printed in large, bold, serif capital letters across the center of a document. Below it, there is a fountain pen and a small illustration of a fisherman in a boat. The background is a light, textured surface.

AI and Contract Negotiation

- Benefits

- Speed & Efficiency: Reduces review times by up to 50% while improving accuracy and risk management, according to Gartner.
- Consistency & Accuracy: Every institution has preferred positions, but they're may not be followed uniformly. AI applies these rules automatically in every draft, ensuring no one goes rogue, even under time pressure. Every contract gets the same thorough analysis, whether it's the first or the fiftieth of the day.
- Risk Detection: Accelerates risk management by flagging high-risk clauses that could lead to disputes, ensuring regulation compliance.
- Quality Improvement and Measurable ROI: A 2025 Forbes study found that U.S. legal professionals using AI tools produced higher-quality work in roughly half the time,

AI and Contract Negotiation

- Pitfalls

- Lack of Human Judgment: The intricacies of language, interpreting clauses in light of evolving legal norms, and negotiating conditions require human judgment, empathy, and experience — complex cognitive and emotional skills that AI cannot replicate.
- Hallucinations & Errors: AI models may hallucinate a term or misstates a fact, leaving your organization a target of liability.
- Evolving Regulation: The regulatory landscape surrounding AI in legal contexts continues to evolve, with transparency and explainability becoming key requirements — meaning today's compliant AI tools may need significant updates as laws catch up.
- AI is a powerful tool for contract negotiation, but it works best as an assistant to — not a replacement for — experienced legal professionals. Human oversight remains essential.

AI and Contract Negotiation

AI is a powerful tool for contract negotiation, but it works best as an assistant to — not a replacement for — experienced legal professionals. Human oversight remains essential.



CONTRACT



Questions

CONTRACT



Appendix Sample Language

CONTRACT



Contingent Payment

Unfavorable

Payment shall be contingent upon the availability of funds and/or the continued support by... (the prime sponsor/funding agency)

Or

Should (the prime sponsor/funding agency) reduce, suspend, or terminate funding to Sponsor, Sponsor may reduce, suspend, or terminate this Subcontract.

Favorable

In the event of a termination or other funding Interruption, Sponsor shall pay all costs incurred by subcontractor as of the effective date of such Funding Interruption or Termination, including non-cancelable obligations. All matters related to re-payment or amounts owed by subcontractor shall be resolved pursuant to the disputes clause



Indemnification

Unfavorable

To the full extent allowed under the applicable law, Grantee shall indemnify, defend and hold harmless Sponsor and its directors, officers and employees (“Indemnified Parties”) from and against any claims, causes of action, liability, costs or expenses, including reasonable attorney’s fees, arising from any third party claims brought against any of the Indemnified Parties as a result of the negligent acts or omissions and the negligent acts or omissions of its employees, officers or directors in relation to the scope of work of this Agreement, to the extent allowed by law.

Favorable

Each party shall be responsible for its negligent acts or omissions and the negligent acts or omissions of its employees, officers or directors, to the extent allowed by law.

Or

- Make indemnification mutual
- Tie it to SOW by adding “indemnify Sponsor for grantee’s negligent acts or omissions directly related to work performed under this agreement. Indemnification shall not exceed \$x [value of agreement].”

Insurance

Unfavorable

- Listing specific types and coverage amounts of insurance.
- “Grantee shall provide a Certificate of Insurance evidencing the coverage prior to beginning its performance of the grant and annually thereafter.”

Favorable

Grantee represents and warrants that it and any individual, firm, or corporation who is engaged, employed, or designated by the Grantee to perform under this Grant, shall have all necessary, appropriate and desirable liability insurance for any and all activities performed by, for, or on behalf of, the Grantee under this Agreement.

Or

Grantee agrees to carry levels of insurance appropriate for the scope of work of the grant during the entire term of this grant.

Publication

Unfavorable

Grantee shall have the right to publish any information or material resulting from the conduct of the Scope of Work. Grantee shall furnish the Sponsor with a copy of any proposed publication 30 days in advance of the proposed publication date for review.

Favorable

Add: "The sole purpose of sponsor's review is to determine whether any sponsor Confidential Information or proprietary information has been included in the publication."

Use of Name

Unfavorable

The parties agree not to use the name, any logotypes or symbols of the other party in any advertising, sales promotion, or other publicity matter without the prior written approval of the other party.

Favorable

Add: "This provision is not intended to restrict either party from disclosing the existence and nature of this Agreement, or from including its existence in the routine reporting of the party's activities."