

A Curator's 'Dream Contract'

Table of Contents

Preamble page 2

Definitions page 3

Prelude to a contract page 4

Contract pages 5–13

Page 5

Contract introduction

Definition of the contract parties

Non-exclusivity

Pages 6 and 7

Scope of the contract

- TIME FRAME
- DELIVERABLES
- MILESTONE PLAN
- RESPONSIBILITIES

- MEETINGS BETWEEN CURATOR AND INSTITUTION
- MARKETING/PRESS
- EDUCATION
- PUBLIC PROGRAMMES
- DOCUMENTATION

Pages 7 and 8

Conditions for work

- RESEARCH
- SKILLS
- TRAVEL
- ACCOMMODATION
- REPRESENTATION

- WORKING METHODS
- EXTERNAL COLLABORATORS

Production

Rights and permissions

Remuneration

Page 9

Expenses

Fundraising

Budget

Page 10

Insurance

Acquisitions

Rights

Page 11

Communication

Subcontractors

Accountability

Page 12

Censorship

Conflict resolution

Rules for termination

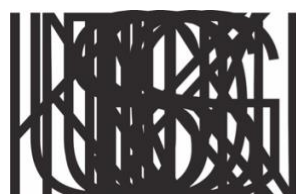
Confidentiality

Page 13

Definition of jurisdiction

Force majeure

OVERVIEW OVER APPENDECIES



University of Bergen
Faculty of Fine Art,
Music and Design



Preamble

This document is the result of a teaching workshop organised as part of the MA Curatorial Practice, Faculty of Fine Art, Music and Design, University of Bergen, together with the Norwegian Association of Curators, hosted by UKS (Young Artists' Society) in Oslo, Norway. It was drafted collectively in a workshop on 11 December 2021 by Josephine Boesen, Itzel Esquivel, Flóra Gadó, Kirsti van Hoegge, Jaleesa Johnston, Stéphane Kabila, Silja Leifsdottir (Norwegian Association of Curators), Marny Garcia Mommertz, Tominga Hope O'Donnell (Norwegian Association of Curators), Martina Petrelli (Norwegian Association of Curators), Favour Ritara, Noura Salem, Anne Szefer Karlsen, Miriam Wistreich (UKS) and Niovi Zarampouka-Chatzimanou. The document was adjusted on 13 December 2021 and on 11 March 2022 in conversation with lawyer Tom Eilertsen, Bull & Co.

This document is developed to provide guidelines for freelance curators and others that may find it helpful. It can be shared freely in print, online or otherwise with anyone.

In addition to each workshop participant's own experiences, they consulted several online resources available to freelance curators provided by a number of organisations, such as the 'Guidelines Regarding the Hiring of Guest Curators by Museums' from College Art Association (CAA)¹ and the 'Contrat De Services Professionnels: Commissaire' provided by The Museums of Québec² to find guidance for writing up and negotiating contracts. We have additionally looked at initiatives such as W.A.G.E. (WORKING ARTISTS AND THE GREATER ECONOMY)³ and work done by Frame Contemporary Art Finland in the project *Rehearsing Hospitalities*, which has resulted in the online publication *Access Riders*⁴.

This document is not to be considered a 'definitive guide' to curators' contracts, but a free resource to help curators think through what a contract might contain. This is a document to *think with*. Curatorial practice is intrinsically collaborative. These collaborations are at the best of time driven by interests and desires that are aligned. Nevertheless, negotiating a contract at the beginning of a collaboration can be part of a useful practice to safeguard a common understanding of how the collaborators together will reach their common goal. Sometimes, collaborations are driven by more pragmatic concerns. Negotiating a contract can provide for meaningful conversations in such situations, to find a common platform for collaboration and agreement on goals and ways of implementation.

To make the workshop task manageable, we focused on the all too familiar situation where a freelance curator is faced with negotiating with representatives of institutional structures that hold greater real and symbolic power than the curator. This document does not consider more complex curatorial constellations, but we hope that it can also be useful for a curatorial collective's negotiations.

On behalf of the workshop group,
Anne Szefer Karlsen, Professor Curatorial Practice
The Art Academy – Department of Contemporary Art, Faculty of Fine Art, Music and Design,
University of Bergen

If you have comments or questions, please feel free to be in touch via email ask@uib.no

¹ <https://www.collegeart.org/standards-and-guidelines/guidelines/guest-curators>

² <https://www.musees.qc.ca/fr/professionnel/chercher?search%5Bterm%5D=contrat+de+service>

³ <https://wageforwork.com/home#top>

⁴ *Access Riders* is a collaborative project by artists Jessie Bullivant and Jemina Lindholm presented as a publication <https://frame-finland.fi/en/resources/access-riders-pdf-for-reading-on-a-screen/>

Definitions

The following pages suggests a set of chapters that a curator might want to include in their contract. The text combines suggestions on how to word a clause and explanations that provide context for the contractual points.

There are two assigned negotiating partners in the document: the CURATOR and the INSTITUTION. The INSTITUTION can be any venue, institution or commissioner of curatorial projects, whether non-profit, commercial, museum or a commissioner of projects in public space.

Prelude to a contract

Before a contract is developed and signed, the CURATOR should have defined a period when a project is seriously discussed with a venue, institution, or commissioner [in this document referred to as INSTITUTION]. Before discussions start, the parties should make a Draft agreement *or* Development agreement. A Draft agreement is used to cover the time and efforts that goes into negotiating a contract, while a Development agreement is used to cover the time during which a project is developed, before reaching the stage of signing a contract.

In the Draft/Development agreement you should state *who* initiated the process: did the CURATOR approach the INSTITUTION or did the INSTITUTION approach the CURATOR? It should be stated how much time the CURATOR has spent on developing the content/pitch/intellectual property (particularly important if the CURATOR initiated the process), and what remuneration the CURATOR will receive for the development phase.

If the CURATOR is pitching their project to the INSTITUTION, the CURATOR should reserve the right to move the project to another INSTITUTION, should it not move beyond the Draft/Development phase.

The duration of the Draft/Development agreement should be defined. When this time period is over, CURATOR and INSTITUTION should have a clear idea of whether they want to move into a contractual relationship.

If you find it difficult to negotiate your own contract, you could consider asking someone else to do it on your behalf. This can be a trusted colleague who is interested in helping you procure the best possible working conditions or it can be a lawyer. Whomever it is, the CURATOR should always aim to compensate such a service. This could be in the form of financial compensation or a return service.

Contract

A contract is the result of a period during which the curator has already been remunerated for their time spent on drafting the contract.

Contract introduction:

At the beginning of the contract, the parties should provide a summary statement that describes how the project was initiated (developed from the Draft/Development agreement).

If the CURATOR is pitching their project to the INSTITUTION, remember to include that the CURATOR should reserve the right to move the project to another INSTITUTION, should this contract be terminated.

If the INSTITUTION approaches the CURATOR, the INSTITUTION should describe and specify why the CURATOR is invited to work with the INSTITUTION. [This could be particular expertise, connections to certain artists etc. – this specification will be crucial if the CURATOR needs to appoint a replacement for themselves, or step away from the project.]

In the case of cancellation of all or parts of the project, or termination of the contract for any other reason, regardless of cause, the rights to work already carried out will belong to the CURATOR.

Definition of the contract parties:

NAME OF INSTITUTION
Address etc.

Named contact person at INSTITUTION
Named second contact person at INSTITUTION, should the first contact person no longer be available (sick leave, parental leave, termination etc.). [Before signing the contract, raise the issue of qualification and experience of the contact person and the person who might replace the principal contact person with the INSTITUTION.]

DEFINITION OF MANDATE
It should be specified what mandate the INSTITUTION's contact person has received from the INSTITUTION. The contact person (and their replacement) must be able to act on behalf of the INSTITUTION. If that is not the case, it should be clearly stated and describe details of how the INSTITUTION will operate in relation to the CURATOR.

NAME OF CURATOR
Address of "main office" (which also is the starting point of any travel).

REPLACEMENT
Should the CURATOR not be able to fulfil the duties of this contract, the CURATOR will name a replacement if the INSTITUTION and CURATOR agree that the project should continue.

DEFINITION OF LOCATION(S)
Specified location(s) for public output of project.

Non-exclusivity

This contract allows the CURATOR to pursue other forms of employment and professional opportunities (including education) for the duration of the contract.

Or

The INSTITUTION retains the services of the CURATOR on a non-exclusive basis in order to execute the tasks set out in this contract.

Scope of the contract

TIME FRAME

The contract starts [date] and ends [date]. [Be as specific as possible]

DELIVERABLES

Describe the main outputs (such as, exhibition, publication, public programme etc.), also include the main research processes for CURATOR (and INSTITUTION) if those are defined (such as research travel, conferences, presentations etc.).

MILESTONE PLAN

Create a timeline for the whole time frame, including specific check points that together create a sign off-process – these can, for instance, be tied to the defined process for the budget development, deliverables throughout the process of the project etc.

RESPONSIBILITIES

Divide all the necessary responsibilities to meet the agreed deliverables according to the milestone plan, between CURATOR and INSTITUTION.

Regarding the Deliverables

Always be specific on what tasks the deliverables constitute, and limit the scope of any 'open categories', such as a non-specified deliverable named 'other tasks'.

State the time required for each task (relevant to determine the scope of remuneration) or in what specific time during the project the task should be completed (relevant for the Milestone plan) and define who has the responsibility for each task (relevant for sign off purposes).

Here is a helpful, although not exhaustive, list of relevant tasks generated by the Norwegian Association of Curators to spark ideas about what your particular curatorial project could need:

Research

Concept and idea development

Studio visits

Artist list

List of artworks

Following up commissioning processes with artists

Writing, such as communication material, wall text, catalogue essay

Editorial work

Installation

Press

Photography

Funding, such as developing funding application, meetings with sponsors

Other administrative tasks, such as assisting with loan forms, reporting on grants to funding bodies

Mediation, education, learning and other audience centred activity

Travels for research

Travels for meetings

Staff supervision or HR responsibilities

General contact with host institution or touring partners

General contact with other collaborators and partners

Jury work

Consulting on institutional affairs, such as collections development

MEETINGS BETWEEN CURATOR AND INSTITUTION

Always be specific about the number of and format of face-to-face meetings between the INSTITUTION and the CURATOR (in person or online meetings). Specify the minimum (or maximum) numbers of meetings, if necessary, specify what kinds of meetings they are and when they should happen (also include these in the milestone plan).

MARKETING/PRESS

Define how the curatorial project will be promoted/ marketed by the INSTITUTION, including advertisements (such as e-flux etc.), credits and timing [the timing should be defined in the milestone plan].

EDUCATION

Define any education programmes, and the contribution needed by the CURATOR.

PUBLIC PROGRAMMES

Define any public programme, and the contribution required of the CURATOR.

DOCUMENTATION

Define how the project will be documented, by whom, and at what time. [Press images should be available shortly after the opening or, preferably, before the opening.] The INSTITUTION should clear the rights for the documentation in such a way that it can be shared with the CURATOR and used for promotional and educational purposes, also beyond the exhibition period.

Conditions for work

RESEARCH

The INSTITUTION commits to covering research travel [specified with number of trips, maximum cost of travel and accommodation] for the CURATOR. Could also specify the approximate date, destination and purpose of travel.

SKILLS

The INSTITUTION commits to covering specified skills development for CURATOR needed for the project [for instance, if the project is thought to be particularly 'provocative' and the CURATOR and INSTITUTION anticipate a lot of media coverage, this might include media training with in-house communication staff or external consultants].

TRAVEL

The INSTITUTION cover travel costs for travel for the CURATOR to LOCATION [specified number of trips, purpose of travel – meetings (with artists, with the INSTITUTION, with funding or sponsor partners, or other purpose), production, public appearance for openings and other programmes].

Travel and accommodation will either be arranged directly by the INSTITUTION or reimbursed on receipt of an invoice from the CURATOR. [Specify travel budget allocated by the INSTITUTION and what, if any, travel the CURATOR must cover from their own budget.]

Tickets should always be flexible, to make sure that necessary changes can be made when needed.

ACCOMMODATION

Specified form of accommodation according to CURATOR's requirements. [for instance: 4* hotel, with floor space big enough for a yoga mat and a desk to work on, is the CURATOR ok with staying in other rented accommodation than hotels etc.]

REPRESENTATION

Describe the CURATOR's commitments [*Before* the project is public: meeting with funding partners or sponsors, participation in conferences, be present at openings of biennials, at the INSTITUTION's other programmes. *During* the project is public: opening events, meetings with patrons or sponsors, media contact, audience contact – such as guided tours, dinners etc. *After* the project is public: discursive events, conferences to present the project.] with potential separate remuneration for this.

WORKING METHODS

[A defined flow of communication between the INSTITUTION and the CURATOR.]

[Describe sign off procedures.]

[Definition of requisite authority for decisions making procedures]

[Description of line management.]

EXTERNAL COLLABORATORS

The CURATOR should approve the contract with external collaborators [such as artists, writers etc.] before they are entered into.

The CURATOR should be included in any communication between external collaborators and the INSTITUTION. [Present in meetings, in cc in emails etc.]

The INSTITUTION should be included in any communication between external collaborators and the CURATOR. [Present in meetings, in cc in emails etc.]

The CURATOR should evaluate whether there is certain communication the INSTITUTION should not be privy to [such as initial artist studio visits, meetings or communications that only has conceptual relevance]. These should be specified.

Production

INSTITUTION cover [define list of costs relevant to the project, such as technical support for installation, transport of art works, insurance or artworks, off-site storage, sites for public output other than the INSTITUTION, external project management, costs that are demanded by grant bodies (like external audits of financial reports), travel/accommodation/hospitality for artists and other collaborators, external media support such as PR companies, videographer, editorial support, social media contacts etc.]

Rights and permissions

All rights should be obtained by the INSTITUTION [for instance clearance of rights to show art works in an exhibition, to publish texts and images in print and online publications, public release of films and recorded talks, contributions to seminars and conferences etc.]

All permissions for the use of public space and/or other locations should be secured by the INSTITUTION.

Remuneration [How to ensure competitive pay based on experience and location?]

The fee is AMOUNT [*Make sure to demand to be paid in your own currency or the currency that makes most sense for your context – to avoid unpleasant surprises when it comes to fluctuating conversion rates.*]

Specification of remuneration. Governed by time or by task/deliverable.

TIME:

[Suggested tier system for payment]

1. For long-term, complex curatorial projects (biennials, large museum exhibitions, other curatorial projects that are time consuming – such as those with a high level of community engagement): monthly instalments (paid as salary with the appropriate tax deductions handled by the INSTITUTION or paid upon monthly invoice)
2. For medium-length and temporary curatorial engagements (such as projects that do not exceed one year): three instalments paid 1/3 at the time of signing the contract, 1/3 at a defined milestone point in the project, 1/3 at the end (can be the opening of a project, end date of a project, at the time of delivering reports, or other)
3. For short-term projects: 1/2 at the time of signing the contract, 1/2 at the time of delivery.

DELIVERABLES

[A plan must be defined to map out how payment follows tasks]

DEADLINE FOR PAYMENT (e.g.: two weeks after received invoice) with punitive measures (e.g.: an increase of x% of the total invoice to incur per day/week if the invoice is not paid by INSTITUTION)

[A clause defining paid leave (sick leave, holiday, parental leave etc.)]

[A clause defining % of time spent on research & development]

Expenses

INSTITUTION covers these costs

Specify the following costs according to project

- Production of project, including publications and events, mediation, public programmes, outreach programmes, other formats [as define further under **Production** above].
- Communication and press.
- Office space/works space for CURATOR while on site [in the INSTITUTION or external to the INSTITUTION]
- Representation.
- Travels.

CURATOR covers these costs

- Office space when not at INSTITUTION
- Telephone/telecommunication [or should INSTITUTION cover part of CURATOR's mobile phone costs, internet access when not at the INSTITUTION, etc.]
- Other costs [like if CURATOR covers own research trips, or research trips not accepted by the INSTITUTION, etc.]

Fundraising

Define who should do the fundraising and division of labour for fundraising.

If CURATOR takes part in fundraising, a commission fee could/should be decided on. Fx. 5-10% of total sum fund raised. This fee should be added to the otherwise decided on remuneration.

Budget

The Budget should be developed in collaboration between CURATOR and INSTITUTION. [Set a date for the sign-off on the initial budget.]

Make a schedule for the budget process, including deadlines for grant applications, timeframe for sponsorship work etc.

Set a definitive deadline for the budget to be financed and define consequences if the budget goals are not met. [For instance, if the full budget is not met, a conference, parts of the public programme or a comprehensive catalogue might not be produced.]

The INSTITUTION commits to a transparent budget either at all times or at specific times in the process [define what times if selected points in the process].

Include a clause that define at what points the INSTITUTION should provide the CURATOR with a specified cost report.

Any reemployment of the budget [above a certain sum] should be signed off by the CURATOR.

Insurance

[What forms of insurance are important to specify in your context?]

To be covered by the INSTITUTION:

Transport insurance

Insurance for artworks

Damage insurance for works while in the custody of the INSTITUTION

Health/accident insurance for personnel at INSTITUTION

Health/accident insurance for performance artists and other artists

Health/accident insurance for the CURATOR when physically at the INSTITUTION

To be covered by the CURATOR:

Health/accident insurance for the CURATOR when not physically at the INSTITUTION

Travel insurance for CURATOR

Acquisitions

Should the INSTITUTION decide to acquire works from the curatorial project, the INSTITUTION commits to an acquisition consultation fee for the CURATOR. This fee should be added to the agreed-upon remuneration and should not be at the expense of the artist. [The fee should be a fixed amount rather than a % of the sales price – since a % of the sales price might encourage the INSTITUTION to negotiate the price lower with the artist(s) or their representatives.]

Rights

Specificity about copyright for CURATOR

- Sole or shared authorship between CURATOR and INSTITUTION [or individual within INSTITUTION]? This should be negotiated.
- If the CURATOR has sole authorship of the project or has approached the INSTITUTION with the idea and has created and made the concept of the project, including the title, CURATOR has the copyright to such elements.

The INSTITUTION should be responsible to clear all underlying rights in the project.

The curator should not be responsible for breach of rights made by the INSTITUTION. A rights-holder can always withdraw their name before the project is made public. The INSTITUTION is responsible to secure rights as early as possible.

If any rights are not possible to clear, the INSTITUTION should inform the CURATOR at the earliest possible moment. [For instance, if the INSTITUTION is not able to secure the loan of a work, or secure the rights to use an image for public purposes, etc.]

CURATOR's credit:

Example: PROJECT TITLE is curated by CURATOR

Specification of where this credit should appear. [All communication by the INSTITUTION, social media, video, broadcasting, press coverage etc.]

Ownership of the project: define who [INSTITUTION and CURATOR? INSTITUTION or CURATOR?] can approach other partners to initiate dialogue about touring the project, about funding opportunities, sponsorships, invitations to be part of the project as artist or other contributor.

Other credits, including other partners in the project if necessary – for instance an additional clause stating something along the lines of “Everyone contributing with intellectual/artistic/technical/material work to the project should be publicly credited, unless they explicitly express otherwise.”

Communication

[Important to keep in mind for this point is who can speak at what time and in what way about what parts of the project in public, to press etc.]

Define to what extent the CURATOR shall contribute to the press kit.

Define to what extent the CURATOR shall be in direct contact with communications personnel at INSTITUTION, PR company etc.

Subcontractors

Anyone included in the project by INSTITUTION or CURATOR contributing intellectual and/or artistic work shall be fairly remunerated.

Anyone included in the project by INSTITUTION or CURATOR contributing technical or material assistance shall be fairly remunerated.

The CURATOR could negotiate to sign off on the use of all/some sub-contractors or have the authority to define specific contractors. This can be politically/ethically motivated [not accept sub-contractors that tax to certain nation states, for instance] or motivated by the need to include certain stable collaborators [for instance a photographer/videographer, designer, editor/sub-editor/copy editor, press liaison, technical support etc. that the CURATOR needs to be able to fulfil their duties in the project].

Make sure to include a clause on who governs the relationship with the different subcontractors.

Accountability

The contract partners should agree on an accountability partner, who will follow up the work of implementing the contract points [at certain times]. An accountability partner is a third party that is agreed on and invited into the process to ensure that both parties do what they have pledged. The accountability partner should be remunerated by the INSTITUTION or by external funds.

Define a contract review process together with the accountability partner: definition of timeframes for revisiting the contract with the purpose of potential renegotiation [included in a milestone plan as an appendix].

Censorship

The INSTITUTION should transparently and openly inform the CURATOR about possible censorship issues. [Note that censorship can also come from the INSTITUTION itself, and it is therefore important to have in place proper sign-off procedures on intellectual/artistic content.]

Conflict resolution

Conflicts regarding the contract should be resolved by negotiation between the parties. If the conflict is not solved during such negotiations, a mediator should be appointed. Define a named conflict mediator in the contract (example: the Chair of the Norwegian Association of Curators.)

If the parties have not come to an agreement within sixty days following the appointment of the mediator, one of the parties may, as applicable, take recourse to or terminate the contract.

INSTITUTION shall cover legal representation of the curator's choice (for instance) if the conflict is resolved in favour of CURATOR, if CURATOR is being involved in a conflict arising from the project itself (e.g. any copyright breach/damage breach etc).

Rules for termination

If a party is in material breach, the other party may terminate the contract. Any material breach of the contract needs to be remedied in [a certain time frame] before termination of the contract is a reality.

That legal costs to solve any issue will be covered by the INSTITUTION should be negotiated.

If the contract is terminated by the INSTITUTION, the CURATOR remains owner of the curatorial work produced by the CURATOR before the date of termination and the CURATOR may use this work for whatever purpose they see fit. The INSTITUTION assumes the costs incurred by the CURATOR before the date of receipt of the termination notification as well as remuneration proportional to that provided in the CURATOR's fee section of the contract, in addition to a one-time fee for compensation for loss of opportunity.

Defining the reasons for termination is an important part of drafting a contract, and these will vary.. CURATOR should make an appropriate list of reasons to withdraw from the project and terminate the contract, these may include a change in directorship, late or no payments, changes in the budget with consequence for the project, exclusion from team meetings, censorship issues etc.

The INSTITUTION should equally propose a list of reasons to withdraw from the project and terminate the contract.

Confidentiality

The terms and conditions of this contract are confidential between both parties and shall not be disclosed to anyone else.

Each party acknowledges and confirms that any information, material, non-public, project-related information, written or oral, received from the other party orally or in writing for the purpose of the project is confidential information, unless it is necessary to disclose information to a third party in

order to execute the tasks described in this contract or unless the disclosure of the information is authorized by CURATOR and INSTITUTION.

Definition of jurisdiction

Will most likely follow the location of the institution but can be different to that location.

Force majeure

Neither party shall be held responsible for any delay or failure to perform any part of this contract to the extent such delay or failure results from any cause beyond its reasonable control and without the fault or negligence of the party claiming excusable delay or failure to perform.

OVERVIEW OVER APPENDECIES

APPENDIX 1

Project description

APPENDIX 2

Milestone plan

APPENDIX 3

Budget

APPENDIX 4

Floor plan or other description of public place where the project will take place

APPENDIX 5

Care/Access rider

APPENDIX 6

Code of conduct, including ethical conduct