



Finance Guideline	FG002 – Contractor’s Questionnaire
Objective	To provide guidance as to the independence or otherwise of a UCT contractor and to ensure tax is deducted accordingly.
Context	<p>UCT is obliged by SARS (South African Revenue Services) to assess the independence or otherwise of the contractor and to deduct tax accordingly.</p> <p>The onus is on the contractor to satisfy UCT as to their independence.</p> <p>When discussing services to be provided, the UCT contact person must inform the potential contractor of UCT’s obligation to deduct PAYE (Pay As You Earn) if it is deemed that such a person / entity is NOT independent, per the SARS criteria.</p>

Guidelines

- 1. The default rule is to deduct PAYE unless the contractor can satisfy UCT that they are independent of UCT per the SARS criteria**
- 2. Contractor payments:**
 - a) Tax directive route** (quick and easy)
 - The contractor must provide a valid SARS tax directive and process the payment via the HR payroll system according to the directive. (Refer 3. [Payment with tax directive](#))
 - b) Assessment route** (via the questionnaire)
 - UCT will form its own opinion regarding the contractor’s independent status, based on the information provided and other relevant evidence.
 - The Faculty / PASS finance manager or duly delegated senior Faculty / PASS finance officer should be the first contact to assist the UCT staff member in dealing with the contractors, as they are close to the details of the assignment.

How to assess a contractor’s independence

- The UCT contact person must get the contractor to complete the **contractor’s questionnaire**, based on their status as follows:
 - i) [Individual / Sole Proprietor](#)
 - ii) [Private company / Close Corporation / Trust or other legal entity](#)
 - iii) [Labour Broker](#)These include a guide (Appendix B) as to the classification of contractors.
- Once the contractor completes, dates and signs the questionnaire, the UCT contact person must forward this to the Faculty / PASS finance office for assessment.
- The Faculty / PASS finance manager or duly delegated senior Faculty / PASS finance officer checks, assesses and records the decision on the questionnaire, with the assistance of the central finance signatories, if required.
- If the duly completed questionnaire concludes that the contractor is
 - o **Dependent**, then refer to 4. [Payment to dependent contractors](#)
 - o **Independent**, then refer to 5. [Payment to independent contractors](#)
- The onus is on the contractor to inform UCT within 7 days should any of the answers provided in the questionnaire change.

Points to keep in mind

- Being a **provisional tax payer** is definitely not proof of a person / entity’s independence per our tax consultants.
- Being a registered **VAT vendor** is not conclusive proof of a person / entity’s independence per our tax consultants.
- A tax clearance certificate provides evidence that the person is in good standing with SARS for the period indicated on the certificate. It is not conclusive evidence of the contractor’s independence.
- Close Corporations (CCs), Trusts and Private (Pty) Ltd companies can still be deemed to be NOT independent per SARS criteria.



3. Payment with tax directive (via HR)

- If the contractor has a valid tax directive, their department is required to fill in the necessary HR ad hoc payment forms.
- PAYE will be deducted in accordance with the tax directive.

4. Payment to dependant contractors (via HR)

- If the contractor is considered dependant by UCT, inform the contractor of this decision and that their department is required to fill in the necessary HR ad hoc payment forms.
- Submit these forms to HR by the 3rd of the month, for payment at the end of that month.
- PAYE will be deducted at 25% for all contractors deemed dependent by UCT unless they declare UCT as their sole employer (via the personal details form [\[HR101\]](#)), in which case tax will be deducted per the tax table. This includes:
 - o part-time / guest lecturers
 - o non-standard employees e.g. students working less than 22 hours per week.
- Non – residents pay tax at 25% (non-standard employment), or per the tax tables (standard employment), unless a valid multi-lateral tax agreement indicates otherwise. The onus is on the non – resident to provide such valid information.

5. Payment to independent contractors (via Creditors)

- Once assessed as independent, the Faculty / PASS finance manager must keep copies of the signed questionnaire.
- A signed questionnaire must accompany each request for payment to a contractor via Creditors.
- The original signed questionnaire must be attached to the initial invoice and processed for payment as per normal via Creditors.
- Creditors must maintain an appropriately cross referenced database of original signed questionnaires, and indicate this on Purchase Orders (PO), as required.
- Independent contractors providing a regular service to UCT should be created as vendors on SAP (provided they meet the UCT vendor criteria) and paid as trade Creditors.

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Finance guideline owner	Executive Director, Finance
Approved by	Finance Advisory Group
Updated	September 2011
Direct queries to	Finance helpdesk (X2111) fnd-finance@uct.ac.za



Contractor's questionnaire (APPENDIX A – Section 1)
Individual / Sole Proprietor

<p>1. Your name:</p>								
<p>2. Are you in possession of a current tax directive? YES <input type="checkbox"/> NO <input type="checkbox"/></p> <p><i>If "YES", you do not need to complete this form. Please attach a copy of the tax directive and fill in the necessary HR ad hoc payment forms. See FG002, 3. Payment with tax directive.</i></p>								
<p>3. Which of the following do you provide to the University of Cape Town (UCT)?</p> <p>3.1. Persons <i>You do not have to complete this form. Please go to the questionnaire for a Labour Broker.</i></p> <p>3.2. A service with a determinable result <i>Please attach a copy of a signed service agreement, and continue to question 4.</i></p>								
<p>4. Are you a South African resident? YES <input type="checkbox"/> NO <input type="checkbox"/></p>								
<p>5. Nature of income / payment regime</p> <p>5.1. Are your payments based on the following? <i>Please tick relevant box.</i></p> <table border="1" style="width:100%; border-collapse: collapse; margin: 10px 0;"> <tr> <td style="width:80%;">Basic (fixed amount)</td> <td style="width:20%; text-align: center;"><input type="checkbox"/></td> </tr> <tr> <td>Basic and commission</td> <td style="text-align: center;"><input type="checkbox"/></td> </tr> <tr> <td>Commission only</td> <td style="text-align: center;"><input type="checkbox"/></td> </tr> <tr> <td>With reference to the results of services rendered or work performed</td> <td style="text-align: center;"><input type="checkbox"/></td> </tr> </table> <p><i>Please explain briefly</i></p> <p>.....</p> <p>5.2. Are payments made on an invoice basis? YES <input type="checkbox"/> NO <input type="checkbox"/></p> <p><i>If yes, how are these payments determined, e.g. based on an hourly rate, a monthly or weekly fixed amount, or per task / work / services performed during that period?</i></p> <p><i>Please explain briefly</i></p> <p>.....</p>	Basic (fixed amount)	<input type="checkbox"/>	Basic and commission	<input type="checkbox"/>	Commission only	<input type="checkbox"/>	With reference to the results of services rendered or work performed	<input type="checkbox"/>
Basic (fixed amount)	<input type="checkbox"/>							
Basic and commission	<input type="checkbox"/>							
Commission only	<input type="checkbox"/>							
With reference to the results of services rendered or work performed	<input type="checkbox"/>							
<p>6. Supervision and control</p> <p>6.1. Does UCT determine the following? <i>Please tick relevant box.</i></p> <table border="1" style="width:100%; border-collapse: collapse; margin: 10px 0;"> <tr> <td style="width:35%;">Your hours of work</td> <td style="width:10%; text-align: center;"><input type="checkbox"/></td> <td style="width:35%;">The timing and amounts of payment/s to be made</td> <td style="width:20%; text-align: center;"><input type="checkbox"/></td> </tr> </table> <p><i>Please explain briefly</i></p> <p>.....</p> <p>6.2. Are your activities supervised and / or controlled by UCT? YES <input type="checkbox"/> NO <input type="checkbox"/></p> <p><i>Please explain briefly</i></p> <p>.....</p> <p><i>Please attach a copy of the latest invoice submitted by you to UCT</i></p>	Your hours of work	<input type="checkbox"/>	The timing and amounts of payment/s to be made	<input type="checkbox"/>				
Your hours of work	<input type="checkbox"/>	The timing and amounts of payment/s to be made	<input type="checkbox"/>					



6.3. Does UCT provide you with the following? *Please tick relevant box.*

An office	<input type="checkbox"/>	Equipment, tools, stationery and material	<input type="checkbox"/>	Training	<input type="checkbox"/>
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Please explain briefly

.....

6.4. Does UCT provide you with any of the following? *Please tick relevant box.*

Pension / Provident fund	<input type="checkbox"/>	Medical Aid	<input type="checkbox"/>	Leave	<input type="checkbox"/>
Increases	<input type="checkbox"/>	Bonuses	<input type="checkbox"/>	Other	<input type="checkbox"/>

Please explain briefly

.....

6.5. Are you personally at risk for the quality of the work done or to be done? YES NO

6.6. Are you permitted to render services to any other employers / clients during the period of service to UCT? YES NO

I declare that the information furnished in this questionnaire is true and correct and undertake to advise UCT within 7 days should any of the answers provided by me above change. I furthermore acknowledge that the information provided above will be used by UCT to determine whether payments to me will be subject to the withholding of employees' tax

.....
Name in block letters

.....
Signature

.....
Date

To be completed by Faculty / PASS finance manager or duly delegated senior Faculty / PASS finance officer

Independent? YES NO Refer / complete [Appendix B](#) for assistance

If independent, attach a signed copy of this questionnaire and assessment to the invoice, remembering to keep a copy of such documentation on record. See [FG002](#), 5. *Payment to independent contractors.*

If dependent, let the contractor complete the relevant HR form ASAP and submit to HR dept before the relevant payroll deadline. See [FG002](#), 4. *Payment to dependent contractors.*

Date of assessment:

Name:

Position:

Tel Ext:

Signature:

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UCT's guide to the classification of contractors (APPENDIX B – Section 1)

Individual / Sole Proprietor

<p>1. Does the contractor provide a service to the University of Cape Town or does he / she provide persons? If “PERSONS”, please go to the questionnaire for a Labour Broker If “SERVICE”, continue to question 2.</p>		
<p>2. Is the contractor resident in South Africa?</p> <ul style="list-style-type: none"> • The term “resident” is defined for purposes of natural persons as: <ul style="list-style-type: none"> - someone who is ordinarily resident in the Republic; or - where the person is not at any stage during the year ordinarily resident, then if the person is physically present in the Republic: <ul style="list-style-type: none"> ➤ for 91 days or more in aggregate during the year of assessment as well as in each of the preceding three years of assessment; and ➤ for a period or periods exceeding 549 days in aggregate during such three preceding years of assessment. <p>The effect of the definition is that someone not ordinarily resident in the Republic can, in terms of the physical presence test, only become a resident in the Republic in the fourth year of assessment, after having been physically present in the Republic for the first time.</p> <p>If “NO”, PAYE should be deducted according to the statutory tables. If “YES”, read on.</p>	YES	NO
<p>3. Is the contractor subject to control or supervision, either with regard to the manner in which the contractor renders the work or the hours of work?</p> <p>If “YES”, PAYE should be deducted according to the statutory tables. If “NO”, read on.</p>	YES	NO
<p>4. Does the contractor receive payment for services rendered at regular intervals, regardless of a result or product delivered?</p> <p>If “YES”, PAYE should be deducted according to the statutory tables. If “NO”, continue to 5 below.</p>	YES	NO
<p>5. Is the dominant impression of the relationship dependent? <i>Please complete the Dominant Impression Test first.</i></p> <p>Where the employer is satisfied that the contractor is neither subject to its control or supervision, nor receives regular payments, it still needs to test the independent status of the contractor in accordance with the dominant impression test. The distinction between independent and dependent service is a matter of degree dependent on the facts and circumstances surrounding every single contractor agreement entered into. One must also remember that the circumstances can change. Should this be the case, the relationship with the contractor has to be re-evaluated in accordance with the dominant impression test. The employer should bear in mind that no single indicator would be decisive, conclusive or determinant of the contractor's status.</p> <p>If “YES”, PAYE should be deducted according to the statutory tables. If “NO”, no PAYE should be deducted, as the contractor is independent See FG002, 5. Payment to independent contractors.</p>	YES	NO

Classification of Contractor:		Tax rate to apply:	
Name (in block letters):			
Signature		Date:	

Dominant Impression Test: Individual/Sole Proprietor

	INDICATOR	SUGGESTS DEPENDENT WORKER STATUS	SUGGESTS INDEPENDENT CONTRACTOR STATUS
NEAR CONCLUSIVE Control manner / executive acquisition	Control of manner of working	Employer instructs (has right to) which tools / equipment / staff / raw materials / routines / patents / technology.	Person chooses which tools / equipment / staff / raw materials / routines / patents / technology.
	Payment regime	Payment at <u>regular intervals</u> / by a rate x time-period, but regardless of output or result.	Payment by a rate x time-period but with reference to results, or payment by output.
	Person who must render the service	Person obliged to render service personally, hires & fires only with approval.	Person, as employer, can delegate to, hire & fire own employees, or can subcontract.
	Nature of obligation to work	Person obliged to be present, even if there is no work to be done.	Person only present & performing work if actually required, & chooses to.
	Employer (client) base`	Person bound to an exclusive relationship with one employer. (Particularly for independent business test.)	Person free to build a multiple concurrent client base. (Especially if tries to build client base – advertises etc.)
	Risk / Profit & Loss	Employer bears risk (pays despite poor performance / slow markets). (Particularly for independent business test.)	Person bears risk (bad workmanship, price hikes, time over-runs).
PERSUASIVE Extent of control	Instructions / supervision	Employer instructs on location, what work, sequence of work, etc. or has the right to do so.	Person determines own work, sequence of work, etc. Bound by contract terms, not orders as to what work, where, etc.
	Reports	Control through oral / written reports.	Person not obliged to make reports.
	Training	Employer controls by training the person in the employer's methods.	Worker uses / trains in own methods.
	Productive time (work hours, work week)	Controlled or set by employer or person works full time or substantially so.	At person's discretion.
RELEVANT Labels, clauses, compliance, economic circumstances, "resonant" of	Tools, materials, stationery, etc.	Provided by employer, no contractual requirement that person provides.	Contractually / necessarily provided by person.
	Office/workshop, admin/secretarial, etc.	Provided by employer, no contractual requirements that person provides.	Contractually / necessarily provided by person.
	Integration / usual premises	Employer's usual business premises.	Person's own / leased premises.
	Integration / usual business operations	Person's service critical / integral part of employer's operations.	Person's services are incidental to the employer's operations or success.
	Integration / hierarchy & organogram	Person has a job designation / a position in the employer's hierarchy.	Person designated by profession or trade, no position in the hierarchy.
	Duration of relationship	Open ended / fixed term & renewable, ends on death of worker.	Limited with regard to result, binds business despite worker's death.
	Threat of termination / breach of contract	Employer may dismiss on notice (LRA equity aside), worker may resign at will (BCEA aside).	Employer in breach if it terminates prematurely. Person in breach if fails to deliver product / service.
	Significant investment	Employer finances premises, tools, raw materials, training, etc.	Person finances premises, tools, raw materials, training, etc.
	Employee benefits	Especially if designed to reward loyalty.	Person not eligible for benefits.
	Bona fide expenses or statutory compliance	No business expenses & / or travel expenses reimbursed by employer. Registered with trade / professional association.	Overheads built into contract prices. Registered under tax / labour statutes & with trade / professional association.
	Viability on termination	Obliged to approach an employment agency or labour broker to obtain new work (particularly for independent business test).	Has other clients, continues trading. Was a labour broker or independent contractor prior to this contract
	Industry norms, customs	Militate against independent viability - make it likely person is an employee.	Will promote independent viability - make it likely person is an independent contractor or labour broker



Contractor’s questionnaire (APPENDIX A – Section 2)
Private Company / Close Corporation / Trust or other legal entity

1. Your name:
2. Which of the following do you provide to the University of Cape Town (UCT) ? 6.7. Persons <i>You do not have to complete this form. Please go to the questionnaire for a Labour Broker.</i> 6.8. A service with a determinable result <i>Please attach a copy of a signed service agreement, and continue to question 3.</i>
3. Name of your entity:
4. Type of entity : Company <input type="checkbox"/> Close Corporation <input type="checkbox"/> Trust <input type="checkbox"/> If other, specify _____
5. How many employees who are unconnected to the entity are employed by the entity on a full time basis throughout the year of assessment? Note: <i>The term “unconnected” excludes the shareholders / members or beneficiaries, or their relatives and any support staff (e.g. secretaries, cleaners, etc.).</i> <input type="checkbox"/> <i>If the answer is more than 4, you do not have to proceed with the questionnaire. (You are classed as INDEPENDENT)</i>
6. Nature of income: 6.9. Is 80% or more of the income of the entity for the current year of assessment derived directly or indirectly from one client or likely to be derived directly or indirectly from one client or an associated institution in relation to one client? YES <input type="checkbox"/> NO <input type="checkbox"/> <i>Please explain briefly</i> 6.10. Do the amounts paid for the services rendered include earnings, which are payable at regular (e.g. daily, weekly, monthly) intervals ? <i>Please explain briefly</i> 6.11. Are such payments a fixed amount on a regular basis, e.g. monthly, or are they based with reference to results for service or work performed? <i>Please explain briefly</i> 6.12. Are payments made on an invoice basis? How are these payments determined , e.g. based on an hourly rate, a monthly or weekly fixed amount, OR per task / work / services performed during that period? <i>Please explain briefly</i> <i>Please attach a copy of the latest invoice submitted by you to UCT</i>
7. If you were rendering your services to UCT directly and not through a separate entity, do you believe that you would have been regarded as an employee of UCT?



Please explain briefly

.....

8. Supervision and control:

8.1. Does UCT determine the following? *Please tick relevant box.*

Your hours of work	<input type="checkbox"/>	The timing and amounts of payment/s to be made	<input type="checkbox"/>
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Please explain briefly

.....

8.2. Are your activities supervised and / or controlled by UCT? YES NO

Please explain briefly

.....

8.3. Does UCT provide you with the following? *Please tick relevant box.*

An office	<input type="checkbox"/>	Equipment, tools, stationery and material	<input type="checkbox"/>	Training	<input type="checkbox"/>
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Please explain briefly

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9.

Company Registration Number	Vat Registration Number (if applicable)

I declare that the information furnished in this questionnaire is true and correct and undertake to advise UCT within 7 days should any of the answers provided by me above change. I furthermore acknowledge that the information provided above will be used by UCT to determine whether payments to me will be subject to the withholding of employees' tax

Name in block letters

Signature

Date

To be completed by Faculty / PASS finance manager or duly delegated senior Faculty / PASS finance officer

Independent? YES <input type="checkbox"/> NO <input type="checkbox"/> Refer / complete Appendix B for assistance	
If independent, attach a signed copy of this questionnaire and assessment to the invoice, remembering to keep a copy of such documentation on record. See FG002 , 5. <i>Payment to independent contractors.</i>	
If dependent, let the contractor complete the relevant HR form ASAP and submit to HR dept before the relevant payroll deadline. See FG002 , 4. <i>Payment to dependent contractors.</i>	
Date of assessment:	
Name:	Position
Tel Ext	Signature



UCT’s guide to the classification of contractors (APPENDIX B – Section 2)

Private Company / Close Corporation / Trust or other legal entity

<p>1. Does the contractor provide a service to the University of Cape Town or does the entity provide persons? If “PERSONS”, please go to the questionnaire for a Labour Broker If “SERVICE”, continue to question 2 below</p>		
<p>2. Did / will the contractor employ 4 or more full-time unconnected employees throughout the year of assessment? If “YES”, the Company / CC / Trust / legal entity cannot be a Personal Service Company / Trust and no PAYE need be withheld. If “NO”, proceed with classification.</p>	YES	NO
<p>3. Are the services rendered on behalf of the entity rendered personally by a person connected to such entity (e.g. the member of the CC, shareholder of the company or beneficiary of the trust)? If “NO”, the Company / CC / Trust / legal entity cannot be a Personal Service Company / Trust and no PAYE need be withheld. If “YES”, proceed with classification.</p>	YES	NO
<p>4. Does more than 80% of the income of the Company / CC / Trust / legal entity consists of or is it likely to consist of amounts received, directly or indirectly, from UCT during the year of assessment? If “YES”, the Company / CC / Trust / legal entity is a Personal Service Company / Trust. See *Note below. If “NO”, proceed with classification.</p>	YES	NO
<p>5. Would the contractor be regarded as an employee of yours if the contractor rendered the service directly, as opposed to via the Company / CC / Trust / legal entity? <i>(This is a factual question, which should be considered in light of the specific circumstances and terms pertaining to the services rendered by the contractor)</i> If “YES”, the Company / CC / Trust / legal entity is a Personal Service Company / Trust. See *Note below. If “NO”, proceed with classification.</p>	YES	NO
<p>6. Is the contractor or Company / CC / Trust / legal entity subject to your control or supervision as to the manner in which or hours during which the duties of the contractor in rendering services to you are performed? <i>(This is a factual question. Any indication in the agreement between the Company / CC / Trust / legal entity and you that you have, or are entitled to have, control or supervision would be sufficient to satisfy this requirement i.e. the answer would be “Yes”.)</i> If “YES”, the Company / CC / Trust / legal entity is a Personal Service Company / Trust. See *Note below. If “NO”, proceed with classification.</p>	YES	NO
<p>7. Do the amounts paid or payable to the Company / CC / Trust / legal entity include earnings of any description which are payable at regular intervals e.g. daily, monthly? <i>Where earnings are payable on a regular basis, it should be considered on what basis payment is made: -</i></p> <ul style="list-style-type: none"> • <i>if it is a fixed amount, this requirement will generally be satisfied unless the fixed amount is only payable once an agreed result has been achieved;</i> • <i>if it is based on an hourly rate, you should consider whether or not payment is dependent on an agreed result. For example, payment made only once a certain project or part thereof is completed;</i> 	YES	NO



<p>Where payment is not result driven i.e. payment per hour takes place without regards to actual output but only hours worked, this requirement will be satisfied.</p> <p>If “YES”, the Company / CC / Trust / legal entity is a Personal Service Company / Trust. <u>See *Note</u> below.</p> <p>If “NO”, proceed with classification.</p>		
<p>8. Is the dominant impression of the relationship dependent? <i>Please complete the <u>Dominant Impression Test</u> before answering this question.</i></p>	YES	NO

***NOTE:** If the answer to question 3 was “YES” and any **one** of the 4 tests as set out in questions 4, 5, 6 and 7 were met, the Company / CC / Trust / legal entity is a Personal Service Company/Trust.

- Payments made to contractors operating though incorporated entities, which are defined as Personal Service Companies, are subject to the deduction PAYE at a flat rate of 35%.
- Payments made to Personal Service Trust are subject to the deduction of PAYE at a flat rate of 40%.

Classification of Contractor:		Tax rate to apply:	
Name <i>(in block letters)</i> :			
Signature		Date:	

Dominant Impression Test: Private Company/CC/Trust/other legal entity

	INDICATOR	SUGGESTS DEPENDENT WORKER STATUS	SUGGESTS INDEPENDENT CONTRACTOR STATUS
NEAR CONCLUSIVE Control manner / executive acquisition	Control of manner of working	Employer instructs (has right to) which tools / equipment / staff / raw materials / routines / patents / technology.	Person chooses which tools / equipment / staff / raw materials / routines / patents / technology.
	Payment regime	Payment at <u>regular intervals</u> / by a rate x time-period, but regardless of output or result.	Payment by a rate x time-period but with reference to results, or payment by output.
	Person who must render the service	Person obliged to render service personally, hires & fires only with approval.	Person, as employer, can delegate to, hire & fire own employees, or can subcontract.
	Nature of obligation to work	Person obliged to be present, even if there is no work to be done.	Person only present & performing work if actually required, & chooses to.
	Employer (client) base`	Person bound to an exclusive relationship with one employer. (Particularly for independent business test.)	Person free to build a multiple concurrent client base. (Especially if tries to build client base – advertises etc.)
	Risk / Profit & Loss	Employer bears risk (pays despite poor performance / slow markets). (Particularly for independent business test.)	Person bears risk (bad workmanship, price hikes, time over-runs).
PERSUASIVE Extent of control	Instructions / supervision	Employer instructs on location, what work, sequence of work, etc. or has the right to do so.	Person determines own work, sequence of work, etc. Bound by contract terms, not orders as to what work, where, etc.
	Reports	Control through oral / written reports.	Person not obliged to make reports.
	Training	Employer controls by training the person in the employer's methods.	Worker uses / trains in own methods.
	Productive time (work hours, work week)	Controlled or set by employer or person works full time or substantially so.	At person's discretion.
RELEVANT Labels, clauses, compliance, economic circumstances, "resonant" of	Tools, materials, stationery, etc.	Provided by employer, no contractual requirement that person provides.	Contractually / necessarily provided by person.
	Office / workshop, admin / secretarial, etc.	Provided by employer, no contractual requirements that person provides.	Contractually / necessarily provided by person.
	Integration / usual premises	Employer's usual business premises.	Person's own / leased premises.
	Integration / usual business operations	Person's service critical / integral part of employer's operations.	Person's services are incidental to the employer's operations or success.
	Integration / hierarchy & organogram	Person has a job designation / a position in the employer's hierarchy.	Person designated by profession or trade, no position in the hierarchy.
	Duration of relationship	Open ended / fixed term & renewable, ends on death of worker.	Limited with regard to result, binds business despite worker's death.
	Threat of termination / breach of contract	Employer may dismiss on notice (LRA equity aside), worker may resign at will (BCEA aside).	Employer in breach if it terminates prematurely. Person in breach if fails to deliver product / service.
	Significant investment	Employer finances premises, tools, raw materials, training, etc.	Person finances premises, tools, raw materials, training, etc.
	Employee benefits	Especially if designed to reward loyalty.	Person not eligible for benefits.
	Bona fide expenses or statutory compliance	No business expenses & / or travel expenses reimbursed by employer. Registered with trade / professional association.	Overheads built into contract prices. Registered under tax / labour statutes & with trade / professional association.
	Viability on termination	Obliged to approach an employment agency or labour broker to obtain new work (particularly for independent business test).	Has other clients, continues trading. Was a labour broker or independent contractor prior to this contract
	Industry norms, customs	Militate against independent viability - make it likely person is an employee.	Will promote independent viability - make it likely person is an independent contractor or labour broker



Contractor’s questionnaire (APPENDIX A – Section 3)

Labour Broker

Labour Broker = Provides persons to a client

1. Name:
2. Do you or your entity provide people to render services to UCT? <i>If “YES”, please complete this form.</i> <i>If “NO”, you need to complete the contractor’s questionnaire for either an Individual / Sole Proprietor or Private Company / Close Corporation / Trust or other legal entity.</i>
3. Are you, or is your entity, in possession of a current Exemption Certificate (IRP30) from SARS? YES <input type="checkbox"/> <i>If “YES”, please attach a copy</i> NO <input type="checkbox"/> <i>If “NO”, you are classed as DEPENDANT and need to fill in the necessary HR ad hoc payment forms. See FG002, 4. Payment to dependent contractors</i>

I declare that the information furnished in this questionnaire is true and correct and undertake to advise UCT within 7 days should any of the answers provided by me above change. I furthermore acknowledge that the information provided above will be used by UCT to determine whether payments to me will be subject to the withholding of employees’ tax

Name in block letters

Signature

Date

To be completed by Faculty / PASS finance manager or duly delegated senior Faculty / PASS finance officer

Independent? YES <input type="checkbox"/> NO <input type="checkbox"/> Refer / complete Appendix B for assistance	
If independent, attach a signed copy of this questionnaire and assessment to the invoice, remembering to keep a copy of such documentation on record. See FG002 , 5. <i>Payment to independent contractors</i> .	
If dependent, let the contractor complete the relevant HR form ASAP and submit to HR dept before the relevant payroll deadline. See FG002 , 4. <i>Payment to dependent contractors</i> .	
Date of assessment:	
<i>Name:</i>	<i>Position</i>
<i>Tel Ext</i>	<i>Signature</i>

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UCT's guide to the classification of contractors (APPENDIX B – Section 3)

Labour Broker

1. Does the contractor provide persons to University of Cape Town?

If "YES", please complete this form.

If "NO", you need to complete the contractor's questionnaire for either an [Individual / Sole Proprietor](#) or [Private Company / Close Corporation / Trust or other legal entity](#).

2. Has the contractor provided you with a valid and current tax exemption certificate (IRP30)?

YES *If "YES", please ensure copy attached.*

NO *If "NO", contractor is classed as **DEPENDANT** and the necessary HR ad hoc payment forms need to be completed. See [FG002](#), 4. Payment to dependent contractors. PAYE to be deducted according to the statutory tables*

Classification of Contractor:		Tax rate to apply:	
Name (<i>in block letters</i>):			
Signature		Date:	

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