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I. CONTRACTS TO BE ENTERED INTO BY BAYLOR UNIVERSITY

A. Definitions.

1. “Contract” is defined, broadly, to mean any document intended to set forth an agreement or arrangement between the University and an outside party. A contract is a legally binding agreement consisting of promises to perform, and imposing duties on the parties to perform as promised. A party may be in breach of the contract if it fails to perform. A breach of the contract may entitle the other party to a legal remedy. This policy does not apply to internal memoranda of understanding or similar agreements that govern internal relationships between Baylor’s departments, schools, divisions or subsidiaries.

2. “Contract Amendment” is a change to one or more terms of the contract upon mutual agreement by all parties to the contract.

3. “Contract Addendum” is an addition to one or more terms of the contract upon mutual agreement by all parties to the contract.

4. “Contract Renewal” is the act of keeping an existing agreement in force for an additional period of time upon mutual agreement by all parties to the contract.

5. “Second Party” is a term for the individual or entity which the University enters into an agreement with.

6. “Signature Authority” is the authority granted by the Board of Regents, or specially delegated by the President, to execute (sign) a contract on behalf of the University.

B. Contract Formation - To form a contract, one party generally makes an offer which indicates the willingness to enter an agreement under certain terms. If the offer is accepted by the other party, the parties form a contract, provided that there is consideration. Consideration is the bargained-for exchange between the parties, whether it be mutual promises, money, or labor. Both parties must also have the legal capacity to contract and the objective of the contract must be for a legal purpose.

C. Signing Contracts - Only employees who have been granted signature authority by the Board of Regents or delegated limited signature authority by the President may sign Contracts in the name of the University (see Section II). Students, faculty, consultants and independent contractors do not have authority to sign Contracts that bind the University.

D. Policy and Procedure - It is the responsibility of anyone who presents a contract for signature (the Contract Requester and/or Contract Manager) to read and understand the terms of the contract. Further responsibilities of the Contract Requester and Contract Manager include ensuring that the contract has been reviewed and approved as set forth in this policy, that the business terms of the contract are fair and reasonable to the University, and ensuring that both Baylor and the Second Party perform their duties and obligations under the contract. This policy assumes that the
Contract Requester and/or Contract Manager has followed the normal business practices and policies of the University relating to contracting including obtaining appropriate funding approval for disbursements.

E. **Written Agreements** - All University contracts must be in writing, which may include electronic (but not email) form. No contract will bind the University unless in writing and signed according to this policy.

1. Retention of Contracts. All fully executed contracts and internal communication regarding contracts should be retained in Total Contract Manager (TCM). Employees are not required to store physical copies of contracts provided that electronic versions are uploaded in TCM. The Contract Manager must maintain access to the contract for as long as the contract remains in effect so that the Contract Manager will continue to ensure that both Baylor and the Second Party perform their duties and obligations under the contract.

2. Contract Responsibility. Proposing a contract to be entered into by the University is an important responsibility and should be done only with an understanding of the obligation being undertaken and willingness to take responsibility for ensuring that the terms and conditions of the contract are carried out.

F. **Amendments & Renewals** - This Policy applies equally to amendments and renewals of Contracts. Automatic renewals that do not involve any written confirmation require only that the dates of the term be updated within TCM. Written amendments and renewals require review and approval and TCM by updating the contract record.

G. **Previous Policy** - This Policy supersedes any conflicting practice, policy, delegations or guidelines.

II. **SIGNATURE AUTHORITY**

A. **Signature Authority** - No officer or member of the university community may sign or otherwise execute a contract that binds the university or its subunits unless he/she has been delegated signature authority that has been documented in writing and is on file as set forth in this policy.

B. **Consequence of Signing without Authority** - Contracts signed by employees without documented signature authority may be deemed void. Individuals in such circumstances may be personally liable for the obligations assumed under such contracts. The University will not be bound by the terms of a contract signed by an individual without authority unless an officer of the University subsequently agrees that the University will honor the contract.

C. **Electronic Signature** - All contracts shall be executed via electronic signature after approval in Total Contract Manager. The signature block should include, at a minimum, the signature and printed full name of the signer, as well as both parties’ initials beside any revisions that are made to the original wording of the contract. Both parties must sign the agreement unless prior approval has been given by the Office of
General Counsel. The exception to the requirement of dual execution is where the contract is formed by acceptance of a quote or proposal. In such cases, only the Baylor signatory will be required to sign unless OGC made substantive revisions which require initials by both parties. Unless exceptional circumstances are present, the Second Party should be set first in the signing order and the Baylor signatory should be second. The fully executed contract will be automatically emailed to signatories and uploaded into TCM.

D. Signatories - The following is a list of individuals with signature authority for Baylor University (Board Resolution effective through May 2019):

- Linda A. Livingstone, President
- Brett A. Dalton, Vice President and Chief Business Officer
- Jason D. Cook, Vice President for Marketing and Communications & CMO
- Robyn L. Driskell, Chief of Staff to the President and Vice President of Board Relations
- Kevin P. Jackson, Vice President for Student Life
- Mack B. Rhoades, IV, Vice President and Athletics Director
- David Rosselli, Vice President for University Development

In addition, certain individuals are authorized by the President to execute specific types of contracts and legal documents. A list of individuals with specific delegate authority is maintained by the Office of General Counsel and the Director of Contract Administration. Please contact those offices for more information.

E. Attestation - Attestation requirements are applicable to all signatories except for the President. If a contract is submitted and approved in TCM, the signature does not need to be attested. If the contract is submitted, approved, and signed outside of DocuSign and TCM for any reason, the signature must be attested by one of the following corporate officers:

- Christopher W. Holmes, Secretary
- Susan D. Anz, Treasurer and Assistant Secretary
- Judith A. Carpenter, Assistant Secretary
- Felicia F. Cruz, Assistant Secretary
- Marsha J. Duckworth, Assistant Secretary

III. CONTRACT REVIEW AND APPROVAL PROCESS

A. Total Contract Manager - All University contracts, regardless of dollar value, should be entered into Total Contract Manager. This includes documents labeled as quotes or proposals which contain terms and conditions above and beyond the price, quantity, delivery dates, etc. Documents that contain only business terms (price, quantity, description of goods/services) but are labeled as contracts or agreements which require a signature by Baylor should also be entered into TCM.

TCM is the contract lifecycle management solution for Baylor University, allowing for review, approval, execution, retention, and management in a single, centralized
system. Specific user roles have been created based upon organizational structure and necessary reviews and approvals.

B. User Role Definitions - Specific user roles in TCM are as follows:

1. Contract Requester - The employee who has communicated or negotiated the contract with the Second Party. The Contract Requester either has a contract template drafted by Baylor or has been provided a proposed contract by the Second Party. The Contract Requester is responsible for negotiating the specific business terms of the contract, such as timing, term, pricing, scope of work, and general responsibilities of each party. After reviewing the contract and assembling necessary background information, the Requester will complete a Contract Request in TCM.

2. Contract Manager (also Contract Administrator) - The departmental employee who reviews contract requests submitted by the Contract Requesters for accuracy and completeness. The Contract Manager will provide additional information, including signatory names, and will launch the contract for electronic signature. The Contract Manager is responsible for ensuring that both Baylor and the Second Party perform their duties and obligations under the contract, or assisting the Contract Requester in that effort.

3. Approver/Reviewer - Includes any person called upon to review a contract for specific legal, risk, or departmental purposes. Approvers/reviewers may be included in an automated review of a contract request and must approve the request before a Contract Manager receives it for final approval before it is sent to the Second Party, or the reviewer may be asked to participate in an internal review round.

4. Signatory – An employee with signature authority to sign a contract on behalf of Baylor University. This includes specific persons granted signature authority by resolution of the Baylor Board of Regents. In addition, the President has delegated special signature authority to certain individuals for specific types of documents.

5. TCM Administrator - A user who manages the technical and organizational configuration in TCM and assists users of the system.

C. Departmental Review - Contract Requesters and Contract Managers are responsible for conducting a preliminary review of proposed contracts. Prior to submitting a contract for required review and approval as described above, the Contract Requester and Manager must read the entire contract to confirm that the contract:

- Is clear and consistent;
- Is complete and accurately reflects the intentions of the parties;
- Is consistent with University mission and is in the best interests of the University;
- Does not contain requirements with which the University cannot comply.

D. Contract Review and Approval Process - Below is a detailed overview of the contract review and approval process in TCM.
1. **Contract Request** - A Contract Requester negotiates a business deal to enter into an agreement which will bind the University in a contract. The employee will complete a Contract Request in TCM, consisting of preliminary questions and information. The Contract Requester will attach the contract and additional documents associated with the contract. The contract may be a Second Party's proposed contract, an approved Baylor contract template, or another document that has been previously approved by the Office of General Counsel.

2. **Contract Creation** - The proposed contract will be forwarded to the Contract Manager of the appropriate department or division. The Contract Manager will review the Contract Request and ensure that all appropriate preliminary information and forms have been completed. The Contract Manager will create the contract record within TCM, complete additional header information, and assign an Office of General Counsel facilitator to coordinate legal review.

3. **Contract Review** - Any University representatives who need to review and possibly edit the contract will do so in an internal review round. This includes representatives of Governance, Risk, and Compliance; Office of General Counsel; and approving Vice President, if necessary.

   If substantive revisions are made to the contract in an internal review, the contract will be relayed back to the Contract Manager for review by the Second Party. After the Contract Manager has reviewed, negotiated as necessary, and approved any further revisions made by or with the Second Party, the Contract Manager will upload the contract with any such further revisions. Additional internal reviews will be completed as necessary before approval.

4. **Contract Approval** - After the contract has been reviewed, edited, and approved in the internal review round(s), the contract will be submitted for formal approval and signature. Upon approval by the Office of General Counsel of the contract in TCM, the contract will be released back to the Contract Manager to send for e-signature.

5. **Contract Execution and Management** – The Contract Manager will send the contract out for e-signature through DocuSign, which is integrated with TCM. The Second Party signatory should be assigned as the first signor, and the appropriate Baylor signatory should be assigned second. DocuSign locks the contract from edits by both signatories. Signatories will only be able to sign the contract where designated by the Contract Manager. Once both parties have signed, the contract will be automatically uploaded into TCM and the Second Party will automatically receive a copy of the fully-executed contract.

   If the Second Party refuses to utilize e-signature and otherwise signs the contract manually, the contract must be sent to the Director of Contract Administration to verify that no additional revisions were made before the Second Party signed the agreement. Once verified, the contract will be uploaded in DocuSign by the Director of Contract Administration and sent to the Baylor signatory and Second Party.
The fully-executed contract will be maintained as a record within TCM, and TCM will generate necessary renewal or expiration notifications as designated by the Contract Manager.

E. Student Organizations and Residence Halls - Baylor University is not a party to and is not responsible for contracts entered into by student organizations. Student organization contracts are not required to be submitted to the Baylor contract review process. Faculty advisors are not permitted to sign contracts on behalf of student organizations. When entering into contracts, student organizations should:

1. Provide other parties to their contracts the following notice:

   NOTICE TO VENDORS PROVIDING GOODS AND SERVICES TO STUDENT ORGANIZATIONS

   Baylor University is not a party to and is not responsible for contracts entered into by student organizations. Baylor University is only responsible for contracts entered into in the name of Baylor University and signed on behalf of Baylor by an officer with delegated signature authority, generally the President or a Vice President. Student organizations are either unincorporated associations or corporate entities that in either case are not part of Baylor University. Student organizations control their own funds, and Baylor University does not guarantee payment or performance of student organization contracts.

2. When possible, insert the following language into contracts:

   Baylor University is not a party to this contract and is not responsible for performance or payment of any amounts due.

3. Read all contracts carefully, make sure the terms are understood, and when in doubt seek advice from faculty advisors.

4. Ensure that funds sufficient to cover the cost of any contract are available. In many cases, the individual who signs a contract on behalf of student organization can be held personally liable for performance of the contract, including payment of any money due.

5. In certain circumstances in which a student organization is fulfilling an important university function, Baylor University may choose to be responsible for a contract to which a student organization appears to be a party. In such cases, a faculty or staff member must submit the contract for review in the Total Contract Management system, and it must be signed on behalf of Baylor University by the Vice President for Student Life or other appropriate Vice President.

IV. RISK ELEMENTS & OFFICE OF GENERAL COUNSEL REVIEW

A. Risk Elements - The following risk element reviews are built into the workflow in TCM, and, unless otherwise stated, will be automatically forwarded for the appropriate
review when the Contract Request is submitted and before it is received by the Contract Manager.

1. **ITS Components** - Any technology hardware, software, or service purchased or licensed by campus departments and/or ITS must be reviewed and approved by ITS before implementation. Contracts involving information technology or the transfer of Baylor electronic information (e.g., software, hardware, maintenance) will be routed through Information Technology Services for security review.

Contract Requesters should attach a completed Initial Technology Request (Idea) Form, Security Questionnaire, and Technology Review Questionnaire to the Contract Request so that ITS Security may confirm the approval by ITS Security. More information and forms can be found here. Contract Managers should add the ITS departmental Contract Manager to contract records involving ITS components so that the signatory for ITS can be made aware of the agreement.

2. **Insurance Requirements** - Contracts often require the University to maintain and show proof of certain types and amounts of insurance coverage and may require the Second Party to show proof of certain types and amounts of insurance coverage. Some contracts also require the other party to be named as “additional insured” under University insurance policies, and some contracts require Baylor to be named as “additional insured” under the other party’s insurance policy.

The University also has standard insurance requirements that generally apply to other entities doing business with the University for certain circumstances. If the Second Party cannot or will not meet University insurance requirements, consideration should be given to selecting an alternate business associate. If the contract contains insurance provisions or clauses requiring either party to obtain insurance, Governance, Risk, and Compliance must review the Contract.

3. **Transportation** - Contracts involving transportation of employees or students may require additional safety information. For Charter Bus services, the Second Party must be on the current Department of Defense (DoD)approved list. Evidence that the Second Party is on the approved list must be attached to the Contract Request.

4. **Tax Implications** - If the contract involves unrelated business income (income that is not substantially related to Baylor’s mission); sponsorships or advertising; exclusivity arrangements; licenses; sales tax; services/rentals from a foreign entity/person; foreign activities; software purchases; independent contractors; and/or University facility usage, the contract may have specific tax reporting obligations. Although a review is not required prior to creating a contract record, the Tax Implications field should be selected based upon the above circumstances.

5. **Minors on Campus** - If a contract involves an event or occasion in which non-enrolled minor children either visit campus facilities or otherwise have contact with university representatives, including faculty, staff, volunteers and students, the Child Protection Coordinator must review the Contract Request to ensure that
Baylor’s institutional and legal obligations with respect to the safety and wellbeing of minor children are met. For more information regarding Minors on Campus, visit the link here.

6. **Personally Identifiable Information (PII)** - If a contract involves the use of names, addresses, or other personal information including, but not limited to, names; addresses; birthdates; social security numbers; driver’s license numbers; bank account numbers; credit card numbers; or other personal information which could be used to identify or locate parties external to the contract, ITS Security must review the contract. For example, credit card information of parties external to the contract is personally identifiable information.

7. **Chemicals, substances, or living organisms** - If the contract involves the movement or exchange of chemicals, substances, or living organisms, it must be reviewed by the Office of Environmental Health & Safety (EHS). More information regarding EHS can be found here.

8. **Medical Information** - If the contract involves any use of medical records or health information of any person, the contract must be reviewed by the HIPAA Privacy Officer for HIPAA and HB 300 regulatory compliance.

9. **Student Information** - If the contract involves any information or records directly related to students, it must be reviewed by the Office of the Registrar for compliance with FERPA.

10. **Foreign Nationals (Students, Faculty, Staff)** - If the contract involves a transaction with a foreign national located either in or outside the United States, it must be reviewed to ensure that confidential or restricted information, as classified by the government, is not transferred to a citizen of another country without a license. A Foreign National is a person who is not a naturalized citizen of the country in which they are living.

11. **Restricted Research** - If the contract involves research that is restricted for publication, pending a patent; destined for commercialization; or involves military or aerospace applications, it must be reviewed to prevent noncompliance with grants restricting access to the research generated from those grants.

12. **Travel Outside of the United States** - If the contract involves travel to a country outside the United States, it must be reviewed to ensure confidential or restricted information, as classified by the government, is not transferred to a citizen of another country without a license.

13. **Imports/Exports Outside of the United States** - If the contract involves shipments of goods or services into or out of the United States, it must be reviewed to ensure confidential or restricted information, as classified by the government, is not transferred to a citizen of another country without a license.

14. **Scientific Equipment Purchase** - If the contract involves the purchase of scientific equipment, it must be reviewed in order to properly classify equipment...
that could potentially be used in military or space applications as described in EAR and ITAR regulations.

15. **Non-Domestic Second Parties** - The Contract Requester should make reasonable inquiry into the status of the second party (whether the second party is foreign or domestic) and the contract must be approved by Tax Compliance if the second party is a non-domestic entity or individual.

16. **Contracts Over $1,000,000** - Contracts valued at $1,000,000 or greater must be approved by the Board of Regents. The contract must be sent to the Office of General Counsel before it is entered into Total Contract Manager.

**B. Legal Review of Contracts**

1. **Office of General Counsel Review.** The Office of General Counsel will conduct a legal review of all contracts entered in TCM after the Contract Manager assigns the Contract Facilitator to the contract, with a few exceptions.

   a. If the contract utilizes a Baylor University approved template, and no revisions have been made to the template by either party, the contract will not necessitate a legal review. Users may assign the Director of Contract Administration to facilitate and approve the contract after creating the contract record in TCM.

   b. If the contract is a renewal which does not revise any existing terms and conditions in the contract, other than extension of dates and payment obligations, the contract will not necessitate a legal review. Users may assign the Director of Contract Administration to facilitate and approve the contract after creating the contract record in TCM.

2. **Other Risk Issues** – The Office of General Counsel will review certain other provisions in contracts, including, but not limited to: indemnity, hold harmless, exculpatory, waiver, and limitation of liability or remedy clauses; antidiscrimination clauses; and venue, jurisdiction, and governing law clauses. More information about these types of clauses can be found in the Contract Substantive Checklist under the Contract Administration section (Helpful Documents and Training Videos tab) of the [Procurement Services](#) website.

**V. PURCHASES OF GOODS AND SERVICES**

**A. Purchasing Manual** - All University purchases should be made in accordance with Procurement Services policies and the Baylor University Purchasing Manual.

**B. Contracts Disallowed on the Purchasing Card** - Contracts for the Purchase of Goods or Services are not allowed on the Purchasing Card.

**C. Contracts over $25,000** - When a contract for purchase is $25,000 or more, users should reference the TCM contract number in support documentation for a requisition so that the Budget Office may access the contract in TCM and review if necessary.
the TCM contract number is referenced, the contract is not required to be attached to the requisition.

D. Supplier Registration - Before a Second Party may provide goods and services to the University under a contract, the Second Party must be registered as a supplier in TRAX by the University employee.