

**LOYOLA MARYMOUNT UNIVERSITY
POLICIES & PROCEDURES**

DEPARTMENT: RISK MANAGEMENT	
SUBJECT: CONTRACT/AUTHORIZED SIGNATURE POLICY	Page 1 of 7
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1 Statement of Policy

Loyola Marymount University has established this contract signing/authorization policy for all contractual obligations. This policy applies to any transaction that binds the University to a course of action that could result in a financial obligation, performance or service guarantee.. In order to ensure proper documentation and compliance with this policy, all contracts should be in writing. If that writing is in the form of an electronic or digital communication, such communication must be made and authorized in compliance with this policy.

Excluded from this policy are employment contracts, which are handled by Human Resources.

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2 Definitions

Authorized Signers	University officials designated by Board of Trustees' resolution or the President as having the authority to bind the University. Unless so authorized, no University officer, agent, representative or employee has the power or authority to bind the University by any contract or to pledge its credit or to render it liable for any purpose or amount.
Contract	Any promise or agreement, written, or verbal, supported by consideration by which an authorized University official and another party or parties have exchanged promises intending to be bound thereby is a contract (e.g. a commercial transaction, mutual promises, a promise for an act or the rendering of services, etc). This includes promises for grants, pledges and promises to make a gift which are supported by consideration or a material change of position.
Officers of the University	The officers of the University are the President, Provost and Senior Vice Presidents.
Primary Signer	The University official primarily designated by Board resolution or the President as having authority to sign contracts and agreements on behalf of the University.
End User License Agreement	A EULA is software license between the licensor and purchaser, establishing the purchaser's right to use the software. The license may define ways under which the copy can be used, in addition to the automatic rights of the buyer including the first sale doctrine and 17 U.S.C. § 117 (Limitations on exclusive rights: Computer programs). See http://uscode.house.gov/download/pls/17C1.txt
Private Business Use	Use of bond proceeds or bond-financed property by a non-governmental person other than the 501c(3) organization borrowing the proceeds can result in private business use. <u>A non-governmental person includes private, for profit entities, the federal government, and other non-profit organizations.</u> For each individual tax-exempt bond, the IRS allows up to 5.0% private business use. Amounts larger than 5.0% per

	bond entail the loss of the bond's tax-exempt status.
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3 Signature Authority

Pursuant to the University's Bylaws and by Board of Trustees resolution, the President has the authority to delegate and rescind signature authority. Such authority will be delegated in writing and the scope, type, and dollar amounts of such authority will be delineated. Persons with signature authority have the responsibility to exercise their authority in the manner of a prudent university employee.

4 Primary Signers

The Primary Signer of all contracts is the Sr. Vice President and Chief Financial Officer of the University.

5 Contract Review

Contract review should begin with the department or unit desiring to enter into the contract. Review should include, but not be necessarily limited to:

- The ability and budgeted authorization of the University to meet any financial obligations resulting from the agreement;
- The ability of the other party(ies) to perform and meet its (their) obligations;
- Compliance with law ;
- Compliance with University policy(ies) and practices;

- That financial and/or other benefits in keeping with the University's mission will result from the agreement;
- Whether the overhead rate, if any, included in the contract is consistent with University guidelines;
- Any provisions regarding intellectual property requirements have followed University policy;
- That any perceived or actual conflict of interest respecting University employees and the contractual relationship has been appropriately resolved;

Divisions/Departments, at their discretion, may require additional review or authorization processes, such as approval by Department Head, Dean, Associate Vice President, Vice President, Associate Provosts, or Senior Vice President.

Once these initial contract authorization and review requirements are met, the contract must be sent to the Office of Business and Finance/Risk Management for final review. Among the issues that Risk Management will vet are:

- Any property and liability issues which are inherent in the contract and which may present adverse risk to the University;
- That indemnification obligations are appropriate;
- Any and all other contract terms.

Risk Management may also decide to enlist the services of the University General Counsel to review, comment upon and revise the contract.

Upon reviewing management and/or service contracts, Risk Management will identify whether or not private business use of a bond-financed facility might occur. If there is a private business use concern related to the proposed contract, Risk Management submits the contract to the SVP/CFO and Associate Treasurer for further review. Suspected private business use (other than incidental use) is then discussed with outside counsel and/or bond counsel prior to final approval of the contract. If private business use is detected and deemed material to the University, Risk Management reserves the right to decline the contract.

6 Template Contracts

Whenever possible, template contracts containing pre-approved terms and conditions will be used by departments entering into agreements involving similar or on-going relationships with third-parties.

7. Independent Consultant/Contractor Agreements

Independent Consultants/Contractors should only be retained after consultation with Human Resources to determine if the Independent Consultant relationship is appropriate. Human Resources must sign the Independent Consultant/Contractor Agreement before it goes to Risk Management.

8. Disciplinary Actions

Any employee, who, violates this policy is subject to disciplinary action up to and including termination.

9 End User License Agreements

A EULA is often referred to as “click-wrap” or “click-through” agreements. EULAs ask you to click “I agree” before the software can be installed. EULAs are legally binding contracts between you and a software developer. EULAs can impose terms and conditions that affect your online security and privacy.

If the University does not have a contract with the software developer that includes the particular software you are installing, you are exposing yourself to personal liability for the requirements stated in the EULA.

How EULAs affect security and privacy

EULAs can require terms and conditions that include such things as monitoring your internet activity, collecting personal information, using your computing resources, and holding you to terms of third party software agreements. All these scenarios pose a risk to the security and privacy of your personal information. In addition, because your LMU computer is connected to the University network, this risk extends to other University computers and to the University as a whole.

EULAs and Your Legal Responsibilities

In addition to the hidden dangers for privacy and information security that may be obscured in the text of a click-through software license, there may also be significant personal legal (civil and criminal) liability for you. When you click "I agree" on a EULA, you are personally exposing yourself to liability related to the EULA. Such personal exposure means that you could be personally responsible for the consequences. This is an important distinction between software licensed by the University in a University contract versus software you purchase in shrink-wrap fashion or download over the Internet. If you have any questions about whether or not a software package is covered by a University contract, you should email the Office of the Risk Management or call them at (310) 338-3071.

7 Appendix

7.1 *Website References*

- Independent Contractor Agreement
- Independent Contractor Checklist
- PO Form