LUTHER COLLEGE®

POLICIES AND PROCEDURES

Department:	Financial Services
Subject:	Contracts Policy
Date Issued:	April 2015
Updated and Reviewed By:	Finance & Administration Team – August 2026
Approved By:	Cabinet – October 2026

I. Policy/Procedure

This policy sets forth the delegation of signatory authority for contracts on behalf of Luther College and the procedures for contract approval.

II. Purpose

The purpose of this policy is to ensure that all contracts entered into by Luther College undergo authorized review and approval prior to execution, and to identify those with contract approval authority.

III. Scope

This policy applies to all Luther College faculty and staff, and includes all types of contracts, establishing who has the authority to sign a contract binding the College based on the dollar value and nature of the agreement.

IV. Terms and Definitions

Contract – Under this policy, a contract is an agreement between Luther College and another party in which the parties exchange consideration, and is intended to have a binding obligation and be legally enforceable.

- Although contracts can be oral or written, the College's policy is to only enter into written contracts. No employee or other representative of the College is authorized to enter into an oral contract on behalf of Luther.
- Contract "consideration" may or may not be money. The College's consideration supporting a contract can also be an obligation of the College's resources such as goods, services, space, intellectual property, trade name, academic opportunities, research, equipment sharing, etc.
- Contracts must have clearly documented terms that are mutually agreed upon.
- Contracts must be entered into by subject matter experts who are authorized to negotiate and execute contracts.

Memorandum of Understanding (MOU) or Agreement (MOA)– A formal agreement between two or more parties which may be a legally binding

contract, if it meets the definition of a contract. An MOU or MOA must follow the same review and approval process as a legally binding contract.

Authorized Signatory – An individual who has been formally delegated authority to enter into contracts on behalf of the College pursuant to the College's Purchasing Policy and this Contracts Policy. Authorized Signatories include the following groups:

- Divisional Contract Approver: an individual designated by their relevant cabinet member to review, approve, and ensure compliance of contracts within their assigned area.
- Cabinet Member: A current member of the President's Cabinet, including the College President

All Authorized Signatories are required to review the Contracts Policy and complete training on an annual basis. Authorized Signatories shall not sign contracts that exceed the limits specified for their specific position in Section V.

Contract Originator – The Luther employee who initiates the contract approval process and will have responsibility for implementing and monitoring the terms of the contract.

Total Value – The aggregate value of a contract over its term.

V. Procedures and Guidelines

A. Only Authorized Signatories, as defined in Section IV, may sign any contract, MOU, MOA, or other document that creates an obligation or undertaking on behalf of the College.
    a. Any contract signed by an individual who is not an Authorized Signatory shall be considered unauthorized and may be deemed invalid or unenforceable by the College.
    b. Employees who execute contracts outside the scope of their delegated authority may be held personally responsible for the obligations created and may be subject to disciplinary action, up to and including termination of employment. The College reserves the right to seek reimbursement or other appropriate remedies from any employee who executes a contract on behalf of the College without proper authorization.

B. According to the By-Laws of Luther College, Section 1.07, deeds of conveyance, mortgages, satisfactions of mortgages, real estate contracts and other such real property documents shall be executed according to guidelines established by the Board of Regents:
    - All deeds of conveyance, mortgages, satisfactions of mortgages, real estate contracts and other such documents shall be executed by any two of the following officers to-wit: President, Vice-Presidents and Treasurer of the Corporation, and any two of the above officers are hereby fully authorized and empowered to make, execute and deliver any and all written instruments necessary or proper effectuate that authority hereby conferred.

C. Contracts for the purchase of goods and services or a combination thereof will require approval from the following authorized signatory(s):
    a. $0 - $10,000 total value - Divisional Contract Approver or a Cabinet member
    b. $10,000.01 - $25,000 total value– Divisional Contract Approver and a Cabinet member
    c. Greater than $25,000 total value - Two Cabinet members
    d. For Information Technology Services (ITS) contracts with a total value less than or equal to $100,000, the Executive Director of ITS may serve as the second authorized signatory in place of a Cabinet member

D. Additional approval by the Board of Regents is required for contracts involving:
    a. Debt financing;
    b. Lease financing for which the value of annual lease payments is $100,000 or greater;
    c. Real estate acquisitions for which the value is $250,000 or greater;
    d. Off-campus non-contiguous property sales for which the value is $250,000 or greater;
    e. All sales of property contiguous to the Luther campus;
    f. Capital projects for which the value is $250,000 or greater; and
    g. Operating contracts for which the annual value is $250,000 or greater.

E. It is the responsibility of the department generating a contract to ensure that the commitment of all College resources under the contract terms (funding, personnel, facilities and space) is met. If resources are not available, the contract originator must receive authorization through their appropriate Cabinet member.

F. Contracts should be negotiated, and the College generally takes the following position on several kinds of contract terms. If a party is unwilling to accommodate any of the following terms, the Contract Originator should consult with their Cabinet representative to confirm whether the contract can still proceed:
    - Choice of law provision – the contract should be subject to the laws of Iowa, not to those of other states;
    - Parties who will be handling or have access to student educational records or information must agree to comply with FERPA, and hold such information confidential;
    - Provisions which require the parties to arbitrate disputes must be stricken;
    - Extreme or unusual requests by the performers or vendors should be stricken. For example, contract terms exceeding five years, allowing termination for convenience without a notice period, or contradicting other College policies may be considered unusual; and

- "Single" indemnification clauses indicating that the College or its agents are the only parties responsible if something occurs must be modified to provide minimally dual indemnification for each parties' fault.

G. All contracts must require the contracted partner to possess insurance that meets the following criteria:
   - A certificate of insurance and maintenance of adequate commercial general liability limits of insurance and provide certification with minimums of:
     - $1 million Each Occurrence (Bodily Injury and Property Damage)
     - $2 million General Aggregate that applies on a per project basis
     - $2 million Products/Completed Operations Aggregate
     - Construction contract only: $1 million Per Person or Organization (Personal and Advertising Injury)
     - Comprehensive automobile liability, including owned, hired, and non-owned automobile coverages
       - $1 million each accident: Bodily Injury and Property Damage
     - Worker's Compensation as required by State law for all employees engaged in work at the College
   - If Contractor's insurance policy will be cancelled, the appropriate College representative must be given at least thirty (30) days written notice.
   - Contractor must submit a new Certificate of Insurance (COI) to College annually
   - The College should be named as an additional insured with the following requirements:
     - That such additional insured status be on a *primary* basis;
     - That the additional insured coverage include both work in process (ongoing operations) and completed work (completed operations); and
     - That the additional insured coverage be maintained for a specified length of time

H. There are certain standard terms and conditions outlined in Appendix A. It is not required that these be included in a contract, but reasonable efforts should be made to include them based on the type of contract.

I. Contracts with a total anticipated value of or exceeding $100,000, or which involve debt financing, must be reviewed by legal counsel prior to execution. Legal counsel may be contacted by any member of the Cabinet. If questions arise regarding contract language or terms in a contract less than $100,000, seek guidance from the appropriate Cabinet member as to whether legal counsel should be consulted.

J. The Contract Originator is responsible to ensure that the source selection and contract award processes have adhered to all other applicable College policies, including but not limited to the Bidding Policy and the Information Technology Acquisition Policy. All parties are required to ensure compliance

with Contracts Policy and Bidding Policy. Situations involving noncompliance may be addressed through appropriate administrative review.

VI. Confidentiality and Record

All contracts will be stored using the College's document imaging system. Authorized signatories, Information Technology Services, and the Office for Financial Services will have access to contracts stored in the system.

Appendix A
Example Terms and Conditions

Terms and Definitions:

1. "College" or "Luther College"
"College" or "Luther College" shall mean **Luther College**, an Iowa nonprofit corporation located in Decorah, Iowa, including its Board of Regents, trustees, officers, employees, agents, representatives, students, and authorized affiliates.

2. "Contractor"
"Contractor" shall mean **[Full Legal Name of Individual or Legal Entity]**, the person or legal entity entering into this Agreement with Luther College, including its owners, officers, directors, employees, agents, representatives, successors, and permitted assigns.

3. "Parties"
"Parties" shall mean collectively Luther College and Contractor. "Party" shall mean either one individually.

4. "Contract" or "Agreement"
"Contract" or "Agreement" shall mean the written agreement executed by the Parties, including the RFP, these Terms and Conditions, any exhibits, appendices, schedules, attachments, amendments, and incorporated documents.

5. "Services"
"Services" shall mean the work, labor, tasks, deliverables, or professional services to be provided by Contractor as described in the RFP and resulting Agreement.

6. "Goods"
"Goods" shall mean any materials, products, equipment, or tangible items to be provided by Contractor under this Agreement.

7. "Confidential Information"
The term "confidential information" shall include all non-public documentation and information disclosed to the Contractor in the course of its performance of duties hereunder with respect to the past, present and future Luther College business, services and clients.

Example Contract Terms:

- Indemnification
    - To the fullest extent permitted by Law, Contractor will defend, indemnify and hold harmless Luther College from and against claims, damages, losses and expenses, including but not limited to attorney's fees, arising out of, or from the performance of its operations or services and for the acts or omissions of its directors, officers, employees, contractors or subcontractors, volunteers, participants, guests or any third party for whom it is responsible, regardless of

whether or not such claim, damage, loss or expense is caused in part by a party indemnified hereunder. Such obligation shall not be construed to negate, abridge or reduce other rights or obligations of indemnity that would otherwise exist in the absence of this agreement. This term will survive beyond the termination of this agreement.

- Binding arbitration shall not be an accepted method of conflict resolution with regards to this agreement
- Iowa choice-of-law provision
    - This contract shall be construed, interpreted and applied in accordance with and governed by and enforced under the laws of Iowa

- Independent Contractor
    - Contractor is an independent Contractor and is not an employee of the College. The manner in which Contractor's services are rendered shall be within Contractor's sole control and discretion. Contractor is not authorized to speak for, represent, or obligate the College in any manner without the prior express written authorization from an officer of the College. Any work product generated in conjunction with services performed under this contract is the sole property of Luther College.
- Subcontractor
    - Neither the Contractor, nor any Subcontractor, nor any successors of the Contractor or any Subcontractor, shall enter into subcontracts for any of the work contemplated under this contract without obtaining prior written approval of the College. Where a subcontract has been approved by the College as part of this contract, in no event shall the existence of such a subcontract operate to release or reduce the liability of the Contractor to the College for any breach in the performance of the Contractor's duties. The Contractor agrees that all subcontractors shall be agents of the Contractor, and the Contractor further agrees to hold the College harmless from omissions of the Contractor's subcontractors, their agents, or employees. The College shall not be liable for any loss or damage resulting from the Contractor's subcontractors, their agents or employees.
    - A change of name by the Contractor, following which the Contractor's federal Taxpayer Identification Number (TIN) remains unchanged, shall not be considered to be an assignment hereunder. The Contractor shall give the College written notice of any such change of name.
- Confidentiality clause
    - The Contractor hereby agrees to maintain confidential information to any person, firm, corporation or entity during or after the terms of this RFP and the contract, except with the express written consent of Luther College. Contractor's use or disclosure of any confidential information concerning the College for any purpose not directly connected with performance of this Contract is strictly prohibited. Contractor shall conform with all applicable requirements of the Family Educational Rights and Privacy Act (FERPA) (20 U.S.C. § 1232g; 34 CFR Part 99, Title IX (20 U.S.C. § 1681-1688), and Clery Act (20

U.S.C. § 1092f).
    - This term survives beyond termination of this contract.
- Breach Notice
    - If Contractor is legally required to disclose confidential information, Contractor shall notify Luther College no less than ten (10) days prior to the disclosure (unless legally prohibited from doing so) to afford the College the opportunity to take legal action to prevent or limit the scope of such disclosure.
- Audit rights
    - Upon the College's request, the Contractor shall grant the College, or any of its officers, access to its facilities at all reasonable times to monitor and evaluate performance, compliance, and/or quality assurance under this contract.
    - The Contractor shall maintain books, records, documents, data and other evidence of accounting procedures and practices which sufficiently and properly reflect all direct and indirect costs of any nature expended in the performance of this contract and the performance of the requirements described herein, including but not limited to accounting procedures and practices which sufficiently and properly reflect all direct and indirect costs of any nature expended in the performance of this Contract. The Contractor shall retain such records for the period of six (6) years following the date of final payment. At no additional cost, these records, including materials generated under the Contract, shall be subject at all reasonable times to inspection, review and audit by the College or personnel duly authorized by the College. In any litigation, claim or audit as started before the expiration of the six (6) year period, the records shall be retained until all litigation, claims, or audit findings involving the records has been resolved.
- Termination for cause
    - The term "Default" shall mean the occurrence or happening of any one or more of the following:
        - Representations and Warranties: Any representation or warranty, express or implied, contained in this contract shall prove at any time to be incorrect or misleading in any material respect either on the date when made or on the date when reaffirmed.
        - Compliance with Covenants and Conditions: Contractor shall fail to comply with the terms of any covenant, condition, agreement or any express or implied warranty contained in this contract.
        - Progress of Eligible Activities: Progress of Services and/or delivery of Goods is not being made in a commercially reasonable manner consistent with the timelines, performance standards, and requirements outlined in this contract.
        - Conditions Precedent to Any Disbursement: Contractor shall be unable to satisfy any condition precedent to its right to receive a disbursement.
    - Luther College shall have the right upon the happening of any Default,

without providing notice to the Contractor:

- To terminate the contract immediately, in whole or in part, and, in addition to any other available rights or remedies: To suspend the Contractor's authority to receive any undisbursed funds
- To proceed at any time or from time to time to protect and enforce all rights and remedies available to Luther College, by suit or any other appropriate proceedings, whether for specific performance or any covenant, term or condition set forth in this contract, or for damages or other relief or proceed to take any action authorized or permitted under applicable law or regulations.
- Upon termination of the contract for Default, Luther College may pay the Contractor for satisfactory performance of the services and/or delivery of the goods, less the amount of damages caused by the default, all as determined by Luther College in its sole discretion. If the damages exceed the compensation, Luther College may pursue any and all remedies available under this section as well as any remedies at law or in equity.

- Name and symbols
  - Contractor shall not use the name "Luther College," or any abbreviation thereof, nor any College logos, trademarks, service marks, trade names, mascots, photographs, or other indicia of identity, in any advertising, publicity, marketing materials, press releases, website content, client lists, proposals, or other public or private communications, without the prior written consent of the College.
  - Luther College may revoke such consent at any time in its sole discretion upon written notice, and Contractor shall promptly remove and discontinue any such use upon receipt of such notice.
- Nondiscrimination
  - Contractor shall acknowledge and abide by the Luther College Nondiscrimination Policy:

    "It is the policy of Luther College to provide equal educational opportunities and equal access to facilities for all qualified persons. The College does not discriminate in employment, educational programs, and activities on the basis of age, color, creed, disability, gender identity, genetic information, national origin, race, religion, sex, sexual orientation, veteran status, or any other basis protected by federal or state law. Title IX of the Education Amendments of 1972 – No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance. Questions regarding this policy or the complete Title IX Policy or Bias Incident, Hate Act, Hate Crime, Discrimination, and Harassment Policy should be directed to Robert Clay, Chief Equity and Inclusion Officer and Assistant to

the President for Community Engagement, 563-387-1825, titleix@luther.edu, 700 College Drive, Decorah, Iowa 52101. Questions regarding Title IX may also be referred to the U.S. Department of Education's Office for Civil Rights, 800-421-3481, OCR@ed.gov, http://www.ed.gov/ocr."

- Integration
    - This Agreement, and any amendments, exhibits, and addendums, shall constitute the entire agreement and no other terms and conditions in any document, acceptance, or acknowledgment shall be effective or binding unless expressly agreed to in writing by the College.
- This contract shall not be altered without the written agreement of both parties
- Signatory has authority to sign contracts
    - The individual signing below on behalf of Luther College hereby represents and warrants that s/he is duly authorized to execute and deliver this Agreement on behalf of Other Party and that this Agreement is binding upon Other Party in accordance with its terms. S/he also acknowledges that s/he has read and understood the terms of the Luther College Contracts Policy. Signing without proper authority to do so may result in personal liability for the contract and/or repercussions up to and including termination from Luther College.

- TERM and RENEWAL OF CONTRACT: This contract shall have a [blank] year initial term (the "Initial Term") and may be renewed by Luther upon mutual written agreement of authorized representatives of both Parties for [blank (no more than 3-5)] successive one-year periods (the "Renewal Term") under the terms and conditions of this original Contract or as otherwise agreed in writing by the Parties at such time.
- Payment terms
    - Except as otherwise provided herein, payments shall be due and payable within thirty (30) calendar days (Net 30 Days) after receipt of such goods or services or after receipt of properly prepared invoices, whichever is later.
- Contract Deliverables and Key Performance Metrics
    - Luther College shall define the deliverables for this contract in the attached description of requirements (e.g. Statement of Work, Statement of Objectives, etc.). The College will develop a set of performance metrics and targets, defined below, which are related to these deliverables, and which the Contractor must meet or exceed in order to be in good standing on the contract. The Contractor shall be responsible for collecting data sufficient to measure performance against these metrics, and will review them with the College on at least a quarterly basis.

      Note for Contract Originator: For this section, include metrics that will allow you to measure the Contractor's performance without creating

an undue review burden. There are a variety of measurements that may be considered acceptable metrics, including financial factors, timeliness, quality, efficiency, or responsiveness, depending on the type of goods or services being purchased. Detailed or complex metrics may not be suitable for all contracts, for example contracts with a low dollar value and/or low level of complexity.

- Subrogation
    - Contractor hereby waives all rights of subrogation against the Board of Regents of Luther College and the College. All insurance policies will be endorsed to provide a waiver of subrogation in favor of the Board of Regents of Luther College and the College. No policy will be canceled until after thirty (30) days' unconditional written notice to the College. All insurance policies will be endorsed to require the insurance carrier providing coverage to send notice to the College thirty (30) days before any cancellation, material change, or non-renewal relating to any insurance policy required in this Section.
- Termination for convenience
    - Luther College may terminate the contract, without cause, by providing notice thereof to the Contractor at least thirty (30) days prior to the intended date of termination, which shall be set forth in the written notice, at the addresses set forth above, or at such other addresses as may be later designated by the parties in writing. In the event of termination, without cause, the Contractor shall be paid for services rendered in a manner satisfactory to Luther College through the date of receipt set forth in the written termination delivered to the non-terminating party. Luther College shall not be liable for any loss of profit, nor any damages, related to or resulting from termination of this contract.
- Force Majeure
    - Neither party shall be liable to the other or be deemed to be in breach of this Contract for any failure or delay in rendering performance arising out of causes beyond its reasonable control and without its fault or negligence. Such causes may include, but are not limited to, acts of God or of a public enemy, fires, flood, epidemics, strikes, embargoes or unusually severe weather. Dates or time of performance shall be extended to the extent of delays excused by this section provided that the party whose performance is affected notifies the other promptly of the existence and nature of such delay.
    - If the cumulative duration of any period or periods of Force Majeure exceeds three hundred and sixty-five (365) days, the Party other than the Party asserting Force Majeure may terminate this Agreement forthwith. If the duration of any single period of Force Majeure exceeds one hundred and eighty (180) days, the Party other than the Party asserting Force Majeure shall be entitled to terminate this Agreement.
- Non-waiver
    - The failure of either party to require performance of any term or condition of this Agreement by the other party shall not constitute a waiver to subsequently enforce such term or condition.

- Severability
    - If a court determines a provision of this Contract is unenforceable, the provision shall be amended to the minimum extent necessary to render it enforceable. If such amendment is not possible, then the provision shall be disregarded and the remainder of this Contract shall remain in effect. If, however, amending or disregarding the provision deprives a party of a material benefit intended to be conferred by this Contract, then this Contract shall be deemed terminated.
- Iowa choice of venue
    - The state and federal courts located in Iowa shall have exclusive jurisdiction to adjudicate any dispute arising out of or relating to the RFP and the contract. Each party consents to the exclusive jurisdiction of such courts. Vendor waives objections to jurisdiction.