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- **Three Parts to Today's Presentation**
  1. The Process – Risk-Based Approach
  2. Template Overview
  3. Pitfalls & Pressure Points



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- Risk-Based Approach

- Who should bear the risks of loss?
- Who can bear the risks for loss?
- Who will bear the risks of loss?

- Applies to all contracts e.g.

- Vendors, Independent Contractors, Others
- Sell Goods, Provide Services, Perform Work, Research

- 4 Basic Types of Contracts at Babson

- (i)P-Card, (ii)PO, (iii)College Template, (iv)Non-Template



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- **Overview** – existing BOT rule: all proposed agreements require a business and legal review consistent with applicable College p/p
  - **P-Cards**
  - **PO (Purchase Order) Procurement Website**
  - If you don't use **P-Card** or **PO**, business and legal reviews are required before contract may be signed.
  - **College Templates** must be used whenever possible.



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- If not using P-Card or PO then:
- Visit Procurement Website



- Complete Transmittal/Cover Sheet
- Attach Template & Non-Templates (Word version)
- Include Previous Contract, if any
- Include any Required COI
- Send to [contracts@Babson.edu](mailto:contracts@Babson.edu)

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- Business Review
  - Coordinated by Procurement
  - Includes Risk Review
  - In accordance with College's Policies and Procedures
  - Unaltered Templates May Then Be Signed
  - Altered Templates and Non-Templates:
    - Then to OGC for Legal Review



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## A Word About Legal Review

- Unaltered Templates
  - Legal Review is already finished!
  - May be signed upon completion of Business Review
  - College-wide Templates are on the Procurement Page
- Non-Templates (Heavily Fact Dependent)
  - Time of Entire Review Varies – Negotiation
  - Time of Initial Response Two Weeks – Most Way Before



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- Signing a Contract
  - Signature Follows Completed Reviews
  - Stamped “Approved as to Form”
  - Signature by Authorized Signer
    - Budgetary authorization  $\neq$  signature authorization
- Send Fully-Executed Agreements to
  - Procurement for storage and retrieval
  - Procurement will provide to AP on request



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- Overview of the Process



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## Templates Overview

- **Professional Services Agreement (PSA)\***
- **Service Provider Agreement\***
- **Speaker-Performer Agreement**
- **Photographer-Videographer Agreement**
- **Short Form Service Provider Agreement**
- **All available from Procurement Website**

\*Master Agreements Available, Just Ask

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- **Which Template?**



## PSA

- Use when buying expertise/knowledge
- IP Ownership Key/Confidential Information Shared
- Usually project related – consultants, website developers

## Service Provider Agreement

- Use when buying service work, not expertise or knowledge
- IP Ownership not important, no CI shared
- Caterers, lighting, staging, proofreaders, face-painting, etc.

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- **Which Template?** (cont'd)
  - **Speaker-Performer Agreement**
    - Use When Buying an Artistic Performance/Public Speaking
    - Singers, Dancers, Speakers, Readers, Musicians, etc.
  - **Videographer-Photographer Agreement**
    - Use When Hiring Those Services
  - **Short-Form Service Provider Agreement**
    - Work-for-Hire
    - Up to \$7500

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- **Which Template?** (cont'd)
- **Templates Are Fillable PDFs with Instructions**
- **Reminders:**
  - Babson College is always the contracting party
  - Type the legal name of the counterparty (two places)
  - State the services/work to be performed
  - State the maximum amount to be paid for the work
  - Don't sign the contract
  - Make sure business terms are clear

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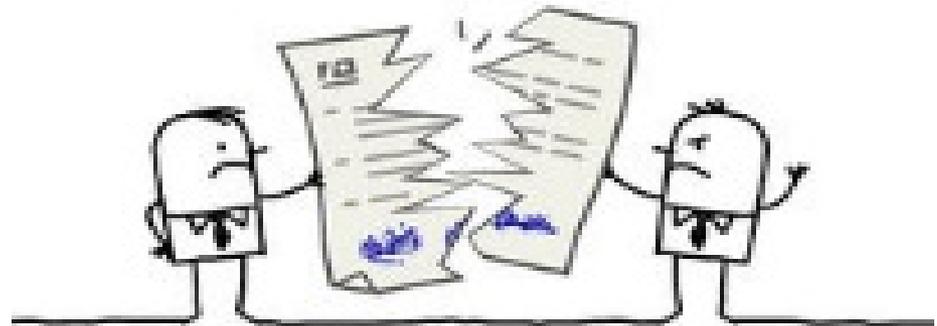
- **Pitfalls & Pressure Points: Pitfalls**

- Not using a College template
- Using the wrong template
- Not completing the template correctly
- Previous agreement not included
- No signed contract in place before work begins
- Cannot pay a counterparty without a signed contract



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- **Pitfalls & Pressure Points: Pressure Points**
- Warranties
- Confidential Information/Privacy
- Work Product/Work-for-Hire/Intellectual Property (IP)
- Limits of Liability
- Dispute Resolution
- Termination
- Use of Babson's Name
- Amendments



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- **Pitfalls & Pressure Points: Pressure Points**

- **Warranty Concept:** “This is their stuff to sell or license to us”
- **Indemnity:** “College should not pay for D caused by other party.”
- **Privacy:** “No unauthorized access, use or disclosure of data/info.”
- **IP:** “Work paid for by the College entirely belongs to the College.”
- **LOL:** “The other party must stand behind its work.”
- **Disputes:** “Trials, in Massachusetts under MA law.”
- **Termination:** “Every contract needs an exit strategy.”
- **Amendments:** “In writing, signed by both. Not oral nor automatic”
- **Use Babson Name:** “Rarely permitted, prior written approval required”

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- Thank You!



Questions:

Procurement \_\_\_\_\_

Risk: \_\_\_\_\_

OGC: \_\_\_\_\_