



WICHITA STATE UNIVERSITY INFLATABLES TERMS AND CONDITIONS

Wichita State University (WSU) and CONTRACTOR (collectively the “Parties”) agree that the provisions set forth in these Wichita State University Inflatables Terms and Conditions, including the Wichita State University’s Contractual Provisions Attachment (Form DA-146a) attached hereto (collectively referred to as “Terms and Conditions”) are hereby incorporated into the University Inflatables Services Agreement by reference therein, and that any reference to the “Agreement” herein is inclusive of these Terms and Conditions and the University Inflatables Services Agreement. In the event of a conflict between the provisions of these Terms and Conditions and the University Inflatables Services Agreement, including any supplemental terms proposed or attached thereto by CONTRACTOR, the provisions of these Terms and Conditions shall control.

1. Term. The term of the Agreement shall be considered to begin on the date of the event on which the Services will be performed and to continue through the conclusion of performance of the Services as described in the University Inflatables Services Agreement, unless terminated earlier as provided in Section 2 of these Terms and Conditions.

2. Termination.

2.1. Notwithstanding the right to immediate termination provided in Section 2.2, WSU may terminate the Agreement without limitation, upon the provision of ten (10) days written notice to CONTRACTOR. Upon such termination, CONTRACTOR shall return any pre-paid fees to WSU immediately but in no event later than fifteen (15) days from receipt of the notice of termination.

2.2. WSU may terminate the Agreement upon written notice to CONTRACTOR, and such termination shall be effective three calendar days from the date of delivery of such notice, should any of the following occur: (i) funds are not available for the Agreement, or if funds are not specifically appropriated for the Agreement in WSU’s final budget; (ii) CONTRACTOR becomes insolvent or files for bankruptcy; (iii) CONTRACTOR fails to deliver the Services within the time specified by the Agreement or any written extension; (iv) CONTRACTOR fails to make progress or meet any of the progress deadlines, so as to endanger performance of the Agreement; or (v) if CONTRACTOR is in breach of any other term of the Agreement and CONTRACTOR fails to cure such breach within five (5) business days of receipt of notice of such breach or the day prior to the event, whichever occurs first; or (vi) if, in WSU’s sole discretion, the Services provided by CONTRACTOR create a risk to the health and safety of WSU or the WSU community including, but not limited to students, staff and visitors. Upon such termination, CONTRACTOR shall return any pre-paid fees to WSU immediately but in no event later than fifteen (15) days from receipt of the notice of termination.

2.3. CONTRACTOR reserves the right to shut down any and all equipment due to inclement weather and/or high winds.

2.4. In the event of termination pursuant to Section 2.1 or shut down pursuant to Section 2.3, the Parties shall work in good faith to reschedule the Services; provided that WSU shall not be required to reschedule where WSU has determined that doing so is not feasible or the occasion for the services cannot be rescheduled, such as a holiday that has passed.

3. Services.



- 3.1. CONTRACTOR will be responsible for the provision and operation of inflatable equipment as agreed to and set forth in the University Inflatables Services Agreement signed by the Parties for a specified event ("Services").
- 3.2. CONTRACTOR shall not perform any Services outside of those set forth in the University Inflatables Services Agreement signed by the Parties, except as approved in advance and in writing by WSU.
- 3.3. CONTRACTOR shall perform all Services in accordance with the Agreement, WSU Policies and Procedures (<https://www.wichita.edu/about/policy/index.php>), including WSU Policy 11.13 / Use of Inflatables on University Premises (https://www.wichita.edu/about/policy/ch_11/ch11_13.php), and in accordance with the Kansas Amusement Rides Act (K.S.A. 44-1601, et seq.) and Amusement Ride Regulations (K.A.R. 49-55-1, et seq.).
4. **Payment for Services.** In consideration of the Services rendered to WSU by CONTRACTOR, WSU will pay CONTRACTOR according to the terms of compensation and payment set forth in the University Inflatables Services Agreement. Payment made by WSU is inclusive of any expenses agreed to by WSU and CONTRACTOR as specified in the Agreement, including but not limited to, travel, meal, and overnight accommodation expenses; and other authorized expenses that are incurred in the performance of Services under the Agreement. Changes to CONTRACTOR's rate must be approved in writing by WSU before any work commences. Invoices shall be sent to the Hosting Unit Contact listed in the University Inflatables Services Agreement. Invoices should reference the date and event for which Services were provided. Unless indicated otherwise in the University Inflatables Services Agreement, WSU shall make payment not later than thirty (30) days from the event or from receipt of the invoice by WSU, whichever occurs later.
5. **Relationship of the Parties and Independent Contractor Status.** The Parties agree that CONTRACTOR undertakes the furnishing of Services pursuant to the terms of the Agreement as an independent contractor. The Parties agree that WSU shall not control or have the right to control what CONTRACTOR does and how CONTRACTOR performs the work. Nothing in the Agreement shall be construed as creating any type of employment, partnership, or affiliate relationship between the Parties. Neither Party has any responsibility nor liability for the actions of the other Party except as specifically provided in the Agreement. Neither Party has any right or authority to bind or obligate the other Party in any manner or make any representation of warranty on behalf of the other Party. CONTRACTOR shall receive no compensation except as set forth in the Agreement, and CONTRACTOR shall not be entitled to any of the benefits, perquisites or emoluments of employment normally provided to WSU employees.
6. **Qualifications; Key Personnel; Subcontracting.**
 - 6.1. CONTRACTOR warrants CONTRACTOR, and all personnel assigned by CONTRACTOR to perform any Services under the Agreement, are fully trained and qualified to perform the Services required and shall meet all personnel qualifications required by WSU, and in accordance with the Kansas Amusement Rides Act (K.S.A. 44-1601, et seq.) and Amusement Ride Regulations (K.A.R. 49-55-1, et seq.). CONTRACTOR shall be responsible to ensure all approved subcontractors adhere to the same personnel qualifications. WSU may, in its sole discretion and in furtherance of its best interests, refuse any person, including CONTRACTOR, CONTRACTOR employees, or subcontractors, the ability to perform Services under the Agreement or on WSU property, and may, upon written request, require any employee or subcontractor be replaced at any time, with or without cause. CONTRACTOR's failure to comply with any such directive or request shall be considered a failure to perform under the Agreement and subject to immediate termination as set forth in Section 2.2 of these Terms and Conditions.



- 6.2. CONTRACTOR shall provide to WSU prior to providing any Services a valid and current certificate of training for the individual(s) who will be operating the inflatable equipment, and shall have the same available for inspection at the location where the inflatable equipment is set up for operation (K.S.A. 44-1605).
- 6.3. CONTRACTOR shall not subcontract, assign, or transfer any interest in the Agreement without prior written approval of WSU. CONTRACTOR shall remain fully liable and responsible for the work to be done by subcontractor(s) and shall assure compliance with all requirements of the Agreement.

7. Equipment and Instructions.

- 7.1 CONTRACTOR shall use its own equipment, tools, and supplies, except as required by WSU. CONTRACTOR shall only use equipment that has been maintained, tested, and inspected in accordance with the Kansas Amusement Rides Act (K.S.A. 44-1601, et seq.) and Amusement Ride Regulations (K.A.R. 49-55-1, et seq.). CONTRACTOR shall ensure that inspection certificates, and maintenance and inspection records are available for inspection at all times (K.S.A. 44-1602, 44-1603, 44-1608).
- 7.2 CONTRACTOR shall provide WSU proof of its valid and current certificate of inspection of inflatable equipment, and shall affix a copy of the current inspection results under a weatherproof covering in a conspicuous location on the inflatable equipment so that each participant can see the results before using the inflatable equipment (K.S.A. 44-1606, K.A.R. 49-55-7).
- 7.3 CONTRACTOR shall affix safety instructions for use of the inflatable equipment in a conspicuous location under a waterproof covering that allows each participant to read the instructions before using the inflatable equipment (K.S.A. 44-1606, K.A.R. 49-55-9).
- 7.4 CONTRACTOR shall ensure that all inflatable equipment shall be located, set up, used, operated, and removed in accordance with all Applicable Laws and WSU policies and rules, including WSU Policy 11.13 / Use of Inflatables on University Premises (https://www.wichita.edu/about/policy/ch_11/ch11_13.php).

8. **Participant Waivers.** CONTRACTOR shall ensure that prior to using any inflatable equipment, all participants sign the Wichita State University Release, Waiver, and Agreement Not To Sue ("Waiver"), and that all signed Waivers be provided to the Hosting Unit Representative listed in the University Inflatables Services Agreement.
9. **Concessions.** If applicable, the decision to sell or serve, and all rights associated with selling or serving, concessions in or about the event facility (including adjacent or nearby parking lots or open areas) are reserved by WSU and/or its third-party concessionaire. This includes all beverages consumed backstage. Accordingly, CONTRACTOR will not be permitted to sell or serve any food or beverages including, but not limited to soft drinks, alcohol, confections, or food for consumption in or about the facility (including adjacent or nearby parking lots or open areas) or at its event without prior written approval from WSU. Should CONTRACTOR be granted written permission to sell or serve food or beverages, such sale and/or service must be in accordance with WSU Policy 20.16 (https://www.wichita.edu/about/policy/ch_20/ch20_16.php) and any other written requirements provided by WSU and the Agreement. All income from any concessions sold by WSU and/or its third-party concessionaire shall be retained by WSU.
10. **Insurance.** CONTRACTOR must procure and maintain, at CONTRACTOR'S expense, during the term of the Agreement, the insurance described herein and as required under Kansas law (K.S.A 40-4802). Insurance must be with a company or companies qualified to do business in Kansas, as acceptable to WSU. CONTRACTOR



must furnish certificates of insurance ("COI") to WSU showing the required limits, along with its submission of the University Inflatables Services Agreement for approval by WSU, and no less than annually thereafter. CONTRACTOR shall provide thirty (30) days' advance written notice to WSU of any intent to cancel or modify the insurance policy.

10.1. Liability Insurance. All liability insurance policies will name WSU and the Kansas Board of Regents, and when applicable, WSU Intercollegiate Athletic Association and WSU Union Corporation d/b/a Ratigan Student Center, as additional insureds with respect to claims, demands, suits, judgments, costs, charges, and expenses arising out of, or in connection with, any loss, damage, or injury resulting from the negligence or other fault of CONTRACTOR, its agent, representatives, and employees. CONTRACTOR must furnish certificates of insurance to WSU in the following minimum limits prior to execution of an agreement:

10.1.1. Comprehensive General Liability Insurance. CONTRACTOR shall maintain comprehensive general liability insurance with limits not less than \$1 million for each occurrence involving bodily injury and property damage, a general aggregate of \$2 million and products-completed operation aggregate of \$1 million. Such coverage must include: premises operations broad form property damage, completed operations, independent Contractors, and contractual and products liability.

10.1.2. Comprehensive Automobile Liability Insurance. If CONTRACTOR will drive on WSU property or drive in the performance of the Services including delivery of the inflatable equipment, CONTRACTOR shall maintain comprehensive automobile liability insurance with limits not less than \$500,000 for bodily injury and property damage combined, and must cover all owned, non-owned or hired vehicles of CONTRACTOR.

10.1.3. Worker's Compensation Insurance. CONTRACTOR shall maintain worker's compensation insurance as required by Kansas law.

10.1.4. Property Insurance. CONTRACTOR shall maintain insurance in an amount of not less than \$500,000 to cover all sums, which CONTRACTOR will legally be liable to pay be reason of liability for damages to or destruction of WSU property, including the loss of use thereof.

10.1.5. Child Molestation Insurance. CONTRACTOR shall maintain child molestation insurance coverage with limits not less than \$25,000 for each occurrence, for any event at which minors will participate. Such coverage may be maintained under a comprehensive general liability policy or under a stand-alone policy.

11. Travel. CONTRACTOR understands and agrees that travel to and from WSU and third-party facilities, and between such facilities, may be necessary for completion of project or scope of work. Such travel shall not be subject to reimbursement except as agreed to in advance by the parties, and specifically stated in the University Inflatables Services Agreement.

12. Indemnification and Hold Harmless.

12.1. CONTRACTOR shall indemnify and hold harmless, and (at WSU's request) defend WSU, its officers, directors, faculty, students, agents, and employees against any and all loss or damage to the extent arising out of or related to CONTRACTOR's performance of Services under the Agreement or in any way incidental to or arising out of the occupancy, use, service, operations or performance of work under the Agreement. Such indemnification shall extend to both criminal and civil actions and shall



include any and all losses, liabilities, damages, suits, claims, judgment, penalties, costs, court costs and attorney's fees incurred by WSU.

- 12.2. WSU shall not be precluded from receiving the benefits of any policy coverage or proceeds that an insurance CONTRACTOR may carry which provides for indemnification for any loss or damage to property in CONTRACTOR's custody and control, where such loss or destruction is to WSU property. CONTRACTOR shall do nothing to prejudice WSU right(s) to recover against third parties for any loss, destruction or damage to WSU property.

13. Standards; Compliance with Laws and Policy. CONTRACTOR will use its best efforts, skill, judgment, and abilities to perform the Services and to further the interests of WSU in accordance with the highest standards of CONTRACTOR's profession or business. CONTRACTOR shall, at its own expense, comply with all WSU regulations, rules, practices, and policies (<https://www.wichita.edu/about/policy/index.php>), including WSU Policy 11.13 (https://www.wichita.edu/about/policy/ch_11/ch11_13.php), and with all applicable municipal, state, and federal laws and regulations (collectively "Applicable Laws"), including but not limited to the Kansas Amusement Rides Act (K.S.A. 44-1601, et seq.), the Amusement Ride Regulations (K.A.R. 49-55-1, et seq.). Without limiting the foregoing, CONTRACTOR will comply, and cause its employees, representatives, agents, and subcontractors to comply, with all municipal, state, and federal laws, in addition to any WSU policies or rules, related to personal health, disease control, security, environmental quality, safety, fire prevention, noise, smoking, parking and access restrictions. Any violations of Applicable Laws or WSU policies, rules, and regulations shall be deemed a failure to perform under the Agreement and subject to immediate termination as set forth in Section 2.2 of these Terms and Conditions.

14. Licenses, Registrations and Permits. CONTRACTOR warrants, represents, and agrees that CONTRACTOR and all individuals and subcontractors assigned to provide Services will obtain and maintain, at CONTRACTOR's own cost, any and all approvals, licenses, filings, registrations and permits required by Applicable Laws for the performance of the Services for the duration of the Agreement. This includes, but is not limited to, an operation permit issued by the Kansas Department of Labor (K.S.A. 44-1616). CONTRACTOR must provide to WSU prior to providing any Services proof of its valid and current operation permit in accordance with WSU Policy 11.13 (https://www.wichita.edu/about/policy/ch_11/ch11_13.php).

15. Safety, Security and Background Checks. Prior to commencement of Services or at any time during the term of the Agreement, WSU may, in its sole discretion, require CONTRACTOR, CONTRACTOR's employees and any approved subcontractors providing Services in support of the Agreement, to submit to and pass security screening and background checks including, but not limited to sex offender and criminal checks. WSU may, in its sole discretion and in furtherance of its best interests, refuse any person, including CONTRACTOR and CONTRACTOR's employees or subcontractors, the ability to perform Services under the Agreement or on the premises, and may, upon written request, require CONTRACTOR, CONTRACTOR's employees, or any subcontractor be replaced at any time, with or without cause. CONTRACTOR's failure to comply with this paragraph shall be considered a material breach of the Agreement and subject to immediate termination under Section 2.2 of these Terms and Conditions.

16. Employment Eligibility, Nondiscrimination and Workplace Safety. CONTRACTOR agrees to abide by all federal, state and local laws, rules and regulations regarding (i) employment eligibility and verification, including I-9 and immigration compliance; (ii) prohibiting discrimination in employment; (iii) workplace safety; (iv) sanitation; and (v) food service and equipment. Any violations of Applicable Laws, rules and regulations shall be deemed a failure to perform under the Agreement and subject to immediate termination as set forth in Section 2.2 of these Terms and Conditions.



- 17. Care of, Use of and Access to WSU Property.** CONTRACTOR shall be responsible for the proper care and custody of any WSU property and real property furnished for CONTRACTOR's use in connection with the performance of the Agreement, and CONTRACTOR will reimburse WSU for such property's loss or damage caused by CONTRACTOR, normal wear and tear excepted.
- 18. Prohibition of Gratuities.** Neither CONTRACTOR nor any person, firm or corporation employed by CONTRACTOR in the performance of the Agreement shall offer or give any gift, money or anything of value or any promise for future reward or compensation to any WSU employee at any time.
- 19. Retention of Records.** Unless a longer period is required by law, CONTRACTOR agrees to preserve and make available all of its books, documents, papers, records and other evidence involving transactions related to the Agreement for a period of five (5) years from the date of the expiration or termination of the Agreement. Matters involving litigation shall be kept for one (1) year following the termination of litigation, including all appeals, if the litigation exceeds five (5) years. CONTRACTOR agrees that authorized federal and state representatives, including, but not limited to, WSU personnel, independent auditors acting on behalf of WSU, WSU and/or federal agencies shall have access to and the right to examine records during the Agreement period and during the five (5) year post-Agreement period. Delivery and access to the records shall be at no cost to WSU.
- 20. Use of Marks, Logos and Marketing.** CONTRACTOR shall not use the name, logos, insignias or trademarks of WSU, any affiliates of WSU, or any project member, in any publicity, advertising, promotional materials, news release or websites except as set forth in the Agreement or as authorized in writing by WSU in each instance. CONTRACTOR may use the name of WSU in a document required to be filed with, or provided to, any governmental authority or regulatory agency to comply with applicable legal or regulatory requirements. CONTRACTOR may also refer to WSU by name and reprint the WSU logo in any internal or governmental report or summary report prepared by CONTRACTOR as it relates to the services provided by CONTRACTOR to WSU.
- 21. Taxes.** CONTRACTOR agrees to be responsible for any and all tax consequences of amounts paid to CONTRACTOR as an independent contractor by WSU. WSU will withhold no sums from amounts paid to CONTRACTOR, subject to applicable regulations of the Internal Revenue Service and/or the State of Kansas requiring withholding.
- 22. Encumbrances.** CONTRACTOR hereby certifies that no assignment, sale, agreement or encumbrance has been or will be made or entered into by CONTRACTOR that would conflict with the Agreement.
- 23. Third Party Beneficiaries.** The Agreement shall not be construed as providing an enforceable right to any third party.
- 24. Captions.** The captions and headings in the Agreement are for reference only and do not define, describe, extend or limit the scope or intent of the Agreement.
- 25. Severability.** If any provision of the Agreement is determined by a court of competent jurisdiction to be invalid or unenforceable, to any extent, the remainder of the Agreement shall not be affected and each provision of the Agreement shall be enforced to the fullest extent permitted by law.
- 26. Waiver of Term.** Any waiver of any term or condition in the Agreement shall be in writing and provided to all other Parties. Failure to insist upon strict performance of any of the terms and conditions hereof, or failure



or delay to exercise any rights provided herein or by law, shall not be deemed a waiver of any rights of any Party hereto.

- 27. Assignment.** The Agreement may not be assigned by CONTRACTOR except upon the prior written consent of WSU, and which consent may be withheld or conditioned by WSU as necessary to prevent prejudice to its interests and entitlements hereunder. The Agreement and all rights, privileges and licenses granted hereunder may be assigned by WSU to WSU subsidiaries and WSU supporting organizations. The Agreement shall be binding upon and inure to the benefit of the Parties and their respective successors, legal representatives and assigns.
- 28. State of Kansas Terms.** The Provisions found in Wichita State University's Contractual Provisions Attachment (Form DA-146a, Rev. 03-23), which is attached hereto as ATTACHMENT A, are hereby incorporated in the Agreement and made a part thereof.
- 29. Counterparts/Execution.** The Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. Signature pages may be executed via "wet" signature, authorized signature stamp or electronic mark and the executed signature pages may be delivered using pdf or similar file type transmitted via electronic mail, cloud-based server, e-signature technology or other similar electronic means.
- 30. Entire Agreement.** The Agreement (including all documents attached or referenced) is intended by the Parties as the final and binding expression of their agreement and as the complete and exclusive statement of its terms. The Agreement cancels, supersedes, and revokes all prior negotiations, representations, and agreements between the Parties, whether oral or written, relating to the subject matter of the Agreement, notwithstanding, any non-disclosure or confidentiality agreements directly relating to the Agreement.



ATTACHMENT A
CONTRACTUAL PROVISIONS ATTACHMENT
Wichita State University | DA-146a (Rev. 03-23)

The parties agree that the following provisions are hereby incorporated into the agreement to which it is attached and made a part thereof:

1. **Terms Herein Controlling Provisions:** It is expressly agreed that the terms of each and every provision in this attachment shall prevail and control over the terms of any other conflicting provision in any other document relating to and a part of the agreement in which this attachment is incorporated. Any terms that conflict or could be interpreted to conflict with this attachment are nullified.
2. **Kansas Law and Venue:** The agreement shall be subject to, governed by, and construed according to the laws of the State of Kansas, and jurisdiction and venue of any suit in connection with the agreement shall reside only in courts located in Sedgwick County, Kansas.
3. **Termination Due To Lack Of Funding Appropriation:** If sufficient funds are not appropriated to continue the function performed in this agreement and for the payment of the charges-hereunder, the University may terminate this agreement at the end of its current fiscal year. The University agrees to give written notice of termination to contractor at least 30 days prior to the end of its current fiscal year, and shall give such notice for a greater period prior to the end of such fiscal year as may be provided in this contract, except that such notice shall not be required prior to 90 days before the end of such fiscal year. Contractor shall have the right, at the end of such fiscal year, to take possession of any equipment provided under any contract for which it has not been paid. The University will pay to the contractor all regular contractual payments incurred through the end of such fiscal year, plus contractual charges incidental to the return of any such equipment. Upon termination of the agreement by the University, title to any such equipment shall revert to Contractor at the end of the University's current fiscal year. The termination of the contract pursuant to this paragraph shall not cause any penalty to be charged to the agency or the contractor.
4. **Disclaimer of Liability:** No provision of this contract will be given effect that attempts to require the State of Kansas or the University to defend, hold harmless, or indemnify any contractor or third party for any acts or omissions. The liability of the State of Kansas and the University is defined under the Kansas Tort Claims Act (K.S.A. 75-6101 et seq.).
5. **Anti-Discrimination Clause:** Contractor agrees: (a) to comply with the Kansas Act Against Discrimination (K.S.A. 44-1001 et seq.) and the Kansas Age Discrimination in Employment Act (K.S.A. 44-1111 et seq.) and the applicable provisions of the Americans With Disabilities Act (42 U.S.C. 12101 et seq.) (ADA), and Kansas Executive Order No. 19-02, and to not discriminate against any person because of race, color, gender, sexual orientation, gender identity or expression, religion, national origin, ancestry, age, military or veteran status, disability status, marital or family status, genetic information, or political affiliation that is unrelated to the person's ability to reasonably perform the duties of a particular job or position; (b) to include in all solicitations or advertisements for employees, the phrase "equal opportunity employer"; (c) to comply with the reporting requirements set out at K.S.A. 44-1031 and K.S.A. 44-1116; (d) to include those provisions in every subcontract or purchase order so that they are binding upon such subcontractor or vendor; (e) that a failure to comply with the reporting requirements of (c) above or if the contractor is found guilty of any violation of such acts by the Kansas Human Rights Commission, such violation shall constitute a breach of contract and the agreement may be cancelled, terminated or suspended, in whole or in part, by the contracting state agency or the Kansas Department of Administration; (f) if it is determined that the Contractor has violated applicable provisions of ADA, such violation shall constitute a breach of contract and the agreement may be cancelled, terminated or suspended, in whole or in part, by the University or the Kansas Department of Administration.

Contractor agrees to comply with all applicable state and federal anti-discrimination laws.

The provisions of this paragraph number 5 (with the exception of those provisions relating to the ADA) are not applicable to a Contractor who employs fewer than four employees during the term of such contract or whose contracts with the contracting State agency cumulatively total \$5,000 or less during the fiscal year of such agency.

6. **Acceptance:** The agreement shall not be considered accepted, approved or otherwise effective until the statutorily required approvals and certifications have been given, including, but not limited to the signature of an authorized representative of the University, as defined in University policy.
7. **Arbitration, Damages and Warranties:** Notwithstanding any language to the contrary, no interpretation of this contract shall find that the State or the University have agreed to binding arbitration, or the payment of damages or penalties. Further, the University does not agree to pay attorney fees, costs, or late payment charges beyond those available under the Kansas Prompt Payment Act (K.S.A. 75-6403), and no provision will be given effect that attempts to exclude, modify, disclaim or otherwise attempt to limit any damages available to the University at law, including but not limited to the implied warranties of merchantability and fitness for a particular purpose.
8. **Representative's Authority To Contract:** By signing this contract, the representative of Contractor thereby represents that such person is duly authorized by Contractor to execute this contract on behalf of Contractor and that Contractor agrees to be bound by the provisions thereof.
9. **Responsibility for Taxes:** The State of Kansas and the University shall not be responsible for, nor indemnify a Contractor for, any federal, state or local taxes which may be imposed or levied upon the subject matter of this contract.
10. **Insurance:** The University shall not be required to purchase any insurance against loss or damage to property or any other subject matter relating to this contract, nor shall this contract require it to establish a "self-insurance" fund to protect against any such loss or damage. Subject to the provisions of the Kansas Tort Claims Act (K.S.A. 75-6101 et seq.), Contractor shall bear the risk of any loss or damage to any property in which Contractor holds title.
11. **Information:** No provision of this contract shall be construed as limiting the State of Kansas Legislative Division of Post Audit from having access to information pursuant to K.S.A. 46-1101 et seq.
12. **Confidentiality:** As a state agency, the University's contracts are generally public records. Accordingly, no provision of this contract shall restrict the University's ability to produce this contract and/or any corresponding documents in response to a lawful request or from otherwise complying with the Kansas Open Records Act (K.S.A. 45-215 et seq.).
13. **The Eleventh Amendment:** The Eleventh Amendment is an inherent and incumbent protection with the State of Kansas and need not be reserved, but prudence requires the State and the University to reiterate that nothing related to this contract shall be deemed a waiver of the Eleventh Amendment.



14. **Campaign Contributions / Lobbying:** Funds provided through a grant award or contract shall not be given or received in exchange for the making of a campaign contribution. No part of the funds provided through this contract shall be used to influence or attempt to influence an officer or employee of the University or any State of Kansas agency or a member of the Legislature regarding any pending legislation or the awarding, extension, continuation, renewal, amendment or modification of any government contract, grant, loan, or cooperative agreement.
15. **Privacy of Student Records:** Contractor understands that the University is subject to the Family Educational Rights and Privacy Act (20 U.S.C. § 1232g) (FERPA) and agrees to handle any student education records it receives pursuant to the contract in a manner that enables the University to be compliant with FERPA and its regulations. Contractor agrees to protect the privacy of student data and educational records in a commercially reasonable manner and shall not transmit, share, or disclose any data about a student without the student's written consent, except to other University officials who seek the information within the context of his/her professionally assigned responsibilities and used within the context of official University business. Contractor shall promptly report to the University any request for or improper disclosure of University's student educational records.
16. **Export Control:** Contractor agrees to comply with all U.S. Laws relating to the transfer, export, or re-export of technology and technical data, as defined in the export controls under the International Traffic in Arms Regulations (ITAR) 22 Code of Federal Regulations Parts 120-130 or the Export Administration Regulations (EAR) 15 Code of Federal Regulations Parts 730-774. The release of information to any employee or other person, who is not a U.S. Citizen or permanent resident, as well as to corporations or to any other entity, organization, or group that is not incorporated or otherwise organized to do business in the United States may require advanced written authorization from the appropriate U.S. agency. Contractor shall notify University in writing prior to disclosure of any technical data or other items subject to EAR or ITAR and identify the export controlled items at issue and the applicable categories and subcategories of the United States Munitions List and/or Export Control Classification Number(s). University reserves the right to decline to accept any items or information controlled under ITAR or EAR.
17. **Certification:** Contractor certifies that to the best of its knowledge neither it nor any of their principals are presently debarred, suspended, proposed for debarment, the subject of an indictment involving the criminal statutes enumerated in 22 Code of Federal Regulations §120.6, or otherwise declared ineligible for the award of contracts by any Federal agency. Contractor shall provide immediate written notice to the University if at any time it learns that this certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
18. **Facility Access:** To the extent Contractor is required to be on the University's premises in the performance of any contract, Contractor and its representatives will adhere to the University's reasonable safety and security policies and procedures, and will use commercially reasonable efforts not to interfere with the University's regular operations. Contractor further agrees to, upon request, include the University as an additional insured on its general liability insurance policy on a primary and non-contributory basis and provide the University with a certificate of insurance.
19. **Accounts Receivable Set-Off Program:** If during the course of this contract Contractor is found to owe a debt to the State of Kansas, University payments to Contractor may be intercepted / set-off by the State of Kansas as set forth by law. Notice of the setoff action will be provided to Contractor. Pursuant to K.S.A. 75-6201 et seq., Contractor shall have the opportunity to challenge the validity of the debt. If the debt is undisputed, Contractor shall credit the University's account showing payment has been made in an amount equal to the funds intercepted. K.S.A. 75-6201 et seq. allows the Director of Accounts and Reports to set off University payments to Contractor against debts owed by Contractor to the State of Kansas. Payments set off in this manner constitute lawful payment for services or goods received. Contractor benefits fully from the payment because its obligation to the State of Kansas is reduced by the amount subject to setoff.
20. **Sexual Harassment and Retaliation Prohibited.** In accordance with Kansas Executive Order 18-04, Wichita State University has policies prohibiting sexual harassment, discrimination, and retaliation. These policies provide for confidentiality and anonymous reporting. To view these policies or to make a report of sexual harassment, discrimination, or retaliation, please visit https://www.wichita.edu/about/policy/ch_03/ch3_06.php.
21. **Electronic Signature:** The parties agree that the contract may be signed with electronic signatures. If an electronic signature is used, the parties agree that it is the legally binding equivalent to the signing party's handwritten signature. Whenever either party executes an electronic signature on the contract, it has the same validity and meaning as a handwritten signature. The parties agree that neither party will, at any time in the future, repudiate the meaning of an electronic signature or claim that an electronic signature is not legally binding.