CONTRACTUAL PROVISIONS ATTACHMENT

Important: This form contains mandatory contract provisions and must be attached to and specifically incorporated in all contractual agreements by adding the following statement to the main body of the contract: “The Provisions found in Contractual Provisions Attachment (Form KSU-146a, Rev. 7-20), which is attached hereto, are hereby incorporated in this contract and made a part hereof.”

1. **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 contract, agreement, or understanding, except (without limitation, all other attachments) in which this attachment is incorporated. Any terms that conflict with or could be interpreted to conflict with this attachment are nullified.

2. **Kansas Law and Venue**: All matters arising out of or related to this contract shall be subject to, governed by, and construed according to the laws of the State of Kansas, and jurisdiction and venue of any suit arising out of or related to this contract shall reside only in courts located in the State of Kansas.

3. **Disclaimer Of Liability**: No provision of this contract will be given effect that attempts to require Kansas State University or any of its controlled corporations (collectively “University”) to defend, hold harmless, or indemnify any contractor or third party for any acts or omissions. The terms, conditions, and limitations of liability contained herein shall not be construed to limit the University’s defense and indemnification of its agents under the Kansas Tort Claims Act (K.S.A. 75-8101, et seq.).

4. **Arbitration, Damages, Warranties**: No interpretation of this contract shall find that the University has 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 or rights of action available to the University at law, including but not limited to the implied warranties of merchantability and fitness for a particular purpose.

5. **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.

6. **Responsibility For Taxes**: 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.

7. **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 the University to establish a “self-insurance” fund to protect against any such loss or damage.

8. **Acceptance Of Contract**: This contract shall not be considered accepted, approved or otherwise effective until the required approvals and certifications have been given, including, but not limited to, the signature of an authorized representative of the University as defined in the University Contracts Policy: https://www.k-state.edu/policies/ppm/3000/3070.html.

9. **Authority To Contract**: By signing this contract, the representative of the contractor thereby represents that such person is duly authorized by the contractor to execute this contract on behalf of the contractor and that the contractor agrees to be bound by the provisions thereof.

10. **Export Control**: Prior to providing University with any items under this contract that are subject to export controls regulations, including items controlled under the International Traffic in Arms Regulations (ITAR), 22 C.F.R. §§ 120-130, or the Export Administration Regulations (EAR), 15 C.F.R. §§ 730-774, Contractor will notify University 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 to right to decline to accept any items or information controlled under ITAR or EAR. Contractor will direct all notices under this section to the appropriate University contact as follows: comply@k-state.edu.

11. **Privacy of Student Records**: Contractor understands that the University is subject to FERPA (Family Educational Rights and Privacy Act, 20 U.S.C. § 1232q). To the extent Contractor possesses any education records of University’s students under this contract, Contractor is deemed to be a school official with a legitimate educational interest in the records and Contractor agrees to comply with FERPA and its regulations. Contractor specifically agrees that it shall use personally identifiable education records only for purposes related to this contract, and shall not disclose such records to any third party without authorization from the University. Contractor shall promptly report to the University any request for, or improper disclosure of, University student educational records.

12. **Anti-Discrimination Clause**: Contractor agrees to comply with all applicable state and federal anti-discrimination laws. When requested by University, Contractor shall cooperate with University in meeting obligations under University’s own policies and procedures, including but not limited to the University’s anti-discrimination policy: http://www.k-state.edu/policies/ppm/3000/3010.html. Contractor specifically acknowledges that its employees on campus and/or participating in University programs or activities have reviewed, understood, and will comply with University’s anti-discrimination policy and its reporting website at https://www.k-state.edu/eaa/.

13. **Authority To Contract**: Contractor agrees to comply with all applicable state and federal anti-discrimination laws. When requested by University, Contractor shall cooperate with University in meeting obligations under University’s own policies and procedures, including but not limited to the University’s anti-discrimination policy: http://www.k-state.edu/policies/ppm/3000/3010.html. Contractor specifically acknowledges that its employees on campus and/or participating in University programs or activities have reviewed, understood, and will comply with University’s anti-discrimination policy and its reporting website at https://www.k-state.edu/eaa/.

14. **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 signatures made or accepted by the University shall be interpreted as meaning that electronic signature or claim that an electronic signature is not legally binding.

15. **No Endorsement**: Contractor agrees it will not use or display the name, marks, or images of the University to advertise and/or endorse its enterprises or products, or for any other purpose without the prior written approval of the University.