INVITATION FOR BIDS/PROPOSALS: 40686
REPLACES CONTRACT NO.: KSU 854
DATE SENT: 2/13/2020
CLOSING DATE, 2:00 PM: 2/27/2020
PURCHASING CONTACT: Jennifer Trevino
TELEPHONE: 785-532-6214
E-MAIL: kspurch@k-state.edu

NOTICE TO VENDORS

Invitations are extended for bids/proposals on the attached document.

ITEM: Service Agreement on Philips Veradius C-Arm w/ FD

USING DEPARTMENT: Kansas State University – Department of Veterinary Health Center

PERIOD OF CONTRACT: March 2, 2020 through March 1, 2021 with three (3) one (1) year renewal options

GUARANTEE: None Required

SCOPE OF INVITATION:

The intent of this Invitation for Bid is to establish a contract for preventative maintenance coverage on Philips Veradius C-Arm w/ FD

Kansas State University reserves the right to enter into negotiations with vendors should it be determined to be in the best interest of the University.

READ THIS INVITATION CAREFULLY

Failure to abide by all of the conditions of this Invitation may result in the rejection of a bid. Inquiries about this Invitation should indicate the contract number and be directed to the procurement officer. Return in a sealed envelope or other container only the signature and bids forms no later than the closing date indicated above. Retain the remaining documents for reference.

Updated March 2019
BID INSTRUCTIONS

1. PREPARATION OF BID: Each bid must be legible and signed. Prices are to be entered in spaces provided on the bid form. Computations and totals shall be indicated where required. In case of error in computations or totals, the unit price shall govern. Please submit one (1) original, one (1) copy and one (1) electronic software version of the proposal response, including signature sheet, applicable literature and supporting documents.

2. SIGNATURE OF BIDS: Each bid shall give the complete mailing address of the vendor and be signed by an authorized representative by original signature with his or her name and legal title typed below the signature line.

3. ACKNOWLEDGMENT OF ADDENDA: All vendors shall acknowledge receipt of any addenda to this Invitation. Failure to acknowledge receipt of any addenda may render the bid to be non-responsive. Changes to this Invitation shall be issued only by K-State Purchasing in writing.

4. MARKING AND MAILING BIDS: Bids shall be sealed securely in an envelope or other container addressed and marked on the outside as follows:
   KANSAS STATE UNIVERSITY
   PURCHASING OFFICE
   2323 ANDERSON AVE., SUITE 500
   MANHATTAN, KS 66502
   CONTRACT IFB/RFP # 40686
   CLOSING DATE 2/27/2020

Under all circumstances it shall be the vendor’s responsibility to insure their bid is properly received by the appropriate date/time at the Kansas State University Purchasing Office.

The University shall not be responsible for the premature opening of a bid or for the rejection of a bid that was not received prior to the closing date because it was not properly identified on the outside of the envelope or container.

5. QUESTIONS: Questions requesting clarification of this Request for Proposal are to be submitted in writing by the close of business on 2/20/20 to:
   Jennifer Trevino
   Kansas State University
   Purchasing Office
   2323 Anderson Ave., Suite 500
   Manhattan, KS 66502
   Phone: 785-532-6214; FAX: 785-532-5577; E-Mail: kspurch@k-state.edu

Failure to notify the Director of Purchasing of any conflicts or ambiguities in the Request for Proposal may result in items being resolved in the best interest of K-State. Any modification to this Request as a result of any pre-proposal conference or written answers to written questions shall be made in writing by amendment and mailed to all vendors who received the original request from K-State Purchasing. Only written communications are binding.

Answers to questions will be provided in the form of an amendment and posted on K-State Purchasing’s website: https://dfs.ksu.edu/rfq/.

It shall be the responsibility of all participating vendors to acquire any and all addenda and additional information as it is made available from the website cited above. Vendors are required to check the website periodically for any additional information or instructions.

6. CLOSING DATE FOR BIDS: All bids shall be received promptly at 2:00 pm Central Standard or Daylight Savings Time on 2/27/2020 whichever is in effect, at the following location:
   KANSAS STATE UNIVERSITY
   PURCHASING OFFICE
   2323 ANDERSON AVE., SUITE 500
   MANHATTAN, KS 66502

Bids received prior to the closing date shall be kept secured and sealed until closing. Bids received after the closing date will not receive consideration and will remain sealed in the bid file.
7. **MODIFICATION OF BIDS:** A vendor may modify a bid by letter or FAX transmission any time prior to the deadline for receipt of bids, and the Director of Purchasing is satisfied that a written confirmation of the modification signed by the vendor was mailed prior to the deadline as evidenced by the postmark on the envelope or container.

8. **WITHDRAWAL OF BIDS:** A bid may be withdrawn on written request from the vendor to the procurement officer at the K-State Purchasing Office prior to the closing date.

9. **BID DISCLOSURE:** At the time of closing, only bidder’s identity shall be made public information. Interested vendors or their representatives may be present at the opening of the sealed bids at the following location:

   **KANSAS STATE UNIVERSITY**  
   **PURCHASING OFFICE**  
   **2323 ANDERSON AVE., SUITE 500**  
   **MANHATTAN, KS 66502**

The low vendor shall not be construed as meeting all specifications set out in the Invitation at the bid disclosure.

Bid results may be obtained by attending the public bid opening or by requesting a bid tabulation from K-State Purchasing Office. Results may be obtained after contract finalization by sending the contract proposal number for each tab requested to kspurch@k-state.edu

Copies of individual proposals may be obtained under the Kansas Open Records Act by submitting a written request to Open Records, Communications and Marketing, 128 Dole Hall, Kansas State University, Manhattan, KS 66506 (EMAIL openrecords@k-state.edu or FAX 785-532-7355). An estimate of the amount of time and copies it will take to complete the request will be compiled. After payment has been received, the documents will be released. More information regarding the Kansas Open Records Act is available at http://www.k-state.edu/policies/ppm/3000/3060.html

Information in bid files will not be released until a bid has been awarded or all bids have been rejected.

Should a check be returned to Kansas State University for insufficient funds, the vendor will be suspended from all bidding until such time as the vendor makes good on payment.

### GENERAL CONDITIONS

1. **CONTRACT:** The successful vendor will be required to enter into a written contract with Kansas State University. The vendor agrees to accept the provisions of form KSU-146a, Contractual Provisions Attachment, which is incorporated into all contracts with the University and is attached to this Invitation.

2. **CONTRACT DOCUMENTS:** This Invitation and any amendments and the response and any amendments of the successful vendor shall be incorporated along with the KSU-146a into the written contract which shall compose the complete understanding of the parties.

3. **CONTRACT FORMATION:** No contract shall be considered to have been entered into by K-State until all statutorily required signatures and certifications have been rendered; funds for the contract have been encumbered; and a purchase order, signed by the Director of Purchasing, has been deposited in the mail OR a written contract has been signed by the successful vendor.

4. **FEDERAL, STATE AND LOCAL TAXES-GOVERNMENTAL ENTITY:** Unless otherwise specified, the bid price shall include all applicable federal, state and local taxes. The successful vendor shall pay all taxes lawfully imposed on it with respect to any product or service delivered in accordance with this Invitation. The University is exempt from state sales or use taxes and federal excise taxes. These taxes shall not be included in the vendor’s price quotations.

5. **EVALUATION OF BIDS:** Award shall be made in the best interest of the University. Consideration may focus toward but is not limited to:
   - Cost. Vendors are not to inflate prices in the initial bid/proposal as cost is a factor in determining who may receive an award or be invited to formal negotiations (if indicated). The University reserves the right to award to the lowest responsive bid without conducting formal negotiations.
   - Adequacy and completeness of proposal
   - Vendor’s understanding of the project
6. **ACCEPTANCE OR REJECTION:** The University reserves the right to accept or reject any or all bids / proposals or part of a proposal; to waive any informalities or technicalities; clarify any ambiguities in proposals; modify any criteria in this Invitation; and unless otherwise specified, to accept any item in a proposal.

7. **COMPETITION:** The purpose of this Invitation is to seek competition. The vendor shall advise the Purchasing Office if any specification, language or other requirement inadvertently restricts or limits bidding to a single source. Notification shall be in writing and must be received by the Purchasing Office no later than five (5) business days prior to the bid closing date. The Director of Purchasing reserves the right to waive minor deviations in the specifications which do not hinder the intent of this Invitation.

8. **NEW MATERIALS, SUPPLIES OR EQUIPMENT:** Unless otherwise specified, all materials, supplies or equipment offered by a vendor shall be new, unused in any regard and of most current design. All materials, supplies and equipment shall be first class in all respects. Seconds or flawed items will not be acceptable. All materials, supplies or equipment shall be suitable for their intended purpose and, unless otherwise specified, fully assembled and ready for use on delivery.

9. **EQUIVALENT ITEMS:** Whenever a material, article or piece of equipment is identified in the specifications by reference to a manufacturer's or vendor's name, trade name, catalog number, etc., it is intended to establish a standard, unless otherwise specifically stated. Any material, article or equipment of other manufacturers or vendors shall perform to the standard of the item specified. Equivalent bids must be accompanied by sufficient descriptive literature and/or specifications to provide for detailed comparison. Samples of items, if required, shall be furnished at no expense to the State and if not destroyed in the evaluation process, shall be returned at vendor's expense, if requested.

10. **DEFAULT ON DELIVERY:** Any vendor, who defaults on delivery as defined in this Invitation may, at the discretion of the KSU Director of Purchasing, be barred from bidding on any subsequent Invitation for a period to be determined by the Director.

11. **INSURANCE:** The State shall not be required to purchase any insurance against loss or damage to any personal property nor shall the State establish a "self-insurance" fund to protect against any loss or damage. Subject to the provisions of the Kansas Tort Claims Act, the vendor shall bear the risk of any loss or damage to any personal property.

12. **INSPECTION:** The State reserves the right to reject, on arrival at destination without cost to the State, any items which do not conform with the specifications of this Invitation.

13. **TERMINATION:** The K-State Director of Purchasing may terminate this contract, or any part of this contract, for cause under any one of the following circumstances:

   (1) The Contractor fails to make delivery of goods or services as specified in this contract; or
   (2) The Contractor fails to perform any of the provisions of this contract, or so fails to make progress as to endanger performance of this contract in accordance with its terms.

The using department or the K-State Director of Purchasing shall provide the Contractor with written notice of the conditions endangering performance. If the Contractor fails to remedy the conditions within 10 days from the receipt of the notice (or such longer period as may be authorized in writing), the Director of Purchasing shall issue the Contractor an order to stop work immediately. Receipt of this notice shall be presumed to have occurred within three (3) days of the date of the notice.

The K-State Director of Purchasing may terminate performance of work under this contract in whole or in part whenever, for any reason, it is determined that the termination is in the best interest of the State of Kansas. In the event that the K-State Director of Purchasing elects to terminate this contract pursuant to this provision, he/she shall provide the Contractor written notice at least 30 days prior to the termination date. The termination shall be effective as of the date specified in the notice. The contractor shall continue to perform any part of the work that may have not been terminated by the notice.
14. **RIGHT AND REMEDIES:** If this contract is terminated, the State, in addition to any other rights provided for in this contract, may require the Contractor to transfer title and deliver to the State in the manner and to the extent directed, any completed materials. The State may be obligated only for those services and materials rendered and accepted prior to the date of termination. Subject to proof of market price, the measure of damages for non-delivery or repudiation by the Contractor shall be the difference between the market price at the time when the State learned of the breach and the contract price together with any incidental and consequential damages less expenses saved in consequence of the contractor’s breach. Market price shall be determined as of the place for tender or, in cases of rejection after arrival or revocation of acceptance, as of the place of arrival.

If it is determined, after notice of termination for cause, that the Contractor's failure was due to causes beyond the control or negligence of the Contractor, the termination shall be a termination in the best interest of the State.

The Contractor shall not be liable if the failure to perform this contract arises out of causes beyond the control of or negligence of the Contractor. Causes may include, but are not limited to, acts of nature, fires, quarantine, strikes other than by the Contractor's employees, and freight embargoes.

In event of termination, the Contractor shall receive payment prorated for that portion of the contract period services were provided to and/or goods were accepted by the State.

The rights and remedies of the State provided for in this contract shall not be exclusive and are in addition to any other rights and remedies provided by law.

15. **WAIVER.** Waiver of any breach of any provision in this contract shall not be a waiver of any prior or subsequent breach. Any waiver shall be in writing and any forbearance or indulgence in any other form or manner by the State shall not constitute a waiver.

16. **HOLD HARMLESS.** The Contractor shall indemnify the State against any and all claims for injury to or death of any persons; for loss or damage to any property; and for infringement of any copyright or patent occurring in connection with or in any way incidental to or arising out of the occupancy, use, service, operations or performance of work under this contract.

The State shall not be precluded from receiving the benefits of any insurance the contractor may carry which provides for indemnification for any loss or damage to property in the contractor's custody and control, where such loss or destruction is to State property. The contractor shall do nothing to prejudice the State's right to recover against third parties for any loss, destruction or damage to State property.

17. **PROHIBITION OF GRATUITIES.** Neither the Contractor nor any person, firm or corporation employed by the Contractor in the performance of this contract shall offer to give any gift, money or anything of value or any promise for future reward or compensation to any State employee at any time.

18. **FEDERAL, STATE AND LOCAL TAXES-CONTRACTOR.** The State makes no representation as to the exemption from liability of any tax imposed by any governmental entity on the Contractor.

19. **ANTITRUST.** The Contractor assigns to the State all of its rights to and interests in any causes of action it has or may acquire under the antitrust laws of the United States and the State of Kansas relating to the particular product or services purchased or acquired by the State pursuant to this contract.

20. **MODIFICATION.** This contract shall be modified only by the written agreement of the parties with the approval of the Director of Purchasing.

21. **ASSIGNMENT.** The Contractor shall not assign, convey, encumber, or otherwise transfer its rights or duties under this contract without the prior written consent of the State which consent will not be unreasonably withheld or delayed. This contract shall immediately terminate in the event of its assignment, conveyance, encumbrance or other transfer by the Contractor without the prior written consent of the State.

22. **THIRD PARTY BENEFICIARIES.** This Contract shall not be construed as providing an enforceable right to any third party.
23. **CAPTIONS.** The captions or headings in this contract are for reference only and do not define, describe, extend, or limit the scope or intent of this contract.

24. **SEVERABILITY.** If any provision of this contract is determined by a court of competent jurisdiction to be invalid or unenforceable to any extent, the remainder of this contract shall not be affected, and each provision of this contract shall be enforced to the fullest extent permitted by law.

25. **GOVERNING LAW.** This agreement shall be governed by the laws of the State of Kansas.

26. **NOTICE OF AWARD.** The K-State Purchasing Office shall issue either a purchase order or a written contract to the successful vendor.

27. **POLITICAL SUBDIVISIONS.** Political subdivisions [including but not limited to, the Kansas Board of Regents and its member institutions, Riley County, City of Manhattan, and local Unified School Districts (USDs)] are permitted to utilize contracts administered by Kansas State University. Conditions included in this contract shall be the same for political subdivisions. The University has no responsibility for payments owed by political subdivisions. The vendor must deal directly with the political subdivision. Bidders shall indicate below if Pricing is available to political subdivisions.

28. **TAX CLEARANCE CERTIFICATE.** A “tax clearance” is a comprehensive tax account review to determine and ensure that the account is compliant with all primary Kansas Tax Laws administered by the Kansas Department of Revenue (KDOR) Director of Taxation. Kansas State University supports the State of Kansas tax clearance process. Vendors submitting bids, proposals, contracts, etc., are required to provide a current tax clearance certificate. For more information regarding this process please go to: [http://www.ksrevenue.org/taxclearance.html](http://www.ksrevenue.org/taxclearance.html)

29. **ACCOUNTS RECEIVABLE SET-OFF PROGRAM.** During the course of this contract if the vendor is found to owe a debt to the State of Kansas, payments to the vendor may be intercepted (setoff) by the State of Kansas. Notice of the setoff action will be provided to the vendor. The vendor shall credit the account of the department making the payment in an amount equal to the funds intercepted.

K.S.A. 75-6201 et seq. allows the Director of Accounts & Reports to setoff funds the State of Kansas owes vendors against debts owed by the vendors to the State of Kansas. Payments setoff in this manner constitute lawful payment for services or goods received. The vendor benefits fully from the payment because its obligation to the State is reduced by the amount subject to setoff.

---

**SPECIAL CONDITIONS**

1. **TERM OF CONTRACT.** The term of this contract is from March 2, 2020 through March 1, 2021 with three (3) one (1) year renewal options.

2. **OPEN-ENDED CONTRACT.** This Invitation is for a contract between a vendor and the State to furnish an undetermined quantity of a good or service in a given period of time.

3. **QUALITY.** Materials used and workmanship shall be of the highest quality. Failure to produce and/or supply materials of the highest quality may result in rejection of an order entirely at the contractor’s expense.

4. The decision of the K-State Director of Purchasing shall be final in all instances of dispute herein. The proof of accuracy or manufacture and quality of material rests with the contractor.

5. **PRICE.** Prices shall remain firm throughout the contract period. On the yearly anniversary date of this contract, costs may remain at the price bid or a request for adjustment may be made, either upward or downward, keyed to industry changes. Contractor shall furnish documentation at least 30 days prior to anniversary date to substantiate any claim for increase. Price increases shall not exceed five percent (5%) of the existing contract. The University reserves the right to accept, amend or deny any such price increase. If parties to the contract cannot agree on renewal terms, it is hereby understood that the contract will be re-bid.

6. **DELIVERIES.** All orders shall be shipped FOB destination, prepaid and included, unless stated otherwise. Deliveries must be clearly marked with the purchase order number. If delays in delivery are anticipated, the Contractor shall notify the ordering department of the expected delivery date or partial delivery date. The order may be canceled if delivery time is unsatisfactory. The Contractor shall inform the K-State Purchasing Office of any supply or delivery problems.
7. **INVOICES.** Each purchase order must be individually invoiced. Invoices shall be forwarded to the using department in duplicate and shall state the following:

   1. Date of invoice;
   2. Date of shipment (or completion of work);
   3. Purchase Order number and contract number;
   4. Itemization of all applicable charges; and
   5. Net amount due.

8. **PAYMENT.** Payment Terms shall be net 30, unless stated otherwise. Payments will be made in regular routine per K.S.A. 75-6403 upon receipt by the ordering department of the contractor's invoice in duplicate.
BACKGROUND

Kansas State University was founded in 1863 as the country’s first operational land-grant university. Kansas State University has campuses in Manhattan, Salina and Olathe; Global Campus, which serves distance education students; and K-State Research and Extension has a presence throughout Kansas. Forbes magazine, The Princeton Review and U.S. News & World Report have recognized the university as one of the best in America. More than 21,000 students from all 50 states and more than 100 countries attend Kansas State University. Students can choose from more than 250 majors and options in nine colleges: Agriculture; Architecture, Planning & Design; Arts & Sciences; Business Administration; Education; Engineering; Health & Human Sciences; Polytechnic; and Veterinary Medicine. The Graduate School offers more than 100 academic programs. From the 8,600-acre Konza Prairie Biological Station to the Johnson Cancer Research Center, the university is home to more than 90 research centers. Kansas State University is recognized by the Princeton Review as one of America's best colleges, and U.S. News & World Report lists the university among the top 75 public universities in the U.S. Kansas State University is implementing an aggressive plan to become a top 50 public research university by 2025.

SPECIFICATIONS

The Veterinary Health Center (VHC) at Kansas State University College of Veterinary Medicine is a full-service veterinary hospital providing routine, specialty and emergency care. Their mission is to provide superior veterinary medical education, quality patient care and exceptional customer service in a caring environment. The Phillips Veradius C-Arm w/ FD is a vital product to the VHC and essential in the success of many surgical procedures. For example, this medical piece of equipment is used to help surgeons identify surgical pin placement on certain procedures as well as to help guide the placement of pacemaker wires. If the product was to become inoperable, the VHC would no longer be able to perform these complex procedures. After evaluation and in an effort to minimize risk, it is determined that a four (4) year (48 month) service agreement shall be required. The current coverage is expired and coverage is needed in place as soon as possible.

1. Specifications:
   a) Term: 48 months (4 years) – paid annually preferred
   b) Preventative maintenance coverage, 2 times per year, from 8:00 am – 5:00 pm, Monday – Friday. Coverage includes activities performed according to a schedule to review safety, image quality, calibrations, equipment cleaning, performance trials and any other planned service.
   c) If pre-inspection of equipment shall be required, this shall be provided at no cost to KSU

2. Support:
   a) 24/7 Technical telephone support
   b) Shall be able to provide remote online support.
   c) On-Site Response. Expectation shall be on-site by the next business day after notification of needed support.

3. Labor:
   a) Labor and travel coverage for on-site service 8:00 am - 5:00 pm, Monday - Friday.
   b) No Subcontracting

4. Travel:
   a) Department shall reimburse vendor for actual travel expenses. Vendor shall use Client’s travel rates for lodging, meal and incidentals, billing Client for actual cost of airfare, up to $500 per person per round trip and cost of local Manhattan ground transportation, including travel from Manhattan regional airport.

5. Parts:
   a) Standard parts coverage. Shall provide coverage on parts to maintain and repair the equipment including both hardware and software items. For Veradius Mobile C-Arm system, standard parts coverage shall include the Energy Storage Unit (ESU) including the battery.
   b) Next Day Parts Delivery. Provider shall provide delivery of parts needed during the next standard p.m. business day.
   c) Operating system software and hardware reliability updates shall be provided. This includes on-site or remote labor, travel and parts necessary to complete safety, performance and reliability modifications to existing equipment software or hardware.
   d) Expectation shall be standard parts covered in full

TIMELINE FOR AWARD
The University expects to make an award by 3/2/2020. This timeline is an indication only and may change at the University's discretion.

- RFP issued: 2/13/2020
- Questions due: 2/20/2020 by 5:00 PM CT
- Amendment issued (if needed): 2/24/2020
- Closing date: 2/27/2020
- Review & Negotiations: 2/28/20
- Intent to Award: 3/2/2020

Contract starts as soon as possible, as determined by the University.
Closing Date: 2/27/2020

Item: Service Agreement on Philips Veradius C-Arm w/ FD

Department: Department of Veterinary Health Center

SIGNATURE SHEET

We submit a proposal to furnish requirements during the contract period in accordance with the specifications and Schedule of Supplies.

LEGAL NAME OF PERSON, FIRM OR CORPORATION

TELEPHONE (TOLL FREE) NUMBER FAX NUMBER

E-MAIL

ADDRESS

CITY & STATE ZIP CODE

SIGNATURE

TYPED NAME OF SIGNATURE

TITLE

DATE

If awarded a contract and purchase orders are to be directed to an address other than above, indicate mailing address and telephone number below.

ADDRESS

CITY & STATE ZIP CODE

TELEPHONE (TOLL FREE) NUMBER FAX NUMBER

E-MAIL
COST PROPOSAL

Vendor Name: ________________________________

Monthly Total – $_____________________

Annual Total - $_____________________

Optional Services:
Year 2 Optional Renewal $_____________________
Year 3 Optional Renewal $_____________________
Year 4 Optional Renewal $_____________________

Additional Pricing:
Hourly Rate: $_____________________
(Hourly Rate is inclusive of travel costs and travel time)

After Hours Hourly Rate: $_____________________
(After Hourly Rate is inclusive of travel costs and travel time)

Delivery Timeframe from Receipt of Order: ______________________

Is your pricing available to political subdivisions of the State of Kansas? Yes / No

Electronic Copy Submitted By: _____ E-mail _____ USB _____ CD

Payment Terms: ____________ Will P-Card be accepted for payment? Yes / No
Will ACH (direct deposit) be accepted for payment? Yes / No

Proposal responses shall include a list of 3 (minimum) references on a separate sheet. Company name, contact, phone number and email address information shall be included for each reference.
CONTRACTUAL PROVISIONS ATTACHMENT

Important: This form contains mandatory contract provisions and must be attached to and specifically incorporated in all copies of any contractual agreement by adding the following statement to the main body of the contract: “The Provisions found in Contractual Provisions Attachment (Form KSU-146a, Rev. 3-18), 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 conflicting provision in the contract (including, 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 of the State of Kansas, the University, and their employees are exclusively defined under the Kansas Tort Claims Act (K.S.A. 75-6101, 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. 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.

6. 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.

7. 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.

8. 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.

9. 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.

10. Privacy of Student Records: Contractor understands that the University is subject to FERPA (Family Educational Rights and Privacy Act, 20 U.S.C. § 1232g). 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.

11. 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 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, understand, and will comply with University’s anti-discrimination policy. Contractor also 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 to not discriminate against any person because of race, religion, color, sex, disability, national origin or ancestry, or age in the admission or access to, or treatment or employment in, its programs or activities; (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 or if it is determined that the contractor has violated applicable provisions of ADA, such violation(s) shall constitute a breach of contract and the contract may be cancelled, terminated or suspended, in whole or in part, by the University.

12. Information/Confidentiality: As a state agency, the University’s contracts are generally public records, and therefore no provision of this contract shall restrict the University’s ability to produce this contract in response to a lawful request or from otherwise complying with the Kansas Open Records Act (K.S.A. 45-215, et seq.). Moreover, no provision of this contract shall be construed as limiting the Legislative Division of Post Audit from having access to information pursuant to K.S.A. 46-1101, et seq.

13. The Eleventh Amendment: The Eleventh Amendment is an inherent and incumbent protection of the State of Kansas and need not be reserved, but prudence requires the University to reiterate that nothing in or 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 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.