

## REAL ESTATE LEASE AGREEMENT

NOTICE TO LESSOR AND LESSEE: PURSUANT TO THE REQUIREMENTS OF K.S.A.75-3730, 3739 (1) and 3743, as amended. NO LEASE AGREEMENT IS EFFECTIVE NOR MAY EXPENDITURES BE MADE UNTIL THE AGREEMENT HAS BEEN SIGNED AND THE REQUIRED APPROVALS AFFIXED HERETO. Clauses printed in this contract are considered mandatory and may only be supplemented by a special provision approved by the Department of Administration.

### CONTRACT PARTIES

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#### LESSOR (First Party or 1<sup>st</sup> Party)

Contact Person:

LESSOR NAME:

Address:

City:

State:

Zip Code:

Telephone:

Fax:

Email Address:

Type of Firm: ( ) Individual ( ) Partnership ( ) Corporation ( ) Government ( ) L.L.C.

Taxpayer Identification No.

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#### LESSEE (Second Party or 2<sup>nd</sup> Party)

Contact Person:

LESSEE NAME:

Address:

City:

State:

Zip Code:

Email Address:

Telephone:

Fax:

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Leased Property Description:

Street Address:

City:

County:

State:

Zip Code:

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WITNESSETH, that First Party, in consideration of the rents, covenants and agreements of Second Party, hereinafter set forth, does let, lease and rent to Second Party the above described property

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**1. TERM:**

To have and hold the same for the term of:

- (a) Lease Term begin date: (mm/dd/yyyy)
- (b) Lease Term end date: (mm/dd/yyyy)
- (c) Length:                                years,                                months

**2. RENTAL PAYMENTS:**

Second Party agrees to pay equal ( ) monthly ( ) quarterly ( ) semi-annual or ( ) annual installments of \$                                commencing on the 1<sup>st</sup> day of                                and on the 1<sup>st</sup> day of each corresponding payment period thereafter until the term of this lease ends; or in concurrence with payment schedule in Special Provision                                .

Rental payment for the first month shall be prorated if the above described property is not available for occupancy by the beginning date of the lease. The final payment shall be prorated for any partial month payment that may be due.

The space herein above described contains                                square feet of space for office use at the rate of \$                                per square foot per annum;                                square feet of floor space for records and property storage use at the rate of \$                                per square foot per annum; and                                (square feet of floor space) (acres, more or less) for other use (specify):  
at the rate of \$                                per square foot per annum or per acre.

**3. USE OF PREMISES:**

Second Party shall have the full and unrestricted use of the premises for the term of this lease or any renewals thereof, for the following purpose:

The approximate Full-Time Equivalent (FTE) employee working on these premises is

**4. UTILITIES:**

Public utilities shall be paid for by First (1<sup>st</sup>) Party, Second (2<sup>nd</sup>) Party, Third (3<sup>rd</sup>) Party, Occupant or Other as follows:

- (a) Electricity
- (b) Water
- (c) Telephone
- (d) Gas
- (e) Heat
- (f) Other

**5. ADDITIONAL SERVICES:**

Additional Services shall be paid for by First (1<sup>st</sup>) Party, Second (2<sup>nd</sup>) Party, Third (3<sup>rd</sup>) Party, Occupant or Other as follows:

- (a) Grounds Maintenance, landscaping, parking areas, entrances and sidewalks
- (b) Snow Removal
- (c) Pest Control
- (d) Custodial Service of Leased Area
- (e) Custodial Service of Common Area
- (f) Other

Refer to Special Provision(s)                                for additional explanation (i.e. frequency or level of service) if needed.

**6. SUBLETTING:**

Second Party shall have the right to sublet any or all of the space herein leased to any other State agency for the same or a comparable use. Second Party may not assign or sublet said premises to any private person without the written consent of First Party, said consent not to be unreasonably withheld. Lessee will notify Lessor if any sublet action occurs. If Second Party sublets to another State agency, Second Party's obligation to pay the rent herein shall cease, provided, however, any such sub-tenant shall be bound by all conditions of this lease for the balance of the term.

**7. REPAIR OF PREMISES:**

The First Party will pay the costs and maintain in good repair the walls, windows, floor coverings, shell, structure, elevators, stairs, roof, grounds, sidewalk and off-street parking area of the lease facility. Such items shall be maintained at a condition not less than the condition of the said items at initial lease signing. First Party will be responsible for repairs and/or replacements in heating, ventilation and air-conditioning (HVAC), plumbing, electrical, mechanical and related fixtures and appliances. The First Party is responsible for meeting all applicable local and State building codes, ordinances, standards and regulations. The First Party will provide Second Party with a list of persons or firms to contact in case of an emergency due to failure of the above facility components. If the facility, fixtures or Second Party contents are damaged as a result of failure of the items listed above, First Party agrees to pay the costs to repair or replace the contents and fixtures and to restore the facility to a condition not less than the condition at the time of initial lease signing. First Party agrees to authorize the Second Party to contract with a Third Party for maintenance repairs that are not corrected within three (3) days of notification. The First Party further agrees to authorize the Second Party to pay invoices for the maintenance repairs that remain unpaid 30 days after their submittal to the First Party. First Party authorizes Second Party to deduct the amount of said paid invoices from rental payments due and owing. In the event First Party fails to make repairs and/or replacements within thirty (30) days and the Second Party elects not to contract for such services and deduct the cost from the rental payments, Second Party may terminate this Lease with ten (10) days notice to First Party and the obligation to occupy and to make rental payments shall cease. Interior repairs of damage caused by Second Party shall be paid for by Second Party. Second Party will submit written requests for decoration and other remodeling items to First Party for approval. Approved decoration or remodeling will be provided by First Party and upon receipt of invoice. Second Party will reimburse First Party for said decoration or remodeling costs.

**8. UN-TENANTABLE PREMISES:**

If these premises shall be damaged by fire, casualty, natural disaster or other cause so as to be un-tenantable, the rental payments shall abate from the date of such damage and shall not resume until premises are restored to tenantable condition, provided, however, if the damage so caused shall render restoration by First Party impossible within sixty (60) days of the time of such damage, Second Party may elect to void this lease and the obligation to occupy and to make rental payments, shall cease from the date of said damage. Any prepaid rent shall be returned to Second Party for the period the premises are un-tenantable.

Should at any time, during the term of this lease, hazardous substances, chemicals or odors be discovered in the lease building in amounts determined by the appropriate State agency to be unacceptable, the Lessor will have sixty (60) days from date of written notice by the Lessee to satisfactorily dispose of the hazardous substances, chemicals or odors by a State pre-approved vendor or the Lessee may terminate the lease after said sixty (60) day period with no penalty to the Lessee.

In the alternative, if the First Party fails to comply with the terms of this provision, the Lessee may contract for the abatement and disposal of the above hazardous substances, chemicals or odors and the Lessor consents to the reduction of lease payments for the costs of abatement and disposal.

In addition, the obligation to occupy the leased premises and to make rental payments shall cease from the date of discovery of the hazardous substances. If conditions require the evacuation of the premises and relocation, Second Party may elect to void this lease and the obligation to occupy and make rental payments shall cease from the date of discovery of the hazardous substances. The First Party shall be responsible for relocation costs. Any prepaid rent shall be returned to Second Party for the period the premises are un-tenantable.

**9. TERMINATION FOR CAUSE:**

Should the First Party apply (i) for consent to the appointment of a receiver, trustee, custodian or liquidator of First Party, or of all of a substantial part of the assets of First Party, (ii) be unable, fail or admit in writing its inability to pay its debts as they become due, (iii) make a general assignment for the benefit of creditors, (iv) have an order for relief entered against it under applicable bankruptcy law, or (v) file a voluntary petition in bankruptcy or a petition or an answer seeking reorganization or an arrangement with creditors or taking advantage of insolvency law or any answer admitting the material allegations of a petition filed against First Party in any bankruptcy, reorganization or insolvency proceeding, after 30 days written notice, the Second Party may terminate this lease agreement.

**10. TERMINATION FOR FISCAL NECESSITY:**

Notwithstanding any other provision of this lease, if funds anticipated for the continued fulfillment of this lease agreement are at any time not forthcoming, either through failure of the Legislature to appropriate funds specifically budgeted for this lease or the discontinuance or material alteration of the program under which funds were provided, then Second Party shall have the right to terminate this lease by giving First Party a reasonable notice specifying the reasons for such necessary termination. The termination of the lease pursuant to this paragraph shall not cause any penalty to be charged to the State agency. Any prepaid rent shall be returned to Second Party for the period following the termination date.

**11. AUTOMATIC HOLD OVER:**

This lease agreement, if not previously terminated, shall automatically expire at the end of the term specified unless Second Party shall have renewed the lease pursuant to Special Provision 2. However, Second Party shall be allowed to hold over after the end of the term and Second Party shall be a tenant from month to month at the same terms and conditions as contained herein. This hold over tenancy shall expire after a maximum of six (6) months unless written approval of the Secretary of Administration is secured.

**12. REMOVAL OF PERSONAL PROPERTY:**

All personal property placed, installed or constructed upon the premises by Second Party during occupancy, which may be removed at any time by Second Party at the end of the term without substantial damage to the real estate, shall be and remains the sole property of Second Party and may be removed. If substantial damage would occur, Second Party may elect to remove the property and restore the premises.

**13. AGREEMENT WITH KANSAS LAW:**

This Lease Agreement shall be subject, governed by and construed according to the laws of the State of Kansas.

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**14. ANTI-DISCTIMINATION CLAUSE:**

**First Party 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. S 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 failure to comply with the reporting requirements (c) above, or if First Party is found guilty of any violation of such acts by the Kansas Human Rights Commission, such violation shall constitute a breach of the contract;
- (f) if Second Party determines that First Party has violated applicable provisions of the ADA, that violation shall constitute a breach of contract;
- (g) if (e) or (f) occurs, the contract may be canceled, terminated or suspended in whole or in part by the State. The obligation to occupy and to pay any unpaid balance or rental payments shall cease from the date of cancellation, termination or suspension. Any prepaid rent shall be returned to Second Party from the cancellation date.

Parties to this contract understand that subsection (b) through (e) of this paragraph, number 14 are not applicable to First Party who employ fewer than four (4) employees or whose contract with this State agency totals \$5,000 or less during any fiscal year.

**15. BINDING EFFECT:**

The terms and conditions of this Lease shall be binding upon the parties, their heirs, agents, administrators, executors or legal successors.

**16. RESPONSIBILITY FOR TAXES:**

The State of Kansas shall not be responsible for, nor indemnify, First Party for any federal, state or local taxes, fees or assessments which may be imposed or levied upon the subject matter of the lease.

**17. LIABILITY FOR DAMAGES:**

Notwithstanding any language to the contrary, the State shall not be responsible for any damages caused by the public or its employees except as provided in the Kansas Tort Claims Act, K.S.A. 75-6101 *et seq.*, as amended.

**18. ACCESSIBILITY:**

If the Department of Administration determines that improvements or changes are required for Second Party to comply with the minimum standards for accessible design, First Party agrees to make all improvements or changes within a reasonable period of time as determined by the Department of Administration. (Refer to the Americans with Disability Act Accessibility Guidelines, ADAAG: also reference K.S.A. 58-1301 *et seq.*). If the improvements or changes have not or cannot be completed, the Department of Administration may require Second Party to terminate this lease upon the giving of 120 days notice in writing to First Party. The obligation to occupy

and make rental payments shall cease from the date of termination. Any prepaid rent shall be returned to Second Party from that date. Waiver of any element of this provision must be sought through application to the Director of Facilities and Procurement Management with the recommendation of the ADA Coordinator and can only be granted by the Secretary of Administration. Such waiver must be attached to and incorporated into this contract (reference Special Provision 4).

The following minimum standards for accessible space shall be required (ADA Checklist, Checklist for Existing Facilities):

1. Accessible parking, if parking is included in this contract.
2. An accessible route from an accessible entrance to primary function area (includes elevator if required to access other levels.
3. Accessible toilets.

#### 19. ENERGY:

HVAC Performance: General office and common area shall be heated in the winter to maintain the space environment at 68 – 74 degrees Fahrenheit (F) with a relative humidity of 20 – 30 % and cooled in the summer at 68 – 78 degrees F with a relative humidity of 40 – 60 %. The HVAC system must be capable of maintaining +/- two (2) degrees F of the thermostat setting. As a guide, an adequately sized air distribution system shall provide 4 – 10 air changes per hour. HVAC equipment shall be properly sized and balanced to meet design conditions. Each zone provided shall be equipped with programmable thermostatic controls, capable of a 55 degree F night/weekend setback in the heating mode and a 85 degree F night/weekend set-up in the cooling mode.

Heating system efficiency will not be less than 80% steady state at full load for natural gas boilers or furnaces. Air conditioning equipment will meet or exceed the performance ratings required under Federal and State guidelines. A seven-day programmable time device will control all air handling systems where applicable controls exist. Minimum ventilation rates will be capable of 15 cubic feet per minute per person during occupied hours and automatically reduced during off-work hours. Buildings are to be in full compliance with the ANSI/ASHRAE/IESNA Standard 90.1 latest edition, Energy Design of New/Existing Commercial Buildings.

Telecommunication, Computer, UPS and server room(s) require air conditioning systems designed to ensure proper environmental requirements are met. These rooms shall be maintained between 65 & 72 degrees F. The HVAC system must be capable of maintaining +/- two (2) degrees F of the thermostat setting. This condition must be maintained 24 hours a day, seven (7) days a week. HVAC shall be thermostatically controlled within the room and be independent of the house system.

#### 20. SPECIAL PROVISION:

The following Special Provisions indicated by an “X” and numbered as listed hereafter or those additional numbered Special Provision contained on an attachment, are made a part hereof and incorporated into this contract.

The following Special Provision apply: → marked by an (X) in the boxes below:

**Spec. Prov. 1.**                      **Termination Prior to Expiration of Term:** Notwithstanding the length of the term, Second Party may terminate this lease at any time prior to the expiration of the term upon the giving of \_\_\_\_\_ days notice in writing to First Party.

- Spec. Prov. 2.**            **Renewal:** By the giving of notice in writing to First Party at least \_\_\_\_\_ days prior to the end of the term specified, Second Party may renew this lease for an additional term of \_\_\_\_\_ under the same rent, conditions and terms set out herein.
- Spec. Prov. 3.**            **Parking:** First Party shall furnish to Second Party off-street parking for motor vehicles upon land adjacent to the leased facility.
- Spec. Prov. 4.**            **Waiver:** A waiver to the Accessibility Standards as specified in paragraph 18 above is attached and incorporated in this contract and made a part hereof.
- Spec. Prov. 5.**            **Liquidated Damages:** Should the premises not be available for occupancy on the first day of the lease term, the Lessee will have no obligation to make rental payments until occupancy is available. The Lessor agrees that liquidated damages in the amount of \_\_\_\_\_ per day shall be deducted from subsequent rental payments due from the Lessee, for the period from the first day of the lease term until the premises are ready for occupancy. If the premises are not available for occupancy \_\_\_\_\_ days after the first day of the lease term, Lessee may terminate the Real Estate Agreement.
- Spec. Prov. 6.**            The Request for Proposal and the Bidder's Response to the RFP # \_\_\_\_\_ including the Bidder's counter offer and best and final offer and all supporting documents, shall be incorporated into and made a part of this lease agreement.

**21. ADDITIONAL SPECIAL PROVISIONS:**

Additional Special Provisions, if any, should be set out on a separate sheet beginning with Number Seven (7). Special Provisions must be listed in numerical order to be considered effective to bind the First Party and Second Party to this agreement. Additionally, First Party and Second Party must sign their names immediately following the last listed Additional Special Provision on the attached sheet.

The following Additional Special Provisions apply: —>

APPROVALS OF LESSOR & LESSEE

\_\_\_\_\_  
Lessor

\_\_\_\_\_  
Date

**CERTIFICATION STATEMENT:** I certify that the lease agreement is entered into within the authority of the law, is with my approval and that the person signing the same for the State immediately below is authorized to do so.

\_\_\_\_\_  
Lessee

\_\_\_\_\_  
Date

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**APPROVALS OF STATE OF KANSAS: For Use by State of Kansas Signatories Only**

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Attorney, Department of Administration

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Date

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Director of Facilities and Procurement Management

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Date

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Secretary of Administration

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Date

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