

## PROFESSIONAL SERVICE AGREEMENT

**THIS AGREEMENT** is by and between WICHITA STATE UNIVERSITY, a state educational institution of Kansas, on behalf of its Center for Combating Human Trafficking, 1845 Fairmount, Wichita, KS 67260-0007 (hereinafter "WSU"), and SEDGWICK COUNTY DEPARTMENT OF CORRECTIONS, 700 S. Hydraulic, Wichita, KS 67211 (hereinafter "CLIENT").

**WHEREAS**, the services to be performed under this Agreement are of mutual interest to WSU and CLIENT;

**NOW, THEREFORE**, the parties hereto agree as follows:

1. **STATEMENT OF WORK:** WSU shall use reasonable efforts to perform the services described in the Statement of Work (hereinafter SOW), attached hereto and incorporated by reference as **Attachment A**. Reference to services in this Agreement shall be deemed to include any deliverables provided to CLIENT in connection with the SOW, including without limitation, reports, results, materials, products, and information.

2. **COMPENSATION:** For the services performed under Article 1 of this Agreement, CLIENT shall pay WSU ONE THOUSAND FIVE HUNDRED DOLLARS AND NO CENTS (\$1,500.00). Payments to WSU and inquiries relating to WSU invoices shall be directed to:

Center for Combating Human Trafficking  
Wichita State University  
1845 Fairmount, Box 103  
Wichita, KS 67260-0103

2.1. Compensation shall be paid within 30-days of receipt of invoice and in the total amount specified on invoice(s).

2.2 Invoices shall be sent to:

CLIENT: Sedgwick County Department of Corrections  
Attn: Bridgette Franklin  
Address: 3803 E. Harry, Suite 125  
Wichita, KS 67218  
Phone: 316-660-7092  
Email: bfrankli@sedgwick.gov

In the event that purchase orders are utilized by the parties, it is agreed that the terms of this Agreement replace and supersede CLIENT'S terms and conditions that may be referenced on any

purchase order. The terms and conditions of any purchase order or similar document submitted by CLIENT in connection with the services provided under this Agreement shall not be binding upon WSU.

3. **TERM.** The term of this Agreement shall be for the period of February 1, 2014 through April 15, 2014 unless terminated earlier as provided in Article 4.

4. **TERMINATION.** Either party may terminate this Agreement upon fifteen (15) days written notice to the other party. Upon termination under this section, CLIENT shall remain responsible for payment to WSU for all services performed and costs incurred through the date of termination, including reimbursement to WSU of all non-cancellable commitments incurred as a result of this Agreement.

5. **DISCLAIMER OF WARRANTIES.** WSU makes no warranties, express or implied, as to any matter whatsoever, including without limitation, the condition, originality or accuracy of the services performed or deliverables provided under this agreement and expressly disclaims warranties of merchantability or fitness for a particular purpose.

6. **LIMITATION OF LIABILITY FOR BREACH OF CONTRACT.** In no event shall either party's liability for breach of this Agreement include damages for work stoppage; lost data; or indirect, special or consequential damages of any kind, including lost profit. Except for each party's obligations under Article 4, Article 8.1, and Article 11 each party's liability to the other for breach of this Agreement shall not exceed an amount equal to the monetary consideration paid to WSU under this Agreement.

7. **USE OF WSU NAME OR LOGO.** CLIENT agrees not to use the name, logo, or any other marks owned by or associated with WSU or the name of any representative of WSU in any sales promotion work or advertising, or in any form of publicity, without the prior written permission of WSU in each instance. However, CLIENT 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.

8. **INDEMNIFICATION.**

8.1 Except as provided in Article 8.2, each party shall be responsible for its own acts and omissions and the results thereof and shall not be responsible for the acts of the other party. WSU, its faculty members, students, administrators, employees, agents and authorized volunteers, are subject to the terms and limitations of the Kansas Tort Claims Act, K.S.A. 75-6101 et seq., as amended.

8.2 CLIENT shall indemnify, defend, and hold harmless WSU, its faculty members, students, administrators, employees and authorized volunteers against any and all claims, or liabilities, including attorneys' fees and court costs, for any loss, damage, injury, or loss of life arising out of (i) use by CLIENT (or any third party acting on behalf of or under authorization from CLIENT) of services or any information, reports, deliverables, materials, products or other results of WSU's work under this Agreement or (ii) CLIENT'S infringement of a third party's intellectual property rights or CLIENT'S violation of any law, rule, or regulation in the provision of any materials to WSU.

## **9. SCHEDULING.**

**9.1 Postponement:** If CLIENT postpones services, WSU reserves the right to charge CLIENT for any charges that may have been incurred and for lost revenue due to the postponement. These charges include but are not limited to staffing, materials purchases, equipment, rental fees, and storage.

**9.2 Cancellation:** If CLIENT cancels, WSU reserves the right to charge the CLIENT for any charges that may have been incurred and for lost revenue due to the cancellation. These charges include but are not limited to staffing, materials purchases, equipment, rental fees, and storage.

**10. COMPLIANCE:** CLIENT agrees that WSU may retain one archival copy of all documents from the project for the purposes of (a) proving what information it did or did not receive hereunder in the event of a future dispute, or (b) complying with governmental regulatory requirements.

## **11. GENERAL PROVISIONS.**

**11.1 Amendment.** This Agreement shall be amended only in writing, which is duly executed by both parties to this Agreement.

**11.2 Assignment.** The parties may not assign any rights or obligations of this Agreement without the prior written consent of the other party. Any assignment attempted to be made shall be void.

**11.3 Force Majeure.** No party to this Agreement shall be responsible for any failure to perform as required by this Agreement, to the extent such failure to perform is caused due to circumstances reasonably beyond the party's control, such as labor disturbances or labor disputes of any kind, accidents, acts of government including but not limited to failure of governmental approval required for full performance, civil disorders or commotions, acts of aggression, acts of God, energy or other conservation measures, explosions, failure of utilities, mechanical breakdowns, material shortages, disease, or other cause beyond the control of such party.

**11.4 Contractual Provisions.** The provisions found in the Contractual Provisions Attachment (form DA-146a), **ATTACHMENT B**, are hereby incorporated and made a part of this agreement.

**11.5 Governing Law and Jurisdiction.** This Agreement shall be construed in accordance with the laws of the State of Kansas. All suits, actions, claims and causes of action relating to the construction, validity, performance and enforcement of this Agreement shall be in the courts in Sedgwick County, Kansas.

**11.6 Relationship of Parties.** WSU and CLIENT are not (and nothing in this Agreement may be construed to constitute such parties as) partners, joint ventures, agents, representatives or employees of the other, nor is there any status or relationship between them other than that of independent contractors. Neither party has any responsibility nor liability for the actions of the other party except as

specifically provided in this 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.

**11.7 Notices.**

11.7.1 Any notice or other official communication given under this Agreement shall be in writing and shall be deemed delivered when sent by certified first class mail, or registered mail, or overnight courier, or by facsimile or electronic mail.

11.7.2 This Agreement may be signed in two or more counterparts. Each counterpart is deemed an original and all counterparts together shall constitute one and the same instrument. Each party agrees that delivery of an executed copy of this Agreement via facsimile transmission or other electronic means shall have the same force and effect as delivery with original signatures, and that each party may use facsimile signatures or signature via other electronic means as evidence of the execution and delivery of this Agreement to the same extent that original signatures could be used. Notices shall be delivered to the following:

<b>If to WSU:</b>	<b>Copy to:</b>
Wichita State University	Wichita State University
Attn: Research Contracts	Attn: Vice President and General Counsel
1845 Fairmount Street	1845 Fairmount Street
Wichita, KS 67260-0007	Wichita, KS 67260-0205
Phone No.: 316-978-3285	Phone No.: 316-978-6791
Facsimile No.: 316-978-3750	Facsimile No.: 316-978-3046
Email: researchcontracts@wichita.edu	

<b>If to CLIENT:</b>	Sedgwick County Department of Corrections
	Attn: Bridgette Franklin
	3803 E. Harry, Suite 125
	Wichita, KS 67218
	Phone No.: 316-660-7092
	Email: bfrankli@sedgwick.gov

**11.8 Breach; Attorneys' Fees.** In the event CLIENT fails to perform any of its obligations under this Agreement, CLIENT shall reimburse WSU for all costs and expenses, including reasonable attorneys' fees, court costs, and costs of investigation, that are incurred by WSU and/or the State of Kansas to enforce this Agreement, regardless of whether a lawsuit or legal action has been commenced or concluded.

**11.9 Severability.** The illegality or invalidity of any provision of this Agreement shall not impair, affect, or invalidate the other provisions of this Agreement.

**11.10 Headings.** Article headings of this Agreement are for convenience of reference only.

**11.11 Survival.** Upon termination or expiration of this Agreement, Articles 2, 5, 6, 7, 8, and 11 shall survive.

**11.12 Entire Agreement.** This 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. This Agreement cancels, supersedes, and revokes all prior negotiations, representations, and agreements between the parties, whether oral or written, relating to the subject matter of this Agreement, notwithstanding, any non-disclosure or confidentiality agreements directly relating to the SOW.

IN WITNESS WHEREOF, the parties have executed this Agreement and/or authorized same to be executed by their duly authorized representatives as of the date shown below the respective signatures, said Agreement to become effective as of the later date.

**WICHITA STATE UNIVERSITY**

By: \_\_\_\_\_

Name: John S. Tomblin

Title: Interim Vice President for Research  
And Technology Transfer

Date: \_\_\_\_\_

**FOR THE AGENCY:**

\_\_\_\_\_

David M. Unruh, Chairman  
Board of County Commissioners

Date: \_\_\_\_\_

**ACKNOWLEDGEMENT:**

\_\_\_\_\_

I, the undersigned, having read this Agreement,  
hereby agree to act in accordance with the terms  
of this Agreement.

By: \_\_\_\_\_

Name: Dr. Karen Countryman-Roswurm

Title: Executive Director,  
Center for Combating Human Trafficking

Date: \_\_\_\_\_

**ATTEST:**

\_\_\_\_\_

Kelly B. Arnold, County Clerk  
Date: \_\_\_\_\_

**APPROVED AS TO FORM:**



Jennifer L. Magana  
Deputy County Counselor

Date: 3-7-14

STATEMENT OF WORK

**Sedgwick County Department of Corrections**

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Date of Event: **April 15, 2014, 8:00 A.M. – 12:00 P.M.**

Karen Countryman-Roswurm, Executive Director of Wichita State University's Center for Combating Human Trafficking, will provide four hours of training for Sedgwick County Detention Direct Care staff on how to work effectively with trauma-impacted youth in detention. In addition, staff can learn to recognize the strength and resiliency of trauma-impacted youth currently in detention and their strength and resiliency as they age-out of the system to live on their own. The fee for services includes any necessary preparation time for the training.

State of Kansas  
Department of Administration  
DA-146a (Rev. 06-12)

### CONTRACTUAL PROVISIONS ATTACHMENT

**Important:** This form contains mandatory contract provisions and must be attached to or incorporated in all copies of any contractual agreement. If it is attached to the vendor/contractor's standard contract form, then that form must be altered to contain the following provision:

"The Provisions found in Contractual Provisions Attachment (Form DA-146a, Rev. 06-12), which is attached hereto, are hereby incorporated in this contract and made a part thereof."

The parties agree that the following provisions are hereby incorporated into the contract to which it is attached and made a part thereof, said contract being the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

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 contract 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:** 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 in connection with this contract shall reside only in courts located in the State of Kansas.
3. **Termination Due To Lack Of Funding Appropriation:** If, in the judgment of the Director of Accounts and Reports, Department of Administration, sufficient funds are not appropriated to continue the function performed in this agreement and for the payment of the charges hereunder, State may terminate this agreement at the end of its current fiscal year. State 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 State under the contract. State 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 State, title to any such equipment shall revert to contractor at the end of the State'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 its agencies to defend, hold harmless, or indemnify any contractor or third party for any acts or omissions. The liability of the State of Kansas is defined under the Kansas Tort Claims Act (K.S.A. 75-6101 et seq.).
5. **Anti-Discrimination Clause:** The 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 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, such violation shall constitute a breach of contract and the contract 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 contract may be cancelled, terminated or suspended, in whole or in part, by the contracting state agency 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 Of Contract:** This contract shall not be considered accepted, approved or otherwise effective until the statutorily required approvals and certifications have been given.
7. **Arbitration, Damages, Warranties:** Notwithstanding any language to the contrary, no interpretation of this contract shall find that the State or its agencies have agreed to binding arbitration, or the payment of damages or penalties. Further, the State of Kansas and its agencies do 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 State of Kansas or its agencies 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 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. **Responsibility For Taxes:** The State of Kansas and its agencies 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 State of Kansas and its agencies 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 them 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.), the contractor shall bear the risk of any loss or damage to any property in which the contractor holds title.
11. **Information:** 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.
12. **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 to reiterate that nothing related to this contract shall be deemed a waiver of the Eleventh Amendment."
13. **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.