

STATE OF VERMONT
CONTRACT AMENDMENT

It is hereby agreed by and between the State of Vermont, Department (the "State") and Jamar Technologies, Incorporated, with a principal place of business in Hatfield, PA (the "Contractor") that the contract between them originally dated as of June 1, 2019, Contract # 38239, as amended to date, (the "Contract") is hereby amended as follows:

- I. **Contract Term.** The Contract end date, wherever such reference appears in the Contract, shall be changed from May 31, 2021 to May 31, 2022. The Contract Term may be renewed for one additional one-year period at the discretion of the State.

Taxes Due to the State. Contractor certifies under the pains and penalties of perjury that, as of the date this contract amendment is signed, the Contractor is in good standing with respect to, or in full compliance with a plan to pay, any and all taxes due the State of Vermont.

Child Support (Applicable to natural persons only; not applicable to corporations, partnerships or LLCs). Contractor is under no obligation to pay child support or is in good standing with respect to or in full compliance with a plan to pay any and all child support payable under a support order as of the date of this amendment.

Certification Regarding Suspension or Debarment. Contractor certifies under the pains and penalties of perjury that, as of the date this contract amendment is signed, neither Contractor nor Contractor's principals (officers, directors, owners, or partners) are presently debarred, suspended, proposed for debarment, declared ineligible or excluded from participation in federal programs, or programs supported in whole or in part by federal funds.

Contractor further certifies under pains and penalties of perjury that, as of the date this contract amendment is signed, Contractor is not presently debarred, suspended, nor named on the State's debarment list at: <http://bgs.vermont.gov/purchasing-contracting/debarment>

This document consists of 1 page. Except as modified by this Amendment No. 2, all provisions of the Contract remain in full force and effect.

The signatures of the undersigned indicate that each has read and agrees to be bound by this Amendment to the Contract.

STATE OF VERMONT

JAMAR TECHNOLOGIES, INCORPORATED

By: _____

By: _____

Name: Jennifer Fitch _____

Name: _____

Title: Commissioner - Buildings and
_____ General Services

Title: _____

Date: _____

Date: _____

STATE OF VERMONT
CONTRACT AMENDMENT

It is hereby agreed by and between the State of Vermont, Department of Buildings and General Services (the "State") and Jamar Technologies, Incorporated, with a principal place of business in Hatfield, PA (the "Contractor") that the contract between them originally dated as of June 1, 2019, Contract # 38239, as amended to date, (the "Contract") is hereby amended as follows:

I. **Maximum Amount.** The maximum amount payable under the Contract, wherever such reference appears in the Contract, shall be changed from \$31,000 to \$38,500, representing an increase of \$7,500.

II. **Attachment A, Scope of Services.** The scope of services is amended as follows:

Section 1 of Attachment A is hereby deleted in its entirety and replaced as set forth below:

1(a) Line Item 1 as identified on page 1 of the Standard Contract Form

1(b) STARneXt Software for traffic analysis and reporting, 20-seat license, at special one-time price for upgrade of existing users, as already purchased and installed by and at the Vermont Agency of Transportation.

1(c) Option to purchase additional STARneXt licenses, in per-office-site, per two-seat increments, as priced in Attachment B.

III. **Attachment B, Payment Provisions.** The payment provisions are amended as follows:

Section 4 of Attachment B is amended by the addition of the following requirements, after the existing provision:

Price for 20-seat license of STARneXt is \$3,995.00 This purchase was at a one-time special rate for existing users' upgrades, and has already been exercised by VTrans.

Any additional licenses, if any are added in the future, will be at a standard rate of \$1595.00, per office site, per two seat site license.

IV. **New Attachments D & E.**

The new Attachment D (Information Technology Terms & Conditions Specific to this Contract), and new Attachment E (Contractor's Software License), that accompany and are part of this Amendment are hereby incorporated into the Contract.

V. **Order of Precedence.**

Section 9 of the Contract, Order of Precedence, is stricken in its entirety, and replaced entirely by the following:

9. Order of Precedence. Any ambiguity, conflict or inconsistency between the documents comprising this contract shall be resolved according to the following order of precedence:

- 1) Standard Contract
- 2) Attachment D Information Technology Terms & Conditions Specific to this Contract
- 3) Attachment C (Standard State Provisions for Contracts and Grants)
- 4) Attachment A with Exhibits
- 5) Attachment B
- 6) Attachment E Contractor's Software License

Taxes Due to the State. Contractor certifies under the pains and penalties of perjury that, as of the date this contract amendment is signed, the Contractor is in good standing with respect to, or in full compliance with a plan to pay, any and all taxes due the State of Vermont.

Child Support (Applicable to natural persons only; not applicable to corporations, partnerships or LLCs). Contractor is under no obligation to pay child support or is in good standing with respect to or in full compliance with a plan to pay any and all child support payable under a support order as of the date of this amendment.

Certification Regarding Suspension or Debarment. Contractor certifies under the pains and penalties of perjury that, as of the date this contract amendment is signed, neither Contractor nor Contractor's principals (officers, directors, owners, or partners) are presently debarred, suspended, proposed for debarment, declared ineligible or excluded from participation in federal programs, or programs supported in whole or in part by federal funds.

Contractor further certifies under pains and penalties of perjury that, as of the date this contract amendment is signed, Contractor is not presently debarred, suspended, nor named on the State's debarment list at: <http://bgs.vermont.gov/purchasing-contracting/debarment>

SOV Cybersecurity Standard 19-01. All products and service provided to or for the use of the State under this Contract shall be in compliance with State of Vermont Cybersecurity Standard 19-01, which Contractor acknowledges has been provided to it, and is available on-line at the following URL:<https://digitalservices.vermont.gov/cybersecurity/cybersecurity-standards-and-directives>

This document consists of 7 pages. Except as modified by this Amendment No. 1, all provisions of the Contract remain in full force and effect.

The signatures of the undersigned indicate that each has read and agrees to be bound by this Amendment to the Contract.

STATE OF VERMONT

Jamar Technologies, Inc.

By: _____

By: _____

Name: Christopher Cole

Name: _____

Title: Commissioner

Title: _____

Date: Buildings & General Services

Date: _____

ATTACHMENT D
INFORMATION TECHNOLOGY TERMS AND CONDITIONS
SPECIFIC TO THIS CONTRACT

1. "Provider Documents" shall mean one or more document, agreement or other instrument, if any, required by Provider in connection with the performance of the products and services being procured by the State, regardless of format, including the license agreement, end user license agreement or similar document to which this Rider is attached, any hyperlinks to documents contained in the Provider Documents and any other paper or "shrinkwrap," "clickwrap" or other electronic version thereof.

2. Notwithstanding any language to the contrary in Provider Documents, the Provider Documents are hereby modified and superseded as follows:

(a) Any requirement that the State defend or indemnify any party or otherwise be liable for the expenses or reimbursement, including attorneys' fees, collection costs or license verification costs of any party, is hereby deleted.

(b) Any provision which limits the time within which an action may be brought is hereby deleted.

(c) Any obligations of the State to maintain the confidentiality of information shall be subject to the laws of the State of Vermont.

(d) To the extent Provider Documents permit access to State systems for the purpose of verifying State compliance with the terms of the Provider Documents, then, in lieu of any such right, the following shall apply: upon request and not more frequently than annually, the State agrees to provide Provider with a certified report concerning the State's use of any software licensed for State use pursuant this Agreement. Provider agrees that any non-compliance indicated by the report shall not constitute infringement of Provider's intellectual property rights, and that settlement payment mutually agreeable to the parties shall be the exclusive remedy for any such non-compliance. This clause shall not be interpreted to provide an independent right to access State systems where there is no such right expressed in Provider Documents.

(e) Any time software is delivered to the State, whether delivered via electronic media or the internet, to Provider's best knowledge following due inquiry, no portion of such software or the media upon which it is stored or delivered will have any type of software routine or other element which is designed to facilitate unauthorized access to or intrusion upon; or unrequested disabling or erasure of; or unauthorized interference with the operation of any hardware, software, data or peripheral equipment of or utilized by the State.

(f) Limitations or exclusions of liability shall not apply to State claims arising out of (i) Provider's confidentiality obligations (ii) Provider's obligations to defend and indemnify the State; (iii) personal injury or damage to real or tangible personal property; or (iv) gross negligence, fraud or intentional misconduct. Limits of liability for State claims shall not be construed to limit Provider's liability to any third party for any claims a third party may have

directly against Provider which may arise out of Provider's acts or omissions in the performance of this Agreement.

(g) To the extent Provider is a "data collector" for purposes of 9 V.S.A. §2430, it shall comply with all applicable requirements of 9 V.S.A. §2435.

(h) Any provision regarding automatic renewal shall be waived and shall have no force and effect.

(i) The State retains full right and title to data provided by State and any data derived therefrom, including metadata (collectively, the "State Data"). Provider shall not collect, access, or use user-specific State Data except as strictly necessary to provide licensed service to State. No information regarding State's use of the licensed service may be disclosed, provided, rented or sold to any third party for any reason unless required by law or regulation or by an order of a court of competent jurisdiction. This obligation shall extend beyond the term of this Agreement in perpetuity. Provider shall not use any information collected in connection with this Agreement, including the State Data, for any purpose other than fulfilling its obligations under this Agreement. At no time may any State Data or processes which either belong to State, or are intended for State's exclusive use, be copied, disclosed, or retained by Provider for subsequent use in any transaction that does not include State.

3. In cases where the State is not permitted to manage/modify the automation equipment (server/computer/other) that controls testing or monitoring devices, the Contractor agrees to update and provide patches for the automation equipment and any installed operating systems or applications on a quarterly basis (at minimum). The Contractor will submit a report to the State of updates installed within 30 days of the installation as well as a Plan of Actions and Milestones (POA&M) to remediate any vulnerabilities ranging from Critical to Low. The contractor will provide an upgrade path or compensatory security controls for any operating systems and applications listed as beyond "end-of-life" or EOL, within 90 days of the EOL and complete the EOL system's upgrade within 90 days of the approved plan.

4. Contractor's software uses the following license authentication process: The first time the software is run on a computer, the user will have to enter their license key. Once the key has been verified locally as a valid number, STARneXt will communicate with Contractor's cloud database to make sure the key exists there. After this verification, STARneXt will check to see if this same computer has previously authenticated with the database. If the computer has not been previously authenticated, a new entry is added with their Windows username and a hash based off the computer's processor as well as the current date and time. If this computer has previously authenticated, just the date and time are updated for the entry that matches this computer. Each computer must authenticate with Contractor's server at least once every 30 days. If the computer doesn't authenticate within this time, the software will not be accessible; however, as long as computer has an internet connection the software will automatically re-verify and then will again be authenticated for another 30 days

Contractor shall access only the information listed immediately below, and shall access that information only for license authentication. Contractor agrees that it shall not use the below-listed information for any purpose other than license authentication, nor shall it access any additional or different information for any purpose.

Customer Info:

- Internal ID number
- JAMAR customer number
- Organization name
- When the entry was created
- Allowed licenses
- Email(Field not utilized)

Serial Numbers

- Internal ID numbers
- Serial Number
- When the entry was created
- Is the serial number disabled(field not utilized)

Computers

- Internal ID numbers
- Windows username
- Computer name
- Processor hash
- Last time the computer was authenticated
- When the computer first authenticated

[remainder of page intentionally left blank]

ATTACHMENT E
CONTRACTOR'S SOFTWARE LICENSE

JAMAR Technologies, Inc. Software License Agreement

This software license agreement including any warranties and special provisions, is a legal agreement between you (as an entity or an individual) and JAMAR Technologies, Inc. By installing or otherwise using this software you are agreeing to be bound by the terms of this agreement. If you do not agree to the terms of this agreement, return the unused software, along with all accompanying documentation, to JAMAR Technologies, Inc.

The Software which accompanies this agreement is, and will remain the property of JAMAR Technologies, Inc., and is protected by copyright law. JAMAR Technologies, Inc. is providing you with certain rights to use the Software upon your acceptance of this agreement.

YOU MAY:

- 1) Use the Software on up to as many computers as allowed per the license purchased, with the following provisions:
 - a) All computers that use this Software are located in the same building;
 - b) All persons using the Software are employed by the individual or entity that originally purchased the Software.
- 2) Use the software on a home computer with the following provisions:
 - a) The individual using the Software on a home computer is employed by the individual or entity that originally purchased the Software;
 - b) The individual is doing work for the individual or entity that originally purchased the Software.

YOU MAY NOT:

- 1) sublicense, lease, transfer, or rent any portion of the Software;
- 2) reverse engineer, decompile, disassemble, modify, translate, make any attempts to reconstruct or find the source code for the Software.

U.S. GOVERNMENT RESTRICTED RIGHTS

The Software and documentation are provided with RESTRICTED RIGHTS. Use, duplication, or disclosure by the United States Government is subject to the restrictions as set forth in subparagraph (c)(1)(ii) of the Rights in Technical Data and Computer Software clause at DFARS 252.227-7013 or subparagraphs (c)(1) and (2) of the Commercial Computer Software-Restricted Rights at 48 CFR 52.227-19, as applicable. Manufacturer is JAMAR Technologies, Inc./1500 Industry Road, Suite C, Hatfield, PA 19440.

INFORMATION COLLECTED

User information is collected and stored during registration to verify licensing. This information is stored only for license purposes and is not shared with any third parties.

WARRANTY

JAMAR Technologies, Inc. warrants that the media on which the Software is distributed will be free from defects for a period of ninety (90) days from the date of delivery of the Software to you. Your sole remedy for a breach of this warranty will be that JAMAR Technologies, Inc. will, at its option, replace any defective media returned to JAMAR Technologies, Inc. within the warranty period or refund the purchase price of the Software.

The Software is provided “as is” without warranty of any kind, either expressed or implied, including, but not limited to, the implied warranties of merchantability and fitness for a particular purpose with respect to the Software and accompanying documentation. JAMAR Technologies, Inc. does not warrant, or make any claims that the Software will meet your requirements, or that the Software will provide uninterrupted service, or that the Software is free from errors.

THIS WARRANTY GIVES YOU SPECIFIC LEGAL RIGHTS. YOU MAY HAVE OTHER RIGHTS, WHICH VARY FROM STATE TO STATE.

NO LIABILITY FOR CONSEQUENTIAL DAMAGES

In no event shall JAMAR Technologies, Inc. be liable for any damages whatsoever (including without limitation, direct or indirect damages for personal injury, loss of information, loss of data, loss of business profits, business interruption, or any other loss) arising out of the use of or inability to use the Software, even if JAMAR Technologies, Inc. has been advised of the possibility of such damages or loss. In any case the entire liability of JAMAR Technologies, Inc. under any part of this agreement shall be limited to the amount actually paid by you for the Software.

State of Vermont

Buildings and General Services
Office of Purchasing & Contracting
109 State St
Montpelier VT 05609-3001
USA

CONTRACT



Supplier 0000010619
Jamar Technologies Inc
1500 Industry Rd Ste C
Hatfield PA 19440
USA

Contract ID 0000000000000000000000000038239	Page 1 of 2	
Contract Dates 06/01/2019 to 05/31/2021	Origin CPS	
Description: CPS-Traffic Recorders	Contract Maximum \$31,000.00	
Buyer Name Brian Jon Berini	Buyer Phone 802/828-2217	Contract Status Approved

Phone #: 215-491-4899

Line #	Item ID	Item Desc	UOM	Unit Price	Max Qty	Max Amt
1		4 ROAD TUBE CLASSIFIER WITH LITHIUM BATTERIES, TRAX APOLLYON COUNTER/CLASSIFIER WITH 8MB MEMORY OR GREATER, WITH ONBOARD GPS CAPABILITY, JTAP-4RT	EA	1,495.00000	0.00	0.00

- Parties.** This is a contract for commodities between the State of Vermont, Department of Buildings and General Services (hereinafter called "State"), and Jamar Technologies, Inc., with a principal place of business in Hatfield, PA, (hereinafter called "Contractor"). Contractor's form of business organization is Corporation. It is Contractor's responsibility to contact the Vermont Department of Taxes to determine if, by law, Contractor is required to have a Vermont Department of Taxes Business Account Number.
- Subject Matter.** The subject matter of this contract is commodities generally on the subject of Traffic Recorders. Detailed requirements to be provided by Contractor are described in Attachment A.
- Maximum Amount.** In consideration of the commodities to be provided by Contractor, the State agrees to pay Contractor, in accordance with the payment provisions specified in Attachment B, a sum not to exceed \$31,000.00.
- Contract Term.** The period of contractor's performance shall begin on June 1, 2019 and end on May 31, 2021. The Contract Term may be renewed for two additional one-year period at the discretion of the State.
- Prior Approvals.** This Contract shall not be binding unless and until all requisite prior approvals have been obtained in accordance with current State law, bulletins, and interpretations.
- Amendment.** No changes, modifications, or amendments in the terms and conditions of this contract shall be effective unless reduced to writing, numbered and signed by the duly authorized representative of the State and Contractor.
- Termination for Convenience.** This contract may be terminated by the State at any time by giving written notice at least thirty (30) days in advance. In such event, Contractor shall be paid under the terms of this contract for all services provided to and accepted by the State prior to the effective date of termination.
- Attachments.** This contract consists of 10 pages including the following attachments which are incorporated herein:
Attachment A - Statement of Work
Attachment B - Payment Provisions
Attachment C - "Standard State Provisions for Contracts and Grants" a preprinted form (revision date 12/15/2017)
- Order of Precedence.** Any ambiguity, conflict or inconsistency between the documents comprising this contract shall be resolved according to the following order of precedence:
(1) Standard Contract
(2) Attachment C (Standard Contract Provisions for Contracts and Grants)
(3) Attachment A
(4) Attachment B

State of Vermont

Buildings and General Services
Office of Purchasing & Contracting
109 State St
Montpelier VT 05609-3001
USA

CONTRACT



Supplier 0000010619
Jamar Technologies Inc
1500 Industry Rd Ste C
Hatfield PA 19440
USA

Contract ID 0000000000000000000038239		Page 2 of 2
Contract Dates 06/01/2019 to 05/31/2021		Origin CPS
Description: CPS-Traffic Recorders		Contract Maximum \$31,000.00
Buyer Name Brian Jon Berini	Buyer Phone 802/828-2217	Contract Status Approved

Phone #: 215-491-4899

Line #	Item ID	Item Desc	UOM	Unit Price	Max Qty	Max Amt
--------	---------	-----------	-----	------------	---------	---------

WE THE UNDERSIGNED PARTIES AGREE TO BE BOUND BY THIS CONTRACT

By the STATE of VERMONT

By the CONTRACTOR

Date: _____

Date: _____

Signature: _____

Signature: _____

Name: _____

Name: _____

Title: _____

Title: _____

Email: _____

Email: _____

ATTACHMENT A – STATEMENT OF WORK

The Contractor shall provide:

1. Line Item 1 as identified on Page 1 of the Standard Contract Form.
2. **WARRANTY:** Contractor shall provide a written warranty for each product it supplies under this Contract. Warrantees must be based on commercial use, and shall extend for a minimum term of one (1) year from the date a Product is available for use by the purchaser; however, longer term warranties are desirable and will be given favorable consideration, all else being equal.
3. **REPORTING REQUIREMENTS:** Contractor shall submit quarterly product sales report to the Purchasing Agent pursuant to the schedule below. Each report must contain the following information: Contract Number; Using Department's Address, Contact Name, and Telephone Number; Product Ordered; Quantity Ordered; Quantity Shipped; and Price Charged, with totals for each product for each reporting period. State reserve the right to request additional information or to modify the reporting periods. Reporting Periods: Quarterly Reports must be submitted in accordance with the following schedule:

Reporting Period: January 1 to March 31 - Report Due April 15

Reporting Period: April 1, to June 30 - Report Due July 15

Reporting Period: July 1 to September 30 - Report Due October 15

Reporting Period: October 1 to December 31 - Report Due January 15

4. **DELIVERY:** All pricing is to include F.O.B. delivery to the ordering facility. Responsibility for product delivery remains with the contractor until the product is properly delivered and signed for. Shipments shall be securely and properly packed, according to accepted commercial practices, without extra charge for packing cases or other containers. Upon delivery, all packaging and containers shall become the property of the State, unless otherwise stated. Delivered goods that do not conform to the specifications or are not in good condition upon receipt shall be replaced promptly by the contractor.
5. **QUALITY:** All products will be new and unused. All products provided by the contractor must meet all federal, state, and local standards for quality and safety requirements. Products not meeting the requirements of this section will be deemed unacceptable and returned to the contractor for credit at no charge to the State.
6. **DEFAULT:** In case of default of the contractor, the State may procure the materials or supplies from other sources and hold the contractor responsible for any excess cost occasioned thereby, provided, that if public necessity requires the use of materials or supplies not conforming to the specifications they may be accepted and payment therefore shall be made at a proper reduction in price.
7. **VERMONT STATE COLLEGES:** This contract is also available for use by the University of Vermont and the Vermont State Colleges Inc., a separate corporation, having under its jurisdiction Castleton State College, Johnson State College, Lyndon State College, Community College of Vermont, and the Vermont Technical College.
8. **TOWNS AND SCHOOLS OF THE STATE OF VERMONT:** This contract is also available for use by Towns and Schools of the State of Vermont. It should be noted that all such items furnished

will be billed directly to and paid for by the political subdivision or college and neither the State of Vermont, nor its Commissioner of Buildings and General Services, personally or officially, assumes any responsibility.

9. **SALES POINT OF CONTACT INFORMATION:**

Paul Phillipi
610-287-7086
paul@jamartech.com

ATTACHMENT B – PAYMENT PROVISIONS

The maximum dollar amount payable under this contract is not intended as any form of a guaranteed amount. The Contractor will be paid for products actually delivered or performed, as specified in Attachment A, up to the maximum allowable amount specified on page 1 of this contract.

1. Prior to commencement of work and release of any payments, Contractor shall submit to the State:
 - a. a certificate of insurance consistent with the requirements set forth in Attachment C, Section 8 (Insurance), and with any additional requirements for insurance as may be set forth elsewhere in this contract; and
2. Payment terms are **Net 30** days from the date the State receives an error-free invoice with all necessary and complete supporting documentation.
3. All invoices are to be rendered by the Contractor on the vendor's standard billhead and forwarded directly to the institution or agency ordering materials and shall specify the address to which payments will be sent. Percentage discounts may be offered for prompt payments of invoices; however, such discounts must be in effect for a period of 30 days or more in order to be considered in making awards.
4. **PRICING:** Pricing shall be at the rates established on Page 1 of the Standard Contract Form. All equipment pricing is to include F.O.B. delivery to the ordering facility. No request for extra delivery cost will be honored. All equipment shall be delivered assembled, serviced, and ready for immediate use, unless otherwise requested by the State. No charge for packing, shipping, or for any other purpose will be allowed over and above the price quoted.
5. The VISA Purchasing Card may be used as a form of payment under this contract.
6. Contractor shall submit invoices to the State at rates established and identified on Page 1 of the Standard Contract Form.

**ATTACHMENT C: STANDARD STATE PROVISIONS
FOR CONTRACTS AND GRANTS
REVISED DECEMBER 15, 2017**

1. Definitions: For purposes of this Attachment, “Party” shall mean the Contractor, Grantee or Subrecipient, with whom the State of Vermont is executing this Agreement and consistent with the form of the Agreement. “Agreement” shall mean the specific contract or grant to which this form is attached.

2. Entire Agreement: This Agreement, whether in the form of a contract, State-funded grant, or Federally-funded grant, represents the entire agreement between the parties on the subject matter. All prior agreements, representations, statements, negotiations, and understandings shall have no effect.

3. Governing Law, Jurisdiction and Venue; No Waiver of Jury Trial: This Agreement will be governed by the laws of the State of Vermont. Any action or proceeding brought by either the State or the Party in connection with this Agreement shall be brought and enforced in the Superior Court of the State of Vermont, Civil Division, Washington Unit. The Party irrevocably submits to the jurisdiction of this court for any action or proceeding regarding this Agreement. The Party agrees that it must first exhaust any applicable administrative remedies with respect to any cause of action that it may have against the State with regard to its performance under this Agreement. Party agrees that the State shall not be required to submit to binding arbitration or waive its right to a jury trial.

4. Sovereign Immunity: The State reserves all immunities, defenses, rights or actions arising out of the State’s sovereign status or under the Eleventh Amendment to the United States Constitution. No waiver of the State’s immunities, defenses, rights or actions shall be implied or otherwise deemed to exist by reason of the State’s entry into this Agreement.

5. No Employee Benefits For Party: The Party understands that the State will not provide any individual retirement benefits, group life insurance, group health and dental insurance, vacation or sick leave, workers compensation or other benefits or services available to State employees, nor will the State withhold any state or Federal taxes except as required under applicable tax laws, which shall be determined in advance of execution of the Agreement. The Party understands that all tax returns required by the Internal Revenue Code and the State of Vermont, including but not limited to income, withholding, sales and use, and rooms and meals, must be filed by the Party, and information as to Agreement income will be provided by the State of Vermont to the Internal Revenue Service and the Vermont Department of Taxes.

6. Independence: The Party will act in an independent capacity and not as officers or employees of the State.

7. Defense and Indemnity: The Party shall defend the State and its officers and employees against all third party claims or suits arising in whole or in part from any act or omission of the Party or of any agent of the Party in connection with the performance of this Agreement. The State shall notify the Party in the event of any such claim or suit, and the Party shall immediately retain counsel and otherwise provide a complete defense against the entire claim or suit. The State retains the right to participate at its own expense in the defense of any claim. The State shall have the right to approve all proposed settlements of such claims or suits.

After a final judgment or settlement, the Party may request recoupment of specific defense costs and may file suit in Washington Superior Court requesting recoupment. The Party shall be entitled to recoup costs only upon a showing that such costs were entirely unrelated to the defense of any claim arising from an act or omission of the Party in connection with the performance of this Agreement.

The Party shall indemnify the State and its officers and employees if the State, its officers or employees become legally obligated to pay any damages or losses arising from any act or omission of the Party or an agent of the Party in connection with the performance of this Agreement.

Notwithstanding any contrary language anywhere, in no event shall the terms of this Agreement or any document furnished by the Party in connection with its performance under this Agreement obligate the State to (1) defend or indemnify the Party or any third party, or (2) otherwise be liable for the expenses or reimbursement, including attorneys’ fees, collection costs or other costs of the Party or any third party.

8. Insurance: Before commencing work on this Agreement the Party must provide certificates of insurance to show that the following minimum coverages are in effect. It is the responsibility of the Party to maintain current certificates of insurance on file with the State through the term of this Agreement. No warranty is made that the coverages and limits listed

herein are adequate to cover and protect the interests of the Party for the Party's operations. These are solely minimums that have been established to protect the interests of the State.

Workers Compensation: With respect to all operations performed, the Party shall carry workers' compensation insurance in accordance with the laws of the State of Vermont. Vermont will accept an out-of-state employer's workers' compensation coverage while operating in Vermont provided that the insurance carrier is licensed to write insurance in Vermont and an amendatory endorsement is added to the policy adding Vermont for coverage purposes. Otherwise, the party shall secure a Vermont workers' compensation policy, if necessary to comply with Vermont law.

General Liability and Property Damage: With respect to all operations performed under this Agreement, the Party shall carry general liability insurance having all major divisions of coverage including, but not limited to:

Premises - Operations

Products and Completed Operations

Personal Injury Liability

Contractual Liability

The policy shall be on an occurrence form and limits shall not be less than:

\$1,000,000 Each Occurrence

\$2,000,000 General Aggregate

\$1,000,000 Products/Completed Operations Aggregate

\$1,000,000 Personal & Advertising Injury

Automotive Liability: The Party shall carry automotive liability insurance covering all motor vehicles, including hired and non-owned coverage, used in connection with the Agreement. Limits of coverage shall not be less than \$500,000 combined single limit. If performance of this Agreement involves construction, or the transport of persons or hazardous materials, limits of coverage shall not be less than \$1,000,000 combined single limit.

Additional Insured. The General Liability and Property Damage coverages required for performance of this Agreement shall include the State of Vermont and its agencies, departments, officers and employees as Additional Insureds. If performance of this Agreement involves construction, or the transport of persons or hazardous materials, then the required Automotive Liability coverage shall include the State of Vermont and its agencies, departments, officers and employees as Additional Insureds. Coverage shall be primary and non-contributory with any other insurance and self-insurance.

Notice of Cancellation or Change. There shall be no cancellation, change, potential exhaustion of aggregate limits or non-renewal of insurance coverage(s) without thirty (30) days written prior written notice to the State.

9. Reliance by the State on Representations: All payments by the State under this Agreement will be made in reliance upon the accuracy of all representations made by the Party in accordance with this Agreement, including but not limited to bills, invoices, progress reports and other proofs of work.

10. False Claims Act: The Party acknowledges that it is subject to the Vermont False Claims Act as set forth in 32 V.S.A. § 630 *et seq.* If the Party violates the Vermont False Claims Act it shall be liable to the State for civil penalties, treble damages and the costs of the investigation and prosecution of such violation, including attorney's fees, except as the same may be reduced by a court of competent jurisdiction. The Party's liability to the State under the False Claims Act shall not be limited notwithstanding any agreement of the State to otherwise limit Party's liability.

11. Whistleblower Protections: The Party shall not discriminate or retaliate against one of its employees or agents for disclosing information concerning a violation of law, fraud, waste, abuse of authority or acts threatening health or safety, including but not limited to allegations concerning the False Claims Act. Further, the Party shall not require such employees or agents to forego monetary awards as a result of such disclosures, nor should they be required to report misconduct to the Party or its agents prior to reporting to any governmental entity and/or the public.

12. Location of State Data: No State data received, obtained, or generated by the Party in connection with performance under this Agreement shall be processed, transmitted, stored, or transferred by any means outside the continental United States, except with the express written permission of the State.

13. Records Available for Audit: The Party shall maintain all records pertaining to performance under this agreement. "Records" means any written or recorded information, regardless of physical form or characteristics, which is produced or

acquired by the Party in the performance of this agreement. Records produced or acquired in a machine readable electronic format shall be maintained in that format. The records described shall be made available at reasonable times during the period of the Agreement and for three years thereafter or for any period required by law for inspection by any authorized representatives of the State or Federal Government. If any litigation, claim, or audit is started before the expiration of the three-year period, the records shall be retained until all litigation, claims or audit findings involving the records have been resolved.

14. Fair Employment Practices and Americans with Disabilities Act: Party agrees to comply with the requirement of 21 V.S.A. Chapter 5, Subchapter 6, relating to fair employment practices, to the full extent applicable. Party shall also ensure, to the full extent required by the Americans with Disabilities Act of 1990, as amended, that qualified individuals with disabilities receive equitable access to the services, programs, and activities provided by the Party under this Agreement.

15. Set Off: The State may set off any sums which the Party owes the State against any sums due the Party under this Agreement; provided, however, that any set off of amounts due the State of Vermont as taxes shall be in accordance with the procedures more specifically provided hereinafter.

16. Taxes Due to the State:

- A. Party understands and acknowledges responsibility, if applicable, for compliance with State tax laws, including income tax withholding for employees performing services within the State, payment of use tax on property used within the State, corporate and/or personal income tax on income earned within the State.
- B. Party certifies under the pains and penalties of perjury that, as of the date this Agreement is signed, the Party is in good standing with respect to, or in full compliance with, a plan to pay any and all taxes due the State of Vermont.
- C. Party understands that final payment under this Agreement may be withheld if the Commissioner of Taxes determines that the Party is not in good standing with respect to or in full compliance with a plan to pay any and all taxes due to the State of Vermont.
- D. Party also understands the State may set off taxes (and related penalties, interest and fees) due to the State of Vermont, but only if the Party has failed to make an appeal within the time allowed by law, or an appeal has been taken and finally determined and the Party has no further legal recourse to contest the amounts due.

17. Taxation of Purchases: All State purchases must be invoiced tax free. An exemption certificate will be furnished upon request with respect to otherwise taxable items.

18. Child Support: (Only applicable if the Party is a natural person, not a corporation or partnership.) Party states that, as of the date this Agreement is signed, he/she:

- A. is not under any obligation to pay child support; or
- B. is under such an obligation and is in good standing with respect to that obligation; or
- C. has agreed to a payment plan with the Vermont Office of Child Support Services and is in full compliance with that plan.

Party makes this statement with regard to support owed to any and all children residing in Vermont. In addition, if the Party is a resident of Vermont, Party makes this statement with regard to support owed to any and all children residing in any other state or territory of the United States.

19. Sub-Agreements: Party shall not assign, subcontract or subgrant the performance of this Agreement or any portion thereof to any other Party without the prior written approval of the State. Party shall be responsible and liable to the State for all acts or omissions of subcontractors and any other person performing work under this Agreement pursuant to an agreement with Party or any subcontractor.

In the case this Agreement is a contract with a total cost in excess of \$250,000, the Party shall provide to the State a list of all proposed subcontractors and subcontractors' subcontractors, together with the identity of those subcontractors' workers compensation insurance providers, and additional required or requested information, as applicable, in accordance with Section 32 of The Vermont Recovery and Reinvestment Act of 2009 (Act No. 54).

Party shall include the following provisions of this Attachment C in all subcontracts for work performed solely for the State of Vermont and subcontracts for work performed in the State of Vermont: Section 10 ("False Claims Act"); Section 11 ("Whistleblower Protections"); Section 12 ("Location of State Data"); Section 14 ("Fair Employment Practices and

Americans with Disabilities Act”); Section 16 (“Taxes Due the State”); Section 18 (“Child Support”); Section 20 (“No Gifts or Gratuities”); Section 22 (“Certification Regarding Debarment”); Section 30 (“State Facilities”); and Section 32.A (“Certification Regarding Use of State Funds”).

20. No Gifts or Gratuities: Party shall not give title or possession of anything of substantial value (including property, currency, travel and/or education programs) to any officer or employee of the State during the term of this Agreement.

21. Copies: Party shall use reasonable best efforts to ensure that all written reports prepared under this Agreement are printed using both sides of the paper.

22. Certification Regarding Debarment: Party certifies under pains and penalties of perjury that, as of the date that this Agreement is signed, neither Party nor Party’s principals (officers, directors, owners, or partners) are presently debarred, suspended, proposed for debarment, declared ineligible or excluded from participation in Federal programs, or programs supported in whole or in part by Federal funds.

Party further certifies under pains and penalties of perjury that, as of the date that this Agreement is signed, Party is not presently debarred, suspended, nor named on the State’s debarment list at: <http://bgs.vermont.gov/purchasing/debarment>

23. Conflict of Interest: Party shall fully disclose, in writing, any conflicts of interest or potential conflicts of interest.

24. Confidentiality: Party acknowledges and agrees that this Agreement and any and all information obtained by the State from the Party in connection with this Agreement are subject to the State of Vermont Access to Public Records Act, 1 V.S.A. § 315 et seq.

25. Force Majeure: Neither the State nor the Party shall be liable to the other for any failure or delay of performance of any obligations under this Agreement to the extent such failure or delay shall have been wholly or principally caused by acts or events beyond its reasonable control rendering performance illegal or impossible (excluding strikes or lock-outs) (“Force Majeure”). Where Force Majeure is asserted, the nonperforming party must prove that it made all reasonable efforts to remove, eliminate or minimize such cause of delay or damages, diligently pursued performance of its obligations under this Agreement, substantially fulfilled all non-excused obligations, and timely notified the other party of the likelihood or actual occurrence of an event described in this paragraph.

26. Marketing: Party shall not refer to the State in any publicity materials, information pamphlets, press releases, research reports, advertising, sales promotions, trade shows, or marketing materials or similar communications to third parties except with the prior written consent of the State.

27. Termination:

A. Non-Appropriation: If this Agreement extends into more than one fiscal year of the State (July 1 to June 30), and if appropriations are insufficient to support this Agreement, the State may cancel at the end of the fiscal year, or otherwise upon the expiration of existing appropriation authority. In the case that this Agreement is a Grant that is funded in whole or in part by Federal funds, and in the event Federal funds become unavailable or reduced, the State may suspend or cancel this Grant immediately, and the State shall have no obligation to pay Subrecipient from State revenues.

B. Termination for Cause: Either party may terminate this Agreement if a party materially breaches its obligations under this Agreement, and such breach is not cured within thirty (30) days after delivery of the non-breaching party’s notice or such longer time as the non-breaching party may specify in the notice.

C. Termination Assistance: Upon nearing the end of the final term or termination of this Agreement, without respect to cause, the Party shall take all reasonable and prudent measures to facilitate any transition required by the State. All State property, tangible and intangible, shall be returned to the State upon demand at no additional cost to the State in a format acceptable to the State.

28. Continuity of Performance: In the event of a dispute between the Party and the State, each party will continue to perform its obligations under this Agreement during the resolution of the dispute until this Agreement is terminated in accordance with its terms.

29. No Implied Waiver of Remedies: Either party's delay or failure to exercise any right, power or remedy under this Agreement shall not impair any such right, power or remedy, or be construed as a waiver of any such right, power or remedy. All waivers must be in writing.

30. State Facilities: If the State makes space available to the Party in any State facility during the term of this Agreement for purposes of the Party's performance under this Agreement, the Party shall only use the space in accordance with all policies and procedures governing access to and use of State facilities which shall be made available upon request. State facilities will be made available to Party on an "AS IS, WHERE IS" basis, with no warranties whatsoever.

31. Requirements Pertaining Only to Federal Grants and Subrecipient Agreements: If this Agreement is a grant that is funded in whole or in part by Federal funds:

- A. Requirement to Have a Single Audit:** The Subrecipient will complete the Subrecipient Annual Report annually within 45 days after its fiscal year end, informing the State of Vermont whether or not a Single Audit is required for the prior fiscal year. If a Single Audit is required, the Subrecipient will submit a copy of the audit report to the granting Party within 9 months. If a single audit is not required, only the Subrecipient Annual Report is required. For fiscal years ending before December 25, 2015, a Single Audit is required if the subrecipient expends \$500,000 or more in Federal assistance during its fiscal year and must be conducted in accordance with OMB Circular A-133. For fiscal years ending on or after December 25, 2015, a Single Audit is required if the subrecipient expends \$750,000 or more in Federal assistance during its fiscal year and must be conducted in accordance with 2 CFR Chapter I, Chapter II, Part 200, Subpart F. The Subrecipient Annual Report is required to be submitted within 45 days, whether or not a Single Audit is required.
- B. Internal Controls:** In accordance with 2 CFR Part II, §200.303, the Party must establish and maintain effective internal control over the Federal award to provide reasonable assurance that the Party is managing the Federal award in compliance with Federal statutes, regulations, and the terms and conditions of the award. These internal controls should be in compliance with guidance in "Standards for Internal Control in the Federal Government" issued by the Comptroller General of the United States and the "Internal Control Integrated Framework", issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO).
- C. Mandatory Disclosures:** In accordance with 2 CFR Part II, §200.113, Party must disclose, in a timely manner, in writing to the State, all violations of Federal criminal law involving fraud, bribery, or gratuity violations potentially affecting the Federal award. Failure to make required disclosures may result in the imposition of sanctions which may include disallowance of costs incurred, withholding of payments, termination of the Agreement, suspension/debarment, etc.

32. Requirements Pertaining Only to State-Funded Grants:

- A. Certification Regarding Use of State Funds:** If Party is an employer and this Agreement is a State-funded grant in excess of \$1,001, Party certifies that none of these State funds will be used to interfere with or restrain the exercise of Party's employee's rights with respect to unionization.
- B. Good Standing Certification (Act 154 of 2016):** If this Agreement is a State-funded grant, Party hereby represents: (i) that it has signed and provided to the State the form prescribed by the Secretary of Administration for purposes of certifying that it is in good standing (as provided in Section 13(a)(2) of Act 154) with the Agency of Natural Resources and the Agency of Agriculture, Food and Markets, or otherwise explaining the circumstances surrounding the inability to so certify, and (ii) that it will comply with the requirements stated therein.

(End of Standard Provisions)