STATE OF VERMONT
CONTRACT AMENDMENT

It is hereby agreed by and between the State of Vermont, Department of Buildings & General Services, Office of Purchasing & Contracting (the "State") and 22nd Century Technologies, Inc., with a principal place of business in Somerset, NJ (the "Contractor") that the contract between them originally dated as of September 01, 2017, Contract # 34360, 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 February 1, 2022 to August 1, 2022, with such extension also being subject to and conditioned upon the following:

A. Any and all terms and conditions of the NASPO/New Mexico Master Agreement 50-1-15-00058-AA Those can be found at: https://www.naspovaluepoint.org/portfolio/temporary-employment-services-2017-2022/ , which took initial effect in 2017, and as incorporated in Vermont Contract 34360, shall continue in effect, as to Vermont, for the duration of this Contract 34360, without regard to whether or not the 2017 NASPO/New Mexico Master Agreement is, itself, extended past February 1, 2022.

II. **Attachment A, Scope of Services.** Subsection (d) of Section 1 of Attachment A, "Information Technology Professional Services" is hereby deleted in its entirety.

III. **Attachment F Temporary Work Request**. The existing Attachment F Temporary Work Request is stricken in its entirety, and replaced with the version of Attachment F Temporary Work Request that is attached to this Amendment.

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 2 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	**22nd Century Technologies, Inc.**
By: _____	**By:** _____
Name: Jennifer M. V. Fitch	**Name:** _____
Title: BGS Commissioner	**Title:** _____
Date: _____	**Date:** _____

TEMPORARY WORK REQUEST ***(Add sheets if needed, a detailed Statement of Work is required for technology procurements)***

Requestor:		**Phone #:**		**Email:**	
Department:		**Agency:**		**# Staff Requested:**	

TYPE OF SERVICE NEEDED *(indicate with an "X" in the corrersponding box)*

	a. Administrative Support (including Office and Clerical), which includes occupations in which workers are responsible for day to day operations such as internal and external communication, recording and retrieval of data and/or information and other paperwork required in an office. May include but is not limited to: bookkeepers, messengers, clerk-typists, stenographers, court transcribers, hearing reporters, statistical clerks, dispatchers, license distributors, payroll clerks, office machine and computer operators, legal assistants, cashiers, and toll collectors.
	b. Commercial/Industrial Workers, which includes occupations in which workers perform jobs which require special manual skill and a thorough and comprehensive knowledge of the processes involved in the work which is acquired through on-the-job training and experience or through apprenticeship or other formal training programs. May include but is not limited to: mechanics and repairers, electricians, heavy equipment operators, stationary engineers, skilled machining occupations, carpenters, power plant operators, water and sewage treatment plant operators, service/maintenance. Workers in the following group may operate machinery: Chauffeurs, laundry and dry cleaning operatives, truck drivers, bus drivers, garage Laborers, custodial, gardeners and groundskeepers, refuse collectors, Construction laborers, park rangers (maintenance), farm workers (except managers), craft apprentices/ trainees/ helpers.
	c. Healthcare Staffing/Services, which includes Medical and Healthcare related service jobs including, but is not limited to, all classes of positions, the duties of which are to advise, administer, supervise, research or other professional and scientific work, technical work, or related clerical work in several branches of medicine, surgery, and dentistry or in related patient care services such as dietetics, nursing, occupational therapy, physical therapy, pharmacy, dietitians, doctors, psychologists, and registered nurses.
	~~**d. Information Technology Professional Services, which includes facilities management, database planning/design, systems analysis/ design, network services, programming, conversion & implementation support, network services, project management, data/records management.**~~
	e. Professional, which includes occupations which require specialized and theoretical knowledge, usually acquired through college training or through work experience and be licensed or certified which provides comparable knowledge to college degree. May Include but is not limited to: personnel and labor relations workers, social workers, economists, lawyers, systems analysts, accountants, engineers, employment and vocational rehabilitation counselors, teachers, trainers or instructors, librarians, management analysts, surveyors and mapping scientists.

Position Title:	**Hours Per Week:**	**Work Shift Time Begin / End:**	**Expected Start Date:**	**Expected End Date:**

Physical Location of Work *(include Room #):*	**Min. Education Level Needed :**		**Experience/Certification/Licensure/Required:**
	Min. Yrs. of Relevant Experience:		

Duties: *(Provide a general overview/summary of the essential functions/ responsibilities the position will perform)*

Critical Qualifications/ Skills: *(Please consider and provide a description of the daily activities and indicate the critical qualifications for a successful candidate (i.e. customer service skills, multi--tasking abilities, proficient with Excel etc.)*

YES / NO	**OTHER PERTINANT INFORMATION**		
	This position will have access to sensitive/confidential information or info. systems.	**Computer hardware to be used:**	
	This position will directly work with children, vulnerable adults or in healthcare setting.		
	This position will handle cash, checks, process payments or be involved in procurement.	**Computer software to be used:**	
	This position will require a current background check and/or drug testing.		
	This position will require professional attire to be worn at the workplace.		

Primary Approver (Print):		**Sign:**		**Date:**	
Additional Approver (Print):		**Sign:**		**Date:**	
Additional Approver (Print):		**Sign:**		**Date:**	
AGO Certification required per 3 VSA Sec 342 for Work Requests ≥ $25,000:		**Sign:**		**Date:**	

Primary Contact Person *(with knowledge of the position)* **:**		**Phone #:**		**Email:**	

Agency:	**Dpartment:**	**Dept. ID:**	**Business Unit:**	**Notes:**	

STATE OF VERMONT
CONTRACT AMENDMENT

It is hereby agreed by and between the State of Vermont, Department of Buildings and General Services, Office of Procurement and Contracting (the "State") and 22nd Century Technologies, Inc., with a principal place of business in Centennial, CO (the "Contractor") that the contract between them originally dated as of September 1, 2017, Contract # 34360, 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 February 1, 2021 to February 1, 2022. There are no further renewals beyond that point.

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. 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	**22nd CENTURY TECHNOLOGIES, INC.**
By: _____	**By:** _____
Name: Jennifer Fitch - Commissioner	**Name:** _____
Title: Buildings & General Services	**Title:** _____
Date: _____	**Date:** _____

STATE OF VERMONT
CONTRACT AMENDMENT

It is hereby agreed by and between the State of Vermont, Office of Purchasing and Contracting (the "State") and 22nd Century Technologies, Inc., with a principal place of business in Somerset, NJ (the "Contractor") that the contract between them originally dated as of September 1, 2017, Contract # 34360, as amended to date, (the "Contract") is hereby amended as follows:

I. **Attachment D, STATE OF VERMONT- FEDERAL TERMS SUPPLEMENT (Non-Construction)**. Attachment D is hereby added to this contract and attached to this Amendment.

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

State and Federal Terms for Products and Services related the 2020 Covid-19 Pandemic. Contractor agrees that "STATE OF VERMONT- FEDERAL TERMS SUPPLEMENT (Non-Construction) for all Contracts and Purchases of Products and Services Connected with 2020 Pandemic," which is attached as Attachment D to this amendment, applies to any products or services provided to the State, at any time, in connection with the 2020 Pandemic.

This document consists of 4 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	**22nd Century Technologies, Inc**
By: _____	**By:** _____
Name: Christopher Cole	**Name:** _____
Title: Commissioner - Buildings & General Services	**Title:** _____
Date: _____	**Date:** _____

Attachment D

STATE OF VERMONT- FEDERAL TERMS SUPPLEMENT (Non-Construction)

for *all* Contracts and Purchases[1]
of Products and Services Connected with 2020 Pandemic

BYRD ANTI-LOBBYING AMENDMENT

Contractors who apply or bid for an award of $100,000 or more certify that each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, officer or employee of Congress, or an employee of a Member of Congress in connection with obtaining any Federal contract, grant, or any other award covered by 31 U.S.C. § 1352. Each tier shall also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier, up to the recipient who in turn will forward the certification(s) to the awarding agency

PROCUREMENT OF RECOVERED MATERIALS

In the performance of this contract, the Contractor shall make maximum use of products containing recovered materials that are EPA-designated Items unless the products cannot be acquired-

1. Competitively within a time frame providing for compliance with the contract performance schedule;
2. Meeting contract performance requirements; or
3. At a reasonable price

Information about this requirement, along with the list of EPA-designated items, is available at the EPA's Comprehensive Procurement Guidelines web site, https://www.epa.gov/smm/comprehensive-procurement-guideline-cpg-program.

The Contractor also agrees to comply with all other applicable requirements of section 6002 of the Solid Waste Disposal Act.

CLEAN AIR ACT AND FEDERAL WATER POLLUTION CONTROL ACT

1. The contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. § 7401 et seq.

2. The contractor agrees to report each violation to the State of Vermont and understands and agrees that the State of Vermont will, in turn, report each violation as required to assure notification to the Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.

3. The contractor agrees to include these requirements in each subcontract exceeding $150,000 financed in whole or in part with Federal assistance provided by FEMA.

4. The contractor agrees to comply with all applicable standards, orders, or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq.

5. The contractor agrees to report each violation to the State of Vermont and understands and agrees that the State of Vermont will, in turn, report each violation as required to assure notification to the Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.

6. The contractor agrees to include these requirements in each subcontract exceeding $150,000 financed in whole or in part with Federal assistance provided by FEMA. **a.** Standard. Non-Federal entities and contractors are subject to the debarment and suspension regulations implementing Executive Order 12549, *Debarment and Suspension* (1986) and Executive Order 12689, *Debarment and Suspension* (1989) at 2 C.F.R. Part 180 and the Department of Homeland Security's regulations at 2 C.F.R. Part 3000 (Nonprocurement Debarment and Suspension).

CONTRACTOR BREACH, ERRORS AND OMISSIONS

---

[1] These terms, developed by the Vermont Attorney General's Office, are to be included, without any changes, ***in all contracts, and any amendments to contracts***, intended or expected to be used in connection with the State of Vermont's response to the 2020 Pandemic. THESE TERMS ARE ALSO TO BE USED AND ADDED FOR ***ANY TRANSACTIONS***, SUCH AS BUT NOT ONLY PURCHASE ORDERS, TAKING PLACE UNDER AN EXISTING CONTRACT, IF THE PURCHASE IS FOR THE PANDEMIC AND IF THERE IS ANY POTENTIAL DOUBT AS TO WHETHER THE OVERLYING CONTRACT HAS THESE TERMS. These terms and conditions shall also be added in instances in which a purchase without formal contract is otherwise duly authorized.

1. Any breach of the terms of this contract, or material errors and omissions in the work product of the contractor must be corrected by the contractor at no cost to the State, and a contractor may be liable for the State's costs and other damages resulting from errors or deficiencies in its performance.

2. Neither the States' review, approval or acceptance of nor payment for, the services required under this contract shall be construed to operate as a waiver of any rights under this contract or of any cause of action arising out of the performance of this contract.

3. The rights and remedies of the State provided for under this contract are in addition to any other rights and remedies provided by law or elsewhere in the contract.

TERMINATION FOR CONVENIENCE

1. General

   a. Any termination for convenience shall be effected by delivery to the Contractor an Order of Termination specifying the termination is for the convenience of the Agency, the extent to which performance of work under the Contract is terminated, and the effective date of the termination.

   b. In the event such termination occurs, without fault and for reasons beyond the control of the Contractor, all completed or partially completed items of work as of the date of termination will be paid for in accordance with the contract payment terms.

   c. No compensation will be allowed for items eliminated from the Contract.

   d. Termination of the Contract, or portion thereof, shall not relieve the Contractor of its contractual responsibilities for work completed and shall not relieve the Contractor's Surety of its obligation for and concerning any just claim arising out of the work performed.

2. Contractor Obligations

   After receipt of the Notice of Termination and except as otherwise directed by the State, the Contractor shall immediately proceed to:

   a. To the extent specified in the Notice of Termination, stop work under the Contract on the date specified.

   b. Place no further orders or subcontracts for materials, services, and/or facilities except as may be necessary for completion of such portion(s) of the work under the Contract as is (are) not terminated.

   c. Terminate and cancel any orders or subcontracts for related to the services, except as may be necessary for completion of such portion(s) of the work under the Contract as is (are) not terminated.

   d. Transfer to the State all completed or partially completed plans, drawings, information, and other property which, if the Contract had been completed, would be required to be furnished to the State.

   e. Take other action as may be necessary or as directed by the State for the protection and preservation of the property related to the contract which is in the possession of the contractor and in which the State has or may acquire any interest.

   f. Make available to the State all cost and other records relevant to a determination of an equitable settlement.

3. Claim by Contractor

   After receipt of the Notice of Termination from the state, the Contractor shall submit any claim for additional costs not covered herein or elsewhere in the Contract within 60 days of the effective termination date, and not thereafter. Should the Contractor fail to submit a claim within the 60-day period, the State may, at its sole discretion, based on information available to it, determine what, if any, compensation is due the Contractor and pay the Contractor the determined amount.

4. Negotiation

   Negotiation to settle a timely claim shall be for the sole purpose of reaching a settlement equitable to both the Contractor and the State. Settlement shall be based on actual costs incurred by the Contractor, as reflected by the contract rates. Consequential damages, loss of overhead, loss of overhead contribution of any kind, and/or loss of anticipated profits on work not performed shall not be included in the Contractor's claim and will not be considered, allowed, or included as part of any settlement.

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 22nd Century Technologies, Inc, with a principal place of business in Centennial, Colorado (the "Contractor") that the contract between them originally dated as of September 1, 2017, Contract # 34360, 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 February 1, 2020 to February 1, 2021. 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	**22nd CENTURY TECHNOLOGIES, INC.**
By: _____	**By:** _____
Name: _____	**Name:** _____
Title: _____	**Title:** _____
Date: _____	**Date:** _____

Contract #34360
Amendment # 1

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 22nd Century Technologies, Inc., with a principal place of business in Somerset, NJ (the "Contractor") that the contract between them originally dated as of September 1, 2017, Contract # 34360, 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 02/01/2019 to 02/01/2020. The Contract Term may be renewed for two (2) additional one-year period at the discretion of the State.

II. **Attachment C, Standard State Provisions for Contracts and Grants**. Attachment C is hereby deleted in its entirety and replaced by the Attachment C 12/15/2017 attached to this Amendment.

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 15 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.

ATTACHMENT A: GENERAL PROVISIONS OF CONTRACT

Contractor shall provide on an as needed basis temporary employment services to locations statewide.

1. **Available Services**: The following services listed in the Master Agreement are available for purchase under this Participating Addendum:

   a. **Administrative Support (including Office and Clerical)**, which includes occupations in which workers are responsible for day to day operations such as internal and external communication, recording and retrieval of data and/or information and other paperwork required in an office. May include but is not limited to: bookkeepers, messengers, clerk-typists, stenographers, court transcribers, hearing reporters, statistical clerks, dispatchers, license distributors, payroll clerks, office machine and computer operators, legal assistants, cashiers, and toll collectors.

   b. **Commercial/Industrial Workers**, which includes occupations in which workers perform jobs which require special manual skill and a thorough and comprehensive knowledge of the processes involved in the work which is acquired through on-the-job training and experience or through apprenticeship or other formal training programs. Workers perform duties which result in or contribute to the comfort, convenience, hygiene or safety of the general public or the upkeep and care of buildings, facilities or grounds of public property. May include but is not limited to: mechanics and repairers, electricians, heavy equipment operators, stationary engineers, skilled machining occupations, carpenters, power plant operators, water and sewage treatment plant operators, service/maintenance. Workers in the following group may operate machinery: Chauffeurs, laundry and dry cleaning operatives, truck drivers, bus drivers, garage Laborers, custodial, gardeners and groundskeepers, refuse collectors, Construction laborers, park rangers (maintenance), farm workers (except managers), craft apprentices/trainees/helpers

   c. **Healthcare Staffing/Services**, which includes Medical and Healthcare related service jobs including, but is not limited to, all classes of positions, the duties of which are to advise on, administer, supervise, or perform research or other professional and scientific work, subordinate technical work, or related clerical work in several branches of medicine, surgery, and dentistry or in related patient care services such as dietetics, nursing, occupational therapy, physical therapy, pharmacy, dietitians, doctors, psychologists, and registered nurses.

   d. **Information Technology Professional Services**, which includes resources and facilities management, database planning and design, systems analysis and design, network services, programming, conversion and implementation support, network services project management, data/records management.

   e. **Professional**, which includes occupations which require specialized and theoretical knowledge, usually acquired through college training or through work experience and be licensed or certified which provides comparable knowledge to college degree. May Include but is not limited to: personnel and labor relations workers, social workers, economists, lawyers, systems analysts, accountants, engineers, employment and vocational rehabilitation counselors, teachers, trainers or instructors, librarians, management analysts, surveyors and mapping scientists.

2. **Definitions**:

   a. "**HIPPA**" requires compliance with the requirements of the Health Insurance Portability and Accountability Act of 1996, 45 C.F.R. 160, 162, and 164, as amended. In the event that the functions or activities include the involvement of Protected Health Information, the awarded vendor agrees to enter into a Business Associate Agreement with the individual using agency which is under the HIPPA regulations as required by 45 C.F.R. 164.504 (e).

   b. **Fully Loaded Labor Rate:** This rate contains every possible cost associated with a candidate, divided by the total number of hours worked by the candidate. For example, the cost may include the company's

contribution to the candidate's pension plan; all benefit costs, payroll taxes, overtime, shift differential, and the base level of compensation. This rate is typically aggregated for entire classifications of candidates, so that (for example) the fully loaded labor rate for an average machine operator may be commonly available.

c. **"Hourly Rate"** means the proposed fully loaded maximum hourly rates that include travel, per diem, fringe benefits and any overhead costs for Contractor personnel, as well as Subcontractor personnel if appropriate.

d. "**Staff**" means any individual who is a full-time, part-time, or an independently contracted individual with the Awarded Offeror's company and not an employee of the State of Vermont or Participating Entities. Staff will not be provided employee benefits from the State agencies or political subdivisions.

3. Consistent with Section 5.7 of Contractor's proposal, candidates may be hired as a permanent employee of the State or Procuring Agency if, the Procuring Agencies and hiring processes have been complied with and if the candidate elects to accept employment with the State or Procuring Agency. Such occurrence will create no further obligation (financial or otherwise) on the part of the Procuring Agency.

4. **Participation**: This Participating Addendum may be used by all departments, offices, institutions, and other agencies of the State of Vermont and counties (hereinafter "State Purchasers") according to the process for ordering and other restrictions applicable to State Purchasers set forth herein.

   Political subdivisions of the State of Vermont under 29 V.S.A. § 902(a) and any institution of higher education chartered in Vermont and accredited or holding a certificate of approval from the State Board of Education (hereinafter "Additional Purchasers") may participate in this contract at the same prices, terms and conditions. Further, items furnished to Additional Purchasers will be billed directly to and paid for by the Additional Purchaser. Neither the State of Vermont nor its Commissioner of Buildings and General Services, personally or officially, assumes any responsibility or liability for Additional Purchasers.

5. **Reporting:** Contractor shall submit quarterly reports electronically in the same format as set forth under the Master Agreement, detailing the purchasing of all items under this Participating Addendum. The reports shall be submitted and sent as an attachment to SOV.ThePathForward@vermont.gov . Reports shall contain accurate descriptions of the products, goods or services procured, purchaser information, quantities procured and prices paid. This report shall include all sales under this Participating Addendum. Any exception to this mandatory requirement or failure to submit complete reports, or in the format required, may result in corrective action, up to and including termination for cause. Contractor's reporting shall state "no activity" for any month in which there is no activity during a quarterly reporting period.

   Quarterly reports must be submitted in accordance with the following schedule:

Reporting Period	**Report Due**
January 1 - March 31	April 30
April 1 - June 30	July 30
July 1 - September 30	October 30
October 1 - December 31	January 30

6. **Primary Contacts**: The primary contact individuals for this Participating Addendum are as follows (or their named successors):

   Contractor

Name	22nd Century Technologies, Inc. Kulpreet Singh
Address	220 Davidson Avenue, Suite 118, Somerset NJ 08873
Telephone	888-998-7284
E-mail	govt@tscti.com

State of Vermont

Name	State of Vermont, Brian Berini
Address	109 State Street, Montpelier, VT 05609-3001
Telephone	802/828-2217
Fax	802/828-2222
E-mail	brian.berini@vermont.gov

The Parties will keep and maintain current at all times a primary point of contact for administration of this Participating Addendum.

7. **Orders**: Any order placed by the State or an Additional Purchaser for services available under this Participating Addendum (hereinafter "Purchase Order") shall be deemed to be a sale governed by the prices and other terms and conditions of this Participating Addendum, provided that the Master Agreement Number and the Participating Addendum Number must appear on every Purchase Order placed under this Participating Addendum.

   Purchase Orders may only be placed directly through Contractor or through a subcontractor of the Contractor that is both approved by Contractor and authorized by the State of Vermont (hereinafter "Reseller"). A Reseller shall not solicit or otherwise fulfill any Purchase Order unless the Reseller (i) is an approved Fulfillment Partner listed on Contractor dedicated (cooperative contract) website as an entity approved by Contractor, in accordance with Contractor's established qualifying criteria, to provide sales and service support to participants in the NASPO ValuePoint Master Price Agreement on Contractor's behalf and (ii) has executed a separate agreement with the State that directly obligates Reseller to fulfill Purchase Orders in accordance with the terms and conditions set forth in this Participating Addendum and the Master Agreement.

   Contractor may, in its sole discretion, add Fulfillment Partners at any time during the term of this Participating Addendum. Contractor may designate a minimum of two Fulfillment Partners and no set maximum number of Fulfilment Partners to provide sales and services support. Contractor, in its sole discretion, is not required to add, and may delete upon thirty (30) days written notice, any Fulfillment Partner who does not meet Contractor's established qualifying criteria, or where the addition of the entity would violate any state or federal law or regulation. Except as otherwise set forth in the Master Agreement, Contractor will not, directly or indirectly, restrict any Reseller's participation or ability to quote pricing for the State. Resellers shall not offer less favorable pricing discounts than the discounts established under the Master Agreement. However, a Reseller may offer any additional incremental discounts to the State or any Additional Purchaser, and such additional discounts, if offered, may be provided to the State or an Additional Purchaser in the discretion and at the sole legal obligation of the Reseller.

   The Master Agreement number and the State Contract Number must appear on every Purchase Order placed under this Participating Addendum.

   a. **State Purchasers Responsibilities for Requesting Services:** Prior to contacting the Contractor, the Procuring Agency is responsible to define details of the request to include, but not be limited to:

      - Number of individuals needed;
      - Job duties;
      - Equipment to be used;
      - Knowledge, skills and education and/or experience;
      - Computer software to be used;
      - Hours of work;
      - Expected length of assignment;
      - Job related attire;
      - Position location;
      - Procuring Agency contact person; and
      - Other pertinent job-related information.

   Depending on the amount of detail required, it is recommended the Procuring Agency submit this information in

writing via e-mail or facsimile to reduce the possibility of an inappropriate temporary assignment. The Temporary Work Request Form (Attachment F) should be used to ensure that requirements are correctly identified to the Contractor.

b. **Background checks:** The Procuring Agency is responsible for requesting additional background investigations beyond normal references prior to the temporary assignment.

- Should an additional background check be required due to the nature of the assignment, the Procuring Agency may be responsible for the cost of the additional checks.
- It is reasonable to expect employment eligibility and references will be required for all candidates; background checks for referrals by the Procuring Agency will be at the discretion of the Procuring Agency.
- Standard checks which would include employment eligibility and reference checks shall be at the cost of the Awarded Offeror (s).
- Other background checks will be at the discretion of each requesting Procuring Agency.
- Procuring Agencies reserve the right to request and conduct pre-employment background checks and drug testing prior to the potential candidates starting date.
- Procuring Agencies will limit their background checks and drug testing requirements to the same as required of their own permanent full-time employees holding the same or similar positions to be filled by the candidate.

c. The State does not agree to reimburse Contractor for expenses except as may be specified in Attachment B to this Participating Agreement.

d. **Performance Measures:**

- Contractor shall notify the Procuring Agency on availability within four (4) hours after a request is made for services that will commence within five (5) working days following the request;
- Contractor shall notify the Procuring Agency on availability within two (2) days after a request is made for services that will commence later than five (5) working days following the request;
- Contractor shall will confirm with the Procuring Agency the arrival of its Candidate by telephone within one-half (1/2) hour after scheduled arrival time.
- All temporarily assigned individuals will be appropriately dressed for the assignment and shall maintain a professional demeanor. Dress code policy is established by the individual agencies. Temporary Candidate must dress according to the requirements of the Procuring Agency requesting the assignment.
- Temporarily assigned individuals should be available for the entire length of the assignment; however, if a replacement is required, a qualified replacement must be provided within twenty-four (24) hours of notification, including weekends and holidays.
- If an employee is not meeting the State's expectations, the Contractor shall take steps to remedy the situation immediately. The Contractor shall counsel, replace or remove the employee when deemed necessary.

e. The Procuring Agency reserves the right to reduce the length of the temporary assignment and shall provide the Contractor with as much notification as possible.

ATTACHMENT B: PAYMENT PROVISIONS

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

1. **Payment Terms:** Net 30 from the date the State receives an error-free invoice.

2. **Pricing:** For offerings and complete details of pricing, please refer to Attachment E – Cost Sheet on-line at: https://s3-us-west-2.amazonaws.com/naspovaluepoint/1486582859_22nd%20Century%20Master%20Agreement%20Pricing(2-8-17).pdf . The following represents an overview of pricing:

   As set forth in Attachment E, Contractors Administrative Services Fees is the percentage amount Contractor charges for the fulfillment of a position excluding the fully burdened labor rate. Contractors Administrative Service Fee is a not to exceed maximum percentage and may be negotiated at a lower percentage rate.

Category	Administrative Service Fee
Administrative Support (including Office and Clerical)	28%
Commercial/Industrial Workers	32%
Healthcare Staffing/Services	30%
Information Technology Professional Services	45%
Professional	34%

3. **Invoicing:** Invoices shall be submitted on the Contractor's or it's Resellers standard billhead and forwarded directly to the institution or agency ordering materials or services and shall specify the address to which payments will be sent. Invoices must include the Purchase Order Number(s) for which the invoice is being submitted.

4. **Purchasing Card:** State purchasers may use the State Purchasing Card for the payment of invoices. Use of the Purchasing Card requires all required documentation applicable to the purchase. The Purchasing Card is a payment mechanism, not a procurement approach and, therefore, does not relieve departments from adhering to all procurement laws, regulations, policies, procedures, and best practices. This includes but is not limited to the application of all sales and use tax laws, rules and policies as applicable to the purchase.

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)

ATTACHMENT D

ADDITIONAL TERMS AND CONDITIONS

Attachment C: Standard State Provisions for Contracts and Grants, Section 8. Insurance is amended by adding the following:

Regarding staffing services in the following categories, Party must provide professional liability coverage with the following:

a. Healthcare Staffing/Services, which includes Medical and Healthcare related service jobs including, but is not limited to, all classes of positions, the duties of which are to advise on, administer, supervise, or perform research or other professional and scientific work, subordinate technical work, or related clerical work in several branches of medicine, surgery, and dentistry or in related patient care services such as dietetics, nursing, occupational therapy, physical therapy, pharmacy, dietitians, doctors, psychologists, and registered nurses.
   Medical Malpractice Coverage: $1,000,000 per claim / $3,000,000 aggregate

b. Information Technology Professional Services, which includes resources and facilities management, database planning and design, systems analysis and design, network services, programming, conversion and implementation support, network services project management, data/records management.
   Cyber Liability Errors & Omissions Coverage: $1,000,000 per claim / $2,000,000 aggregate

c. Professional, which includes occupations which require specialized and theoretical knowledge, usually acquired through college training or through work experience and be licensed or certified which provides comparable knowledge to college degree. May Include but is not limited to: personnel and labor relations workers, social workers, economists, lawyers, systems analysts, accountants, engineers, employment and vocational rehabilitation counselors, teachers, trainers or instructors, librarians, management analysts, surveyors and mapping scientists.
   Professional Liability / Errors & Omissions Coverage: $1,000,000 per claim / $2,000,000 aggregate

COST SHEET

CATEGORY	OFFEROR'S ADMINISTRATIVE SERVICE Fee * (based on a percentage for all Participating States throughout the United States)
1. Administrative Support (Including Office and Clerical)	28%
2. Commercial/Industrial Workers	32%
3. Healthcare Staffing Services	30%
4. Information Technology Professional Services	45%
5. Professional	34%

*The Offeror's Administrative Service Fee is the amount (based on a percentage) the Offeror charges for the fulfillment of a positon excluding the fully loaded labor rate as defined in this RFP. If the Offeror is not responding to all Categories listed above, insert NA (not applicable).

Offeror's Administrative Service Fee is a not to exceed maximum percentage; however, the Offeror's Administrative Service Fee submitted in Offeror's proposal may be negotiated at a lower percentage.

TEMPORARY WORK REQUEST *(Add sheets if needed, a detailed Statement of Work is required for technology procurements)*

Requestor:		Phone #:		Email:	
Department:		Agency:		# Staff Requested:	

TYPE OF SERVICE NEEDED *(indicate with an "X" in the corrersponding box)*

	a. Administrative Support (including Office and Clerical), which includes occupations in which workers are responsible for day to day operations such as internal and external communication, recording and retrieval of data and/or information and other paperwork required in an office. May include but is not limited to: bookkeepers, messengers, clerk-typists, stenographers, court transcribers, hearing reporters, statistical clerks, dispatchers, license distributors, payroll clerks, office machine and computer operators, legal assistants, cashiers, and toll collectors.
	b. Commercial/Industrial Workers, which includes occupations in which workers perform jobs which require special manual skill and a thorough and comprehensive knowledge of the processes involved in the work which is acquired through on-the-job training and experience or through apprenticeship or other formal training programs. May include but is not limited to: mechanics and repairers, electricians, heavy equipment operators, stationary engineers, skilled machining occupations, carpenters, power plant operators, water and sewage treatment plant operators, service/maintenance. Workers in the following group may operate machinery: Chauffeurs, laundry and dry cleaning operatives, truck drivers, bus drivers, garage Laborers, custodial, gardeners and groundskeepers, refuse collectors, Construction laborers, park rangers (maintenance), farm workers (except managers), craft apprentices/ trainees/ helpers.
	c. Healthcare Staffing/Services, which includes Medical and Healthcare related service jobs including, but is not limited to, all classes of positions, the duties of which are to advise, administer, supervise, research or other professional and scientific work, technical work, or related clerical work in several branches of medicine, surgery, and dentistry or in related patient care services such as dietetics, nursing, occupational therapy, physical therapy, pharmacy, dietitians, doctors, psychologists, and registered nurses.
	d. Information Technology Professional Services, which includes facilities management, database planning/design, systems analysis/ design, network services, programming, conversion & implementation support, network services, project management, data/records management.
	e. Professional, which includes occupations which require specialized and theoretical knowledge, usually acquired through college training or through work experience and be licensed or certified which provides comparable knowledge to college degree. May Include but is not limited to: personnel and labor relations workers, social workers, economists, lawyers, systems analysts, accountants, engineers, employment and vocational rehabilitation counselors, teachers, trainers or instructors, librarians, management analysts, surveyors and mapping scientists.

Position Title:	Hours Per Week:	Work Shift Time Begin / End:	Expected Start Date:	Expected End Date:

Physical Location of Work *(include Room #)*:	Min. Education Level Needed :		Experience/Certification/Licensure/Required:
	Min. Yrs. of Relevant Experience:		

Duties: *(Provide a general overview/summary of the essential functions/ responsibilities the position will perform)*

Critical Qualifications/ Skills: *(Please consider and provide a description of the daily activities and indicate the critical qualifications for a successful candidate (i.e. customer service skills, multi--tasking abilities, proficient with Excel etc.)*

YES / NO	OTHER PERTINANT INFORMATION		
	This position will have access to sensitive/confidential information or info. systems.	Computer hardware to be used:	
	This position will directly work with children, vulnerable adults or in healthcare setting.		
	This position will handle cash, checks, process payments or be involved in procurement.	Computer software to be used:	
	This position will require a current background check and/or drug testing.		
	This position will require professional attire to be worn at the workplace.		

Primary Approver (Print):		Sign:		Date:	
Additional Approver (Print):		Sign:		Date:	
Additional Approver (Print):		Sign:		Date:	
Primary Contact Person *(with knowledge of the position)* :		Phone #:		Email:	

Agency:	Dpartment:	Dept. ID:	Business Unit:	Notes:	

STATE OF VERMONT
PARTICIPATING ADDENDUM NO. 34360

TEMPORARY EMPLOYMENT SERVICES
NEW MEXICO NASPO VALUEPOINT MASTER AGREEMENT NO. 50-000-15-00058- AA

1. ***Parties*.** This Participating Addendum is a contract between the **State of Vermont**, Department of Buildings and General Services, Office of Purchasing & Contracting (hereinafter "State" or "Vermont"), and 22nd Century Technologies, Inc., a for-profit corporation with principal place of business in Somerset, NJ, (hereinafter "Contractor"). It is the Contractor's responsibility to contact the Vermont Department of Taxes to determine if, by law, the Contractor is required to have a Vermont Department of Taxes Business Account Number.

2. ***Subject Matter*.** The subject matter of this Participating Addendum is the purchase of temporary employment services pursuant the New Mexico NASPO ValuePoint Master Agreement No. 50-000-15-00058- AA (hereinafter the "Master Agreement"), which is hereby incorporated by reference and shall apply to purchases made under this Participating Addendum.

3. ***Maximum Amount***. In consideration of the services to be performed by Contractor, the State agrees to pay Contractor, in accordance with the payment provisions specified in Attachment B, a sum not to exceed $500,000.00.

4. ***Contract Term.*** The period of Contractor's performance shall begin on September 1, 2017 and end on February 1, 2019 with an option to extend for three additional years upon mutual agreement of both parties, unless terminated earlier in accordance with the terms of this Participating Addendum or the Master Agreement.

5. ***Prior Approvals*.** In accordance with current State law, bulletins, and interpretations, this Participating Addendum shall not be binding until it has been approved by the Vermont Attorney General's Office, the Department of Human Resources and the Secretary of Administration.

6. ***Agreement; Amendment.*** This Participating Addendum and the Master Agreement (including all amendments and attachments thereto) represents the entire agreement between the parties. No changes, modifications, or amendments in the terms and conditions of this Participating Addendum shall be effective unless reduced to writing, numbered and signed by the duly authorized representative of the State and Contractor.

7. ***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.

8. ***Attachments***. This Participating Addendum consists of the following attachments which are incorporated herein and shall apply to the purchase of any products or services made under this Participating Addendum:
   Attachment A: General Provisions of Contract
   Attachment B: Payment Provisions
   Attachment C: "Standard State Provisions for Contracts and Grants" effective July 1, 2016
   Attachment D: Additional Terms and Conditions
   Attachment E: Cost Sheet
   Attachment F: Temporary Work Request Form

9. ***Order of Precedence***. Any ambiguity, conflict or inconsistency between the provisions which constitute this agreement shall be resolved according to the following order of precedence:

   1) This Participating Addendum (including all Attachments)
   2) The NASPO ValuePoint Master Agreement No. 50-000-15-00058- AA

10. ***Entire Agreement***. This Participating Addendum and the Master Agreement (including all amendments and attachments thereto) constitute the entire agreement between the parties concerning the subject matter of this Participating Addendum and replaces any prior oral or written communications between the parties, all of which are excluded. There are no conditions, understandings, agreements, representations or warranties, expressed or implied, that are not specified herein. This Participating Addendum may be modified only by a written document executed by the parties hereto.

By signing below the Contractor agrees to offer the same products and/or services as on the New Mexico NASPO ValuePoint Master Agreement No. 50-000-15-00058- AA, at prices equal to or lower than the prices on that contract.

IN WITNESS WHEREOF, the parties have executed this Participating Addendum as of the date of execution by both parties below.

Participating State:	Contractor: 22nd Century Technologies, Inc.
By:	By:
Name: Christopher Cole	Name:
Title: BGS Commissioner	Title:
Date:	Date:

ATTACHMENT A: GENERAL PROVISIONS OF CONTRACT

Contractor shall provide on an as needed basis temporary employment services to locations statewide.

1. **Available Services**: The following services listed in the Master Agreement are available for purchase under this Participating Addendum:

   a. **Administrative Support (including Office and Clerical)**, which includes occupations in which workers are responsible for day to day operations such as internal and external communication, recording and retrieval of data and/or information and other paperwork required in an office. May include but is not limited to: bookkeepers, messengers, clerk-typists, stenographers, court transcribers, hearing reporters, statistical clerks, dispatchers, license distributors, payroll clerks, office machine and computer operators, legal assistants, cashiers, and toll collectors.

   b. **Commercial/Industrial Workers**, which includes occupations in which workers perform jobs which require special manual skill and a thorough and comprehensive knowledge of the processes involved in the work which is acquired through on-the-job training and experience or through apprenticeship or other formal training programs. Workers perform duties which result in or contribute to the comfort, convenience, hygiene or safety of the general public or the upkeep and care of buildings, facilities or grounds of public property. May include but is not limited to: mechanics and repairers, electricians, heavy equipment operators, stationary engineers, skilled machining occupations, carpenters, power plant operators, water and sewage treatment plant operators, service/maintenance. Workers in the following group may operate machinery: Chauffeurs, laundry and dry cleaning operatives, truck drivers, bus drivers, garage Laborers, custodial, gardeners and groundskeepers, refuse collectors, Construction laborers, park rangers (maintenance), farm workers (except managers), craft apprentices/trainees/helpers

   c. **Healthcare Staffing/Services**, which includes Medical and Healthcare related service jobs including, but is not limited to, all classes of positions, the duties of which are to advise on, administer, supervise, or perform research or other professional and scientific work, subordinate technical work, or related clerical work in several branches of medicine, surgery, and dentistry or in related patient care services such as dietetics, nursing, occupational therapy, physical therapy, pharmacy, dietitians, doctors, psychologists, and registered nurses.

   d. **Information Technology Professional Services**, which includes resources and facilities management, database planning and design, systems analysis and design, network services, programming, conversion and implementation support, network services project management, data/records management.

   e. **Professional**, which includes occupations which require specialized and theoretical knowledge, usually acquired through college training or through work experience and be licensed or certified which provides comparable knowledge to college degree. May Include but is not limited to: personnel and labor relations workers, social workers, economists, lawyers, systems analysts, accountants, engineers, employment and vocational rehabilitation counselors, teachers, trainers or instructors, librarians, management analysts, surveyors and mapping scientists.

2. **Definitions**:

   a. "**HIPPA**" requires compliance with the requirements of the Health Insurance Portability and Accountability Act of 1996, 45 C.F.R. 160, 162, and 164, as amended. In the event that the functions or activities include the involvement of Protected Health Information, the awarded vendor agrees to enter into a Business Associate Agreement with the individual using agency which is under the HIPPA regulations as required by 45 C.F.R. 164.504 (e).

b. **Fully Loaded Labor Rate:** This rate contains every possible cost associated with a candidate, divided by the total number of hours worked by the candidate. For example, the cost may include the company's contribution to the candidate's pension plan; all benefit costs, payroll taxes, overtime, shift differential, and the base level of compensation. This rate is typically aggregated for entire classifications of candidates, so that (for example) the fully loaded labor rate for an average machine operator may be commonly available.

c. **"Hourly Rate"** means the proposed fully loaded maximum hourly rates that include travel, per diem, fringe benefits and any overhead costs for Contractor personnel, as well as Subcontractor personnel if appropriate.

d. "**Staff**" means any individual who is a full-time, part-time, or an independently contracted individual with the Awarded Offeror's company and not an employee of the State of Vermont or Participating Entities. Staff will not be provided employee benefits from the State agencies or political subdivisions.

3. Consistent with Section 5.7 of Contractor's proposal, candidates may be hired as a permanent employee of the State or Procuring Agency if, the Procuring Agencies and hiring processes have been complied with and if the candidate elects to accept employment with the State or Procuring Agency. Such occurrence will create no further obligation (financial or otherwise) on the part of the Procuring Agency.

4. **Participation**: This Participating Addendum may be used by all departments, offices, institutions, and other agencies of the State of Vermont and counties (hereinafter "State Purchasers") according to the process for ordering and other restrictions applicable to State Purchasers set forth herein.

   Political subdivisions of the State of Vermont under 29 V.S.A. § 902(a) and any institution of higher education chartered in Vermont and accredited or holding a certificate of approval from the State Board of Education (hereinafter "Additional Purchasers") may participate in this contract at the same prices, terms and conditions. Further, items furnished to Additional Purchasers will be billed directly to and paid for by the Additional Purchaser. Neither the State of Vermont nor its Commissioner of Buildings and General Services, personally or officially, assumes any responsibility or liability for Additional Purchasers.

5. **Reporting:** Contractor shall submit quarterly reports electronically in the same format as set forth under the Master Agreement, detailing the purchasing of all items under this Participating Addendum. The reports shall be submitted and sent as an attachment to SOV.ThePathForward@vermont.gov . Reports shall contain accurate descriptions of the products, goods or services procured, purchaser information, quantities procured and prices paid. This report shall include all sales under this Participating Addendum. Any exception to this mandatory requirement or failure to submit complete reports, or in the format required, may result in corrective action, up to and including termination for cause. Contractor's reporting shall state "no activity" for any month in which there is no activity during a quarterly reporting period.

   Quarterly reports must be submitted in accordance with the following schedule:

Reporting Period	**Report Due**
January 1 - March 31	April 30
April 1 - June 30	July 30
July 1 - September 30	October 30
October 1 - December 31	January 30

6. **Primary Contacts**: The primary contact individuals for this Participating Addendum are as follows (or their named successors):

   Contractor

Name	22nd Century Technologies, Inc. Ravinder S. Rawat
Address	1 Executive Drive, Suite 285, Somerset, NJ 08873
Telephone	908-765-0002 Ext. 259

E-mail	ravinderr@tscti.com

State of Vermont

Name	State of Vermont, Brian Berini
Address	109 State Street, Montpelier, VT 05609-3001
Telephone	802/828-2217
Fax	802/828-2222
E-mail	brian.berini@vermont.gov

The Parties will keep and maintain current at all times a primary point of contact for administration of this Participating Addendum.

7. **Orders**: Any order placed by the State or an Additional Purchaser for services available under this Participating Addendum (hereinafter "Purchase Order") shall be deemed to be a sale governed by the prices and other terms and conditions of this Participating Addendum, provided that the Master Agreement Number and the Participating Addendum Number must appear on every Purchase Order placed under this Participating Addendum.

   Purchase Orders may only be placed directly through Contractor or through a subcontractor of the Contractor that is both approved by Contractor and authorized by the State of Vermont (hereinafter "Reseller"). A Reseller shall not solicit or otherwise fulfill any Purchase Order unless the Reseller (i) is an approved Fulfillment Partner listed on Contractor dedicated (cooperative contract) website as an entity approved by Contractor, in accordance with Contractor's established qualifying criteria, to provide sales and service support to participants in the NASPO ValuePoint Master Price Agreement on Contractor's behalf and (ii) has executed a separate agreement with the State that directly obligates Reseller to fulfill Purchase Orders in accordance with the terms and conditions set forth in this Participating Addendum and the Master Agreement.

   Contractor may, in its sole discretion, add Fulfillment Partners at any time during the term of this Participating Addendum. Contractor may designate a minimum of two Fulfillment Partners and no set maximum number of Fulfilment Partners to provide sales and services support. Contractor, in its sole discretion, is not required to add, and may delete upon thirty (30) days written notice, any Fulfillment Partner who does not meet Contractor's established qualifying criteria, or where the addition of the entity would violate any state or federal law or regulation. Except as otherwise set forth in the Master Agreement, Contractor will not, directly or indirectly, restrict any Reseller's participation or ability to quote pricing for the State. Resellers shall not offer less favorable pricing discounts than the discounts established under the Master Agreement. However, a Reseller may offer any additional incremental discounts to the State or any Additional Purchaser, and such additional discounts, if offered, may be provided to the State or an Additional Purchaser in the discretion and at the sole legal obligation of the Reseller.

   The Master Agreement number and the State Contract Number must appear on every Purchase Order placed under this Participating Addendum.

   a. **State Purchasers Responsibilities for Requesting Services:** Prior to contacting the Contractor, the Procuring Agency is responsible to define details of the request to include, but not be limited to:

      - Number of individuals needed;
      - Job duties;
      - Equipment to be used;
      - Knowledge, skills and education and/or experience;
      - Computer software to be used;
      - Hours of work;
      - Expected length of assignment;
      - Job related attire;
      - Position location;
      - Procuring Agency contact person; and
      - Other pertinent job-related information.

Depending on the amount of detail required, it is recommended the Procuring Agency submit this information in writing via e-mail or facsimile to reduce the possibility of an inappropriate temporary assignment. The Temporary Work Request Form (Attachment F) should be used to ensure that requirements are correctly identified to the Contractor.

b. **Background checks:** The Procuring Agency is responsible for requesting additional background investigations beyond normal references prior to the temporary assignment.

- Should an additional background check be required due to the nature of the assignment, the Procuring Agency may be responsible for the cost of the additional checks.
- It is reasonable to expect employment eligibility and references will be required for all candidates; background checks for referrals by the Procuring Agency will be at the discretion of the Procuring Agency.
- Standard checks which would include employment eligibility and reference checks shall be at the cost of the Awarded Offeror (s).
- Other background checks will be at the discretion of each requesting Procuring Agency.
- Procuring Agencies reserve the right to request and conduct pre-employment background checks and drug testing prior to the potential candidates starting date.
- Procuring Agencies will limit their background checks and drug testing requirements to the same as required of their own permanent full-time employees holding the same or similar positions to be filled by the candidate.

c. The State does not agree to reimburse Contractor for expenses except as may be specified in Attachment B to this Participating Agreement.

d. **Performance Measures:**

- Contractor shall notify the Procuring Agency on availability within four (4) hours after a request is made for services that will commence within five (5) working days following the request;
- Contractor shall notify the Procuring Agency on availability within two (2) days after a request is made for services that will commence later than five (5) working days following the request;
- Contractor shall will confirm with the Procuring Agency the arrival of its Candidate by telephone within one-half (1/2) hour after scheduled arrival time.
- All temporarily assigned individuals will be appropriately dressed for the assignment and shall maintain a professional demeanor. Dress code policy is established by the individual agencies. Temporary Candidate must dress according to the requirements of the Procuring Agency requesting the assignment.
- Temporarily assigned individuals should be available for the entire length of the assignment; however, if a replacement is required, a qualified replacement must be provided within twenty-four (24) hours of notification, including weekends and holidays.
- If an employee is not meeting the State's expectations, the Contractor shall take steps to remedy the situation immediately. The Contractor shall counsel, replace or remove the employee when deemed

necessary.

e. The Procuring Agency reserves the right to reduce the length of the temporary assignment and shall provide the Contractor with as much notification as possible.

ATTACHMENT B: PAYMENT PROVISIONS

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

1. **Payment Terms:** Net 30 from the date the State receives an error-free invoice.

2. **Pricing:** For offerings and complete details of pricing, please refer to Attachment E – Cost Sheet on-line at: https://s3-us-west-2.amazonaws.com/naspovaluepoint/1486582859_22nd%20Century%20Master%20Agreement%20Pricing(2-8-17).pdf . The following represents an overview of pricing:

   As set forth in Attachment E, Contractors Administrative Services Fees is the percentage amount Contractor charges for the fulfillment of a position excluding the fully burdened labor rate. Contractors Administrative Service Fee is a not to exceed maximum percentage and may be negotiated at a lower percentage rate.

Category	Administrative Service Fee
Administrative Support (including Office and Clerical)	28%
Commercial/Industrial Workers	32%
Healthcare Staffing/Services	30%
Information Technology Professional Services	45%
Professional	34%

3. **Invoicing:** Invoices shall be submitted on the Contractor's or it's Resellers standard billhead and forwarded directly to the institution or agency ordering materials or services and shall specify the address to which payments will be sent. Invoices must include the Purchase Order Number(s) for which the invoice is being submitted.

4. **Purchasing Card:** State purchasers may use the State Purchasing Card for the payment of invoices. Use of the Purchasing Card requires all required documentation applicable to the purchase. The Purchasing Card is a payment mechanism, not a procurement approach and, therefore, does not relieve departments from adhering to all procurement laws, regulations, policies, procedures, and best practices. This includes but is not limited to the application of all sales and use tax laws, rules and policies as applicable to the purchase.

ATTACHMENT C: STANDARD STATE PROVISIONS FOR CONTRACTS AND GRANTS
REVISED JULY 1, 2016

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 the 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. In the event the State withholds approval to settle any such claim, then the Party shall proceed with the defense of the claim but under those circumstances, the Party's indemnification obligations shall be limited to the amount of the proposed settlement initially rejected by the State.

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 in the event that 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.

The Party agrees that in no event shall the terms of this Agreement nor any document required by the Party in connection with its performance under this Agreement obligate the State to defend or indemnify the Party or otherwise be liable for the expenses or reimbursement, including attorneys' fees, collection costs or other costs of the Party except to the extent awarded by a court of competent jurisdiction.

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 the 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 the Contract, 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. Federal Requirements Pertaining to Grants and Subrecipient Agreements:

A. Requirement to Have a Single Audit: In the case that this Agreement is a Grant that is funded in whole or in part by federal funds, 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 the case that this Agreement is a Grant that is funded in whole or in part by Federal funds, 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 the case that this Agreement is a Grant funded in whole or in part by Federal funds, in accordance with 2CFR 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.

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 the 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 the 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 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 23 ("Certification Regarding Use of State Funds"); Section 31 ("State Facilities"); and Section 32 ("Location of State Data").

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. Certification Regarding Use of State Funds: In the case that 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.

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

25. 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.

26. 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.

27. 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.

28. Termination: In addition to any right of the State to terminate for convenience, the State may terminate this Agreement as follows:

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. No Implied Waiver of Remedies: A 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.

29. 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.

30. 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.

31. 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.

32. 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 continental United States, except with the express written permission of the State.

(End of Standard Provisions)

ATTACHMENT D

ADDITIONAL TERMS AND CONDITIONS

Attachment C: Standard State Provisions for Contracts and Grants, Section 8. Insurance is amended by adding the following:

Regarding staffing services in the following categories, Party must provide professional liability coverage with the following:

a. Healthcare Staffing/Services, which includes Medical and Healthcare related service jobs including, but is not limited to, all classes of positions, the duties of which are to advise on, administer, supervise, or perform research or other professional and scientific work, subordinate technical work, or related clerical work in several branches of medicine, surgery, and dentistry or in related patient care services such as dietetics, nursing, occupational therapy, physical therapy, pharmacy, dietitians, doctors, psychologists, and registered nurses.
   Medical Malpractice Coverage: $1,000,000 per claim / $3,000,000 aggregate

b. Information Technology Professional Services, which includes resources and facilities management, database planning and design, systems analysis and design, network services, programming, conversion and implementation support, network services project management, data/records management.
   Cyber Liability Errors & Omissions Coverage: $1,000,000 per claim / $2,000,000 aggregate

c. Professional, which includes occupations which require specialized and theoretical knowledge, usually acquired through college training or through work experience and be licensed or certified which provides comparable knowledge to college degree. May Include but is not limited to: personnel and labor relations workers, social workers, economists, lawyers, systems analysts, accountants, engineers, employment and vocational rehabilitation counselors, teachers, trainers or instructors, librarians, management analysts, surveyors and mapping scientists.
   Professional Liability / Errors & Omissions Coverage: $1,000,000 per claim / $2,000,000 aggregate

Solicitation # 50-000-15-00058 - Temporary Staffing Services
State of New Mexico and NASPO participating states

Offeror: DatamanUSA, llc

COST SHEET

CATEGORY	OFFEROR'S ADMINISTRATIVE SERVICE Fee * (based on a percentage for all Participating States throughout the United States)
1. Administrative Support (Including Office and Clerical)	42%
2. Commercial/Industrial Workers	44%
3. Healthcare Staffing Services	45%
4. Information Technology Professional Services	N/A 45%
5. Professional	44%

*The Offeror's Administrative Service Fee is the amount (based on a percentage) the Offeror charges for the fulfillment of a positon excluding the fully loaded labor rate as defined in this RFP. If the Offeror is not responding to all Categories listed above, insert NA (not applicable).

Offeror's Administrative Service Fee is a not to exceed maximum percentage; however, the Offeror's Administrative Service Fee submitted in Offeror's proposal may be negotiated at a lower percentage.

ATTACHMENT F

TEMPORARY WORK REQUEST *(Add sheets if needed, a detailed Statement of Work is required for technology procurements)*

Requestor:		**Phone #:**		**Email:**	
Department:		**Agency:**		**# Staff Requested:**	

TYPE OF SERVICE NEEDED *(indicate with an "X" in the corresponding box)*

	a. Administrative Support (including Office and Clerical), which includes occupations in which workers are responsible for day to day operations such as internal and external communication, recording and retrieval of data and/or information and other paperwork required in an office. May include but is not limited to: bookkeepers, messengers, clerk-typists, stenographers, court transcribers, hearing reporters, statistical clerks, dispatchers, license distributors, payroll clerks, office machine and computer operators, legal assistants, cashiers, and toll collectors.
	b. Commercial/Industrial Workers, which includes occupations in which workers perform jobs which require special manual skill and a thorough and comprehensive knowledge of the processes involved in the work which is acquired through on-the-job training and experience or through apprenticeship or other formal training programs. May include but is not limited to: mechanics and repairers, electricians, heavy equipment operators, stationary engineers, skilled machining occupations, carpenters, power plant operators, water and sewage treatment plant operators, service/maintenance. Workers in the following group may operate machinery: Chauffeurs, laundry and dry cleaning operatives, truck drivers, bus drivers, garage Laborers, custodial, gardeners and groundskeepers, refuse collectors, Construction laborers, park rangers (maintenance), farm workers (except managers), craft apprentices/ trainees/ helpers.
	c. Healthcare Staffing/Services, which includes Medical and Healthcare related service jobs including, but is not limited to, all classes of positions, the duties of which are to advise, administer, supervise, research or other professional and scientific work, technical work, or related clerical work in several branches of medicine, surgery, and dentistry or in related patient care services such as dietetics, nursing, occupational therapy, physical therapy, pharmacy, dietitians, doctors, psychologists, and registered nurses.
	d. Information Technology Professional Services, which includes facilities management, database planning/design, systems analysis/ design, network services, programming, conversion & implementation support, network services, project management, data/records management.
	e. Professional, which includes occupations which require specialized and theoretical knowledge, usually acquired through college training or through work experience and be licensed or certified which provides comparable knowledge to college degree. May Include but is not limited to: personnel and labor relations workers, social workers, economists, lawyers, systems analysts, accountants, engineers, employment and vocational rehabilitation counselors, teachers, trainers or instructors, librarians, management analysts, surveyors and mapping scientists.

Position Title:	**Hours Per Week:**	**Work Shift Time Begin / End:**	**Expected Start Date:**	**Expected End Date:**

Physical Location of Work *(include Room #):*	**Min. Education Level Needed :**	**Experience/Certification/Licensure/Required:**
	Min. Yrs. of Relevant Experience:	

Duties: *(Provide a general overview/summary of the essential functions/ responsibilities the position will perform)*

Critical Qualifications/ Skills: *(Please consider and provide a description of the daily activities and indicate the critical qualifications for a successful candidate (i.e. customer service skills, multi--tasking abilities, proficient with Excel etc.)*

YES / NO	OTHER PERTINANT INFORMATION		
	This position will have access to sensitive/confidential information or info. systems.	Computer hardware to be used:	
	This position will directly work with children, vulnerable adults or in healthcare setting.		
	This position will handle cash, checks, process payments or be involved in procurement.	Computer software to be used:	
	This position will require a current background check and/or drug testing.		
	This position will require professional attire to be worn at the workplace.		

Primary Approver (Print):		**Sign:**		**Date:**	
Additional Approver (Print):		**Sign:**		**Date:**	
Additional Approver (Print):		**Sign:**		**Date:**	
Primary Contact Person *(with knowledge of the position)* **:**		**Phone #:**		**Email:**	

Agency:	**Dpartment:**	**Dept. ID:**	**Business Unit:**	**Notes:**	