

CONSENT TO ASSIGNMENT

Assignment #1

Original Contract CMS # 42666

Assignment CMS # 53662

1 PARTIES

This Consent to Assignment to the above-referenced Original Contract (hereinafter called the Contract) is entered into by and between 22nd Century Technologies, Inc. (hereinafter called "Assignor"), 22nd Century Staffing, Inc. (hereinafter called "Assignee"), and the STATE OF COLORADO (hereinafter called the "State") acting by and through the Department of Personnel & Administration, Division of Finance and Procurement, State Purchasing Office (hereinafter called the "State" or SPO).

2 EFFECTIVE DATE AND NOTICE OF NONLIABILITY

This Consent to Assignment shall not be effective or enforceable until it is approved and signed by the Colorado State Controller or designee (hereinafter called the "Effective Date"). The State shall not be liable to pay or reimburse Assignee for any performance hereunder including, but not limited to, costs or expenses incurred, or be bound by any provision hereof prior to the Effective Date.

3 FACTUAL RECITALS

The Parties to this Assignment desire to replace Assignor under the Contract and outstanding Orders (as such term is defined in the Contract) and substitute Assignee to the extent provided for herein. Assignor and Assignee hereby represent to the State that they are parties to a binding agreement assigning all of Assignor rights and obligations under the Contract and outstanding Orders to Assignee.

4 CONSIDERATION-COLORADO SPECIAL PROVISIONS

The Parties acknowledge that the mutual promises and covenants contained herein and other good and valuable consideration are sufficient and adequate to support this Contract. Assignor and Assignee agree to replacing the Colorado Special Provisions with the most recent version (if such have been updated since the Contract and any modification thereto were effective) as part consideration for the State's consent to this assignment.

5 LIMITS OF EFFECT

This Consent to Assignment is incorporated by reference into the Contract, and the Contract and Orders and all prior amendments thereto, if any, remain in full force and effect except to the extent specifically modified hereby.

6 EFFECT OF ASSIGNMENT

When this Assignment takes effect, Assignee shall be substituted for Assignor under the Contract and all outstanding Orders, subject to the following provisions:

- a. Assignee shall thereafter perform all of Assignor's obligations under the Contract and all outstanding Orders except to the extent limited by **Attachment A**, if any, (the assignment agreement between Assignor and Assignee), which if attached hereto is incorporated by reference herein. Regarding **Attachment A** (check one):
 - i. ☐ **Attachment A** is attached and does exist.
 - ii. ☒ **Attachment A** is not attached and does not exist.
- b. Assignee shall perform all assigned duties and obligations of Assignor as if it were the original Contractor, the State shall look to Assignee for all such performance, and Assignor shall not be liable for any further performance thereof except to the extent Assignee fails to properly perform, in which event, Assignor, if Assignor still exists as an entity following this Assignment, shall correct such performance if requested to do so by the State.
- c. Hereinafter, the term "Contractor" as used in the Contract and all outstanding Orders and any amendment thereto refers to Assignee.

7 START DATE

This Assignment shall take effect on the later of its Effective Date or March 1, 2013.

8 WAIVER

Assignor hereby waives any and all rights and claims, known or unknown, it may have against the State, effective as of the Effective Date of this Assignment. All payments and reimbursements previously made by the State to Assignor, and all other previous actions taken by the State under the Contract and all previously performed Orders, shall be considered to have discharged any State obligations to Assignor thereunder. All payments made by the State after the Effective date of this Assignment in the name of or to Assignor shall have the same force and effect as if made to Assignee, and shall constitute a complete discharge of the State's obligations under the Contract and all previously performed Orders to the extent of the amount paid.

9 ORDER OF PRECEDENCE

Except for the Special Provisions, in the event of any conflict, inconsistency, variance, or contradiction between the provisions of this Consent to Assignment and any of the provisions of the Contract or **Attachment A** hereto, the provisions hereof shall in all respects supersede, govern, and control. The most recent version of the Special Provisions incorporated into the Contract or any amendment shall always control other provisions in the Contract or any amendments.

10 AVAILABLE FUNDS

Financial obligations of the state payable after the current fiscal year are contingent upon funds for that purpose being appropriated, budgeted, or otherwise made available.

11 CONSENT TO ASSIGNMENT

The State hereby consents to the assignment of this Contract and all outstanding Orders between Assignor and Assignee subject to the provisions of this Consent to Assignment.

THE PARTIES HERETO HAVE EXECUTED THIS ASSIGNMENT

*** Persons signing for Assignor and Assignee hereby swear and affirm that they are authorized to act on behalf of the Assignor and Assignee, and acknowledge that the State is relying on their representations to that effect.**

<p style="text-align: center;">ASSIGNOR 22nd Century Technologies, Inc.</p> <p>By: Satvinder Singh Title: President & CEO</p> <p>_____</p> <p style="text-align: center;">*Signature</p>	<p style="text-align: center;">ASSIGNEE 22nd Century Staffing, Inc.</p> <p>By: Satvinder Singh Title: President & CEO</p> <p>_____</p> <p style="text-align: center;">*Signature</p>
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STATE OF COLORADO

John W. Hickenlooper, Governor
Department of Personnel & Administration
Division of Finance and Procurement
State Purchasing Office
Kathy Nesbitt, Executive Director

By: Carol Pfarr, Division Director

Signatory avers to the State Controller or delegate that Contractor has not begun performance or that a Statutory Violation waiver has been requested under Fiscal Rules

Date: 3/11/2013

ALL CONTRACTS REQUIRE APPROVAL BY THE STATE CONTROLLER

CRS §24-30-202 requires the State Controller to approve all State Contracts. This Assignment is not valid until signed and dated below by the State Controller or delegate. Assignee is not authorized to begin performance until such time. If Assignee begins performing prior thereto, the State of Colorado is not obligated to pay Assignee for such performance or for any goods and/or services provided hereunder.

STATE CONTROLLER
David J. McDermott, CPA

By: _____

Date: 3-21-2013