

# Purchase Order

## STATE BOARD OF ADMINISTRATION

1801 HERMITAGE BLVD.  
TALLAHASSEE FL 32308  
United States

**Supplier:** 0000697765  
22ND CENTURY TECHNOLOGIES INCORPORATED  
220 DAVIDSON AVE, STE 118  
SOMERSET NJ 08873

Dispatch via Print

<b>Purchase Order</b>	<b>Date</b>	<b>Revision</b>	<b>Page</b>
FSBA1-0000007466	07/12/2022		1
<b>Payment Terms</b>	<b>Freight Terms</b>	<b>Ship Via</b>	
NET20	Free On Board Destination	Common	
<b>Buyer</b>	<b>Phone/Email</b>	<b>Currency</b>	
Edi Hinz		USD	

**Ship To:** HERMITAGE  
1801 HERMITAGE BLVD.  
TALLAHASSEE FL 32308  
United States

**Bill To:** 1801 HERMITAGE BLVD.  
TALLAHASSEE FL 32308  
United States

**Tax Exempt?** Y **Tax Exempt ID:** 596001872

**Replenishment Option:** Standard

Line-Sch	Item/Description	Quantity	UOM	PO Price	Extended Amt	Due Date
1 1	PO: 22nd Century - SOW Attn: Cindy Morea	1.00	EA	1.00	1.00	07/12/2022

**Schedule Total** 1.00

FSBA1 -02001 -77215 -125

**Item Total** 1.00

**Total PO Amount** 1.00



# Purchase Order

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FSBA1-0000007466	07/12/2022		2
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Buyer	Phone/Email	Currency	
Edidi Hinz		USD	

#### 1. ACCEPTANCE; PURCHASE ORDER CONSTITUTES ENTIRE AGREEMENT.

This Purchase Order ("Order") constitutes the offer of the State Board of Administration of Florida ("SBA") and such offer may be accepted by the vendor identified on the Purchase Order ("Supplier") only in accordance with the terms hereof. Fulfillment of any part of an Order, or any other conduct by Supplier which recognizes the existence of a contract pertaining to the subject matter of such Order, shall constitute acceptance by Supplier of such Order and all of the terms and conditions included or referenced herein (the "Contract Terms"). SBA objects to any terms proposed in Supplier's proposal, sales note, acknowledgment or other form of acceptance of SBA's offer ("Supplier's Proposed Terms") which add to, vary from, or conflict with the Contract Terms. Any such Supplier's Proposed Terms shall be void and the Contract Terms constitute the complete and exclusive statement of the terms and conditions between Supplier and SBA. The Contract Terms may be modified only by a written instrument executed by authorized representatives of both Supplier and SBA. If an Order has been issued by SBA in response to Supplier's offer and if any of the Contract Terms add to, vary from or conflict with any terms of Supplier's offer (e.g., Supplier's standard terms and conditions of sale), then the issuance of the Order by SBA shall constitute an acceptance of Supplier's offer subject to the express conditions that Supplier assents to the additional, different and conflicting Contract Terms and acknowledges that the Order and these Contract Terms constitutes the entire agreement between Supplier and SBA with respect to the subject matter hereof and the subject matter of Supplier's offer. Supplier shall be deemed to have so assented and acknowledged unless Supplier notifies SBA to the contrary in a writing signed by Supplier's authorized representative within ten (10) working days of receipt of the Order, and only so long as the Supplier has not fulfilled all or any part of the Order.

#### 2. DELIVERY/TITLE. Delivery shall be f.o.b. point of destination and title shall pass to SBA upon acceptance at the final delivery point. Risk of damages or loss following shipment and prior to acceptance by SBA shall be the responsibility of Supplier.

#### 3. RIGHT OF INSPECTION AND REJECTION. Material and equipment supplied by Supplier shall be received subject to SBA's inspection and approval within a reasonable time after delivery, notwithstanding prior payment. If specifications or warranties are not met, material and equipment may be returned at Supplier's expense. No material or equipment returned to Supplier as defective shall be replaced except upon SBA's formal authorization, and the price of such returned material shall be deducted from the price hereunder.

#### 4. DISCLOSURE OF PUBLIC RECORDS. Supplier recognizes that SBA and its records are subject to the provisions of the laws of the State of Florida governing the disclosure of public records, including without limitation Florida's Public Records Law, Chapter 119, Florida Statutes (such laws collectively referred to herein as the "FPRL"), and further acknowledges, understands and agrees that, absent a statutory exemption from disclosure that the Order is likewise subject to public inspection pursuant to the provisions of the FPRL.

SBA hereby advises Supplier that SBA is an "agency" for purposes of the FPRL, and that all information received by SBA (including without limitation Supplier's pricing information) will constitute "public records" for purposes of the FPRL which will be subject to public access and disclosure in the manner provided in the FPRL, unless an exemption from the public access and disclosure requirements of the FPRL is available under Florida law in connection with particular records received or maintained by SBA.

Supplier agrees that SBA shall be relieved from any confidentiality or other obligations (under any agreement with Supplier or otherwise) to the extent necessary to comply with SBA's obligations under the FPRL. In the case of a conflict between any agreement with Supplier and the FPRL, the provisions of the FPRL will prevail. All confidentiality and non-disclosure obligations and undertakings of SBA are provided only to the extent permitted under the laws of the State of Florida. Further, SBA shall not be liable to Supplier if SBA makes available to the public any record or other information received from Supplier that was required to be made public by SBA pursuant to the FPRL.

#### 5. NOTICES. All notices required hereunder shall be in writing, addressed to the address set forth in the Order (or to such address for a party as it shall subsequently provide by written notice to the other), and shall be delivered manually, via registered or overnight mail or courier, facsimile transmission, or electronic mail, with delivery deemed given upon (i) manual delivery by a party, if delivered manually, or (ii) confirmed receipt through (a) a nationally recognized courier service, if delivered by mail or overnight, (b) printed notice of successful facsimile transmission, if delivered by facsimile, or (c) printed notice of successful transmission of electronic mail, if delivered by electronic mail.

#### 6. LIMITATION OF SBA AUTHORITY. Supplier acknowledges that SBA may be prohibited from entering into any agreement or obligation regarding indemnification, limitation of remedies, disclaimer of liability, limitation of liability, or liquidated damages. Supplier agrees that the SBA will not be bound or deemed to have agreed to any indemnification, limitation of remedies, disclaimer of liability, limitation of liability, liquidated damages or similar provision set forth in the Contract Terms, Supplier's Proposed Terms or set forth in any other agreement between SBA and Supplier.

#### 7. GOVERNING LAW; VENUE. The Contract Terms shall be governed by and construed in accordance with the laws of the State of Florida, without giving effect to the conflict of law principles thereof. Any proceedings to resolve disputes regarding or arising out of the Contract Terms shall be conducted in the state courts located in Leon County, Florida, and the parties hereby consent to the jurisdiction and venue of those courts. As an entity of state government of the United States of America, SBA does not waive its right (i) to not submit to the jurisdiction of (a) any court outside the United States, or (b) a United States federal court; or (ii) to a jury trial.

**STATE BOARD OF ADMINISTRATION (SBA)**

**and**

**22<sup>ND</sup> CENTURY TECHNOLOGIES, INC.**

**STATEMENT OF WORK (SOW)**

**FOR**

**FY 2022/2023 ENHANCEMENTS AND ARCHITECTURE  
IMPROVEMENTS FOR THE FLORIDA RETIREMENT SYSTEM  
INVESTMENT PLAN**

This Statement of Work ("SOW" or "Statement of Work") is attached to and incorporated in Purchase Order No. 7466 ("PO" or "Purchase Order") between 22<sup>nd</sup> Century Technologies, Inc. (22<sup>nd</sup> Century) and the State Board of Administration of Florida ("SBA"). This SOW sets forth the services that 22<sup>nd</sup> Century will perform under the PO (the "Services").

This Statement of Work is subject to the terms of the Purchase Order, and the State of Florida Information Technology Staff Augmentation Services Contract 80101507-SA-15-01, and any amendments thereto. Any conflicts between the documents shall be resolved in the order of this Statement of Work, the PO, and the Information Technology Staff Augmentation Services Contract. The term "Parties" means the SBA and 22<sup>nd</sup> Century, and the term Contracting Officer means the SBA's contract official assigned to this Agreement.

## I. Scope and Schedule of Services

This section outlines the scope and schedule of services to be provided by 22<sup>nd</sup> Century to the SBA for enhancements and architecture improvements for the Florida Retirement System (FRS) Investment Plan. 22<sup>nd</sup> Century will work with the SBA and FRS Investment Plan service providers (e.g. TekStream, GuidedChoice, Alight Solutions) to implement the required enhancements and to perform architecture improvements as outlined below.

Task #	Enhancement	Description	Level of Effort (Hours)	Due Date
1	Certificate Upgrades/Installs	Install and test new certificates associated with the MyFRS Partners (for example TekStream, Alight, GuidedChoice)	25	6/30/2023
2	Advisor Service / Choice Service Enhancements	New fields or changes to existing fields on the Advisor / Choice services	50	6/30/2023
3	New Reports / Information Requests	New reports, complex queries, information requests, and other miscellaneous enhancements that require new code development and/or a significant amount of effort to generate (examples: Retiree count by age group, fatal error counts, population files for Guided Choice, complex legislative data requests)	80	6/30/2023
4	MyFRS.com Updates	Miscellaneous enhancements that may be needed as a result of the MyFRS.com website.	25	6/30/2023
<b>Total Hours:</b>			<b>180</b>	

The required software development tasks and system changes will be performed by 22<sup>nd</sup> Century. Activities in support of these efforts may include planning, requirements analysis, design, development, testing, and implementation that will be performed during the Fiscal Year 2022-2023.

## II. Pricing Breakdown

The following table provides a breakdown of our Time and Materials pricing.

Task	Job Family / Job Title / Job #	Estimated Hours	Discounted Rate	Exended Price
1	Applications Development / Applications Architect / 1220	25	\$79.00	\$1,975.00
2	Applications Development / Applications Architect / 1220	50	\$79.00	\$3,950.00
3	Applications Development / Applications Architect / 1220	80	\$79.00	\$6,320.00
4	Applications Development / Applications Architect / 1220	25	\$79.00	\$1,975.00
			<b>Total Price</b>	<b>\$14,220.00</b>

## III. Invoicing

22<sup>nd</sup> Century will perform the Services described in this SOW on a time and materials basis in accordance with 22<sup>nd</sup> Century's established billing policies and the proposed hourly rates provided in Section II of this document. Actual hours will be reported as part of the invoice as well as the tasks performed. The breakdown of the estimated fees per task are detailed in this section.

The following table illustrates the payment schedule breakdown.

Task Number	Enhancement	Estimated Fees
1	Certificate Upgrades / Installs	\$1,975.00
2	Advisor Service / Choice Service Enhancements	\$3,950.00
3	New Reports / Information Requests	\$6,320.00
4	MyFRS.com Updates	\$1,975.00
<b>Totals</b>		<b>\$14,220.00</b>

22<sup>nd</sup> Century will submit invoices to the SBA, Office of Defined Contribution Programs, included with a reference to the Purchase Order. If the invoice is received in good order and no supplemental information is needed to process the invoice, the SBA will remit payment within 30 days of receipt. The SBA will have 30 days from receipt of the invoice to review and, if necessary, request supplemental information or clarification from 22<sup>nd</sup> Century. Upon receipt of all requested supplemental information, if any, the SBA will have 30 days after receipt of the supplemental information to remit payment to 22<sup>nd</sup> Century. If any of the work performed by 22<sup>nd</sup> Century will

have an impact on the Division of Retirement's (Division's) IRIS System, 22<sup>nd</sup> Century shall obtain the Division's written attestation of the work performed and remit with the invoice to the SBA.

22<sup>nd</sup> Century will not incur fees in excess of \$14,220.00 without first obtaining SBA's approval, and 22<sup>nd</sup> Century will not be obligated to continue to provide the services or complete the work unless a written agreement is reached by both parties as to additional fees and expenses.

#### **IV. Travel and Other Direct Costs (ODCs)**

The price does not include cost related to travel. Should the need arise for travel-related costs during the contract, 22<sup>nd</sup> Century will obtain authorization from the SBA prior to incurring or invoicing of these costs.

Authorized and approved travel costs will be incurred and invoiced in accordance with the SBA's Guide for Professional Services Travel Reimbursement attached as Attachment 1.

#### **V. Obligations, Staffing, and Assumptions**

##### SBA Obligations

Upon execution of this Statement of Work, the SBA will:

- Make themselves and the FRS Investment Plan service providers available in a timely manner for meetings to assist during design, development, and testing.
- Work with 22<sup>nd</sup> Century promptly to resolve issues that may arise during design, development, testing, and implementation.
- Work with 22<sup>nd</sup> Century promptly to create a change order should additional requirements be introduced to the scope or should actions or inactions by the SBA result in a delay.

##### 22<sup>nd</sup> Century Obligations

Upon execution of this Statement of Work, 22<sup>nd</sup> Century will:

- Provide project management in addition to leading the design, development, and testing activities.
- Issue an invoice on a monthly basis via the process described in the Section III.

##### Staffing

22<sup>nd</sup> Century will use commercially reasonable efforts to provide resources who have previously provided service and support to the SBA and the FRS Investment Plan. Team members will participate in design, development, and testing activities. The team members have knowledge of the FRS Investment Plan, MyFRS.com, the online services MyFRS.com provides, and the changes required as documented within this Statement of Work.

##### Assumptions

- If required, the Division of Retirement will provide the hardware and software infrastructure necessary to support the changes.
- Requirements, rules, policies, etc. will not vary significantly from initial definition and design.

- 22<sup>nd</sup> Century's offsite development team members will be provided secure access to the development environment (with adequate scrambles/fictitious test data), hosted by the Division of Retirement in the State Data Center and in accordance with the State Board of Administration Data Security Addendum. The SBA requires its vendors to comply with and use the E-Verify system to verify the employment eligibility of newly hired employees performing services within the United States in accordance with Section 448.095, Florida Statutes. 22<sup>ND</sup> Century acknowledges that SBA is subject to and 22<sup>ND</sup> Century agrees to comply with Section 448.095, Florida Statutes, as amended from time to time, to the extent applicable

## **VI. Data Security**

The parties agree to terms set forth in Attachment 2, State Board of Administration Data Security Addendum.

## **VII. Limitation of Liability/Indemnification/Judicial Proceedings**

Limitation of Liability. 22<sup>nd</sup> Century shall not be liable to SBA for any claims, liabilities, or expenses ("Claim") relating to this Purchase Order, or the services performed hereunder, for an aggregate amount in excess of the greater of \$100,000, the dollar amount of the purchase order, or two times the charges rendered by the 22<sup>nd</sup> Century under the purchase order, except to the extent resulting from the gross negligence, recklessness, bad faith or intentional misconduct of 22<sup>nd</sup> Century. 22<sup>nd</sup> Century shall not be liable to SBA for any loss of use, goodwill, revenues, or profits, or any consequential, special, indirect, incidental, punitive, or exemplary loss, damage, or expense relating to this Purchase Order or the services performed hereunder. Any limitation of liability shall not apply to claims arising under the Indemnification paragraphs in this Agreement. Any limitations on liability set forth herein shall be valid only to the maximum extent permitted under Florida law.

Indemnification. 22<sup>nd</sup> Century shall be fully liable for the actions of its agents, employees, partners, or subcontractors and shall fully indemnify, defend, and hold harmless the State and the SBA, and their officers, agents, and employees, from suits, actions, damages, and costs of every name and description, including attorneys' fees, arising from or relating to personal injury and damage to real or personal tangible property alleged to be caused in whole or in part by 22<sup>nd</sup> Century its agents, employees, partners, or subcontractors, provided, however, that 22<sup>nd</sup> Century shall not indemnify for that portion of any loss or damages proximately caused by the negligent act or omission of the State or the SBA. Further, 22<sup>nd</sup> Century shall fully indemnify, defend, and hold harmless the State and the SBA from any suits, actions, damages, and costs of every name and description, including attorneys' fees, arising from or relating to violation or infringement of a trademark, copyright, patent, trade secret or intellectual property right, provided, however, that the foregoing obligation shall not apply to the SBA's misuse or modification of 22<sup>nd</sup> Century's products or SBA's operation or use of 22<sup>nd</sup> Century's products in a manner not contemplated by this SOW. If any product is the subject of an infringement suit, or in 22<sup>nd</sup> Century's opinion is likely to become the subject of such a suit, 22<sup>nd</sup> Century may at its sole expense procure for the SBA the right to continue using the product or to modify it to become non-infringing. If 22<sup>nd</sup> Century is not reasonably able to modify or otherwise secure the SBA the right to continue using the product, 22<sup>nd</sup> Century shall remove the product and refund the SBA the amounts paid in excess of a reasonable rental for past use. SBA shall not be liable for any royalties. 22<sup>nd</sup> Century's

obligations under the preceding two paragraphs with respect to any legal action are contingent upon the State or the SBA giving 22<sup>nd</sup> Century (1) written notice of any action or threatened action, (2) the opportunity to take over and settle or defend any such action at 22<sup>nd</sup> Century's sole expense, and (3) reasonable assistance in defending the action at 22<sup>nd</sup> Century's sole expense. 22<sup>nd</sup> Century shall not be liable for any cost, expense, or compromise incurred or made by the State or the SBA in any legal action without 22<sup>nd</sup> Century's prior written consent, which shall not be unreasonably withheld.

Judicial Proceedings. The SBA does not agree to arbitration or any other alternative dispute resolution. Additionally, this Agreement shall not be construed as a waiver (i) of the sovereign immunity of the State of Florida; (ii) a waiver of the State of Florida's rights under the 11th Amendment to the United States Constitution; or (iii) to a jury trial.

## **VIII. Termination**

This Purchase Order may be terminated by either party for cause upon no less than thirty (30) calendar days-notice in writing to the other party, provided the breaching party does not cure the breach within such notice period.

## **IX. Intellectual Property**

Upon full payment to 22<sup>nd</sup> Century under this Purchase Order, and subject to the terms and conditions contained herein, 22<sup>nd</sup> Century hereby (i) assigns to the SBA, or its successor, all rights in and to any work product created for delivery to the SBA under this Purchase Order ("Deliverables"), except to the extent they include materials, information or other intellectual property rights created prior to or independently of the performance of the services under this Purchase Order, or created by 22<sup>nd</sup> Century or its subcontractors as a tool for their use in performing the services hereunder, or any modifications or enhancements thereto and derivative works based thereon ("22<sup>nd</sup> Century IP"); and (ii) grants to the SBA the right to use perpetually and royalty free, for the SBA's business purposes, any 22<sup>nd</sup> Century IP included in the Deliverables in connection with its use of the Deliverables. Except for the foregoing license grant, 22<sup>nd</sup> Century or its licensors retain all rights in and to all 22<sup>nd</sup> Century IP.

## **X. Severability**

If any provision of this Purchase Order or the SOW is unenforceable, such provision shall not affect the other provisions, but such unenforceable provision shall be deemed modified to the extent necessary to render it enforceable, preserving to the fullest extent permissible the intent of the parties set forth herein.

## **XI. Transparency in Contracting**

Consistent with the Florida Transparency in Contracting Initiative, the SBA posts certain operational contracts on its website, and this Agreement, as redacted and attached hereto as Attachment 3, will be one of the agreements posted. With the exception of any information 22<sup>nd</sup> Century has specifically identified and redacted from this Agreement as set forth in Attachment 3, 22<sup>nd</sup> Century hereby agrees that the SBA is authorized to post this Agreement and a description of the contents of the Agreement on the SBA's website. In addition, the parties may from time to time during the term of the Agreement enter into one or more amendments or addenda to this Agreement. With the exception of any information 22<sup>nd</sup> Century has specifically identified and redacted from any such amendment or addenda at the time 22<sup>nd</sup> Century delivers an executed



counterpart of such to the SBA, 22nd Century hereby agrees that the SBA is authorized to post any such amendment or addendum and a description of the contents thereof on the SBA's website. 22nd Century hereby understands, acknowledges and agrees that the redaction of any such information does not mean that such redacted information is protected from disclosure pursuant to a public records request under Chapter 119, Florida Statutes, or as otherwise required by law or a court or authority of competent jurisdiction.

This SOW has been reviewed and may be included with the Purchase Order to 22<sup>nd</sup> Century.

June 21, 2022

A solid black rectangular box used to redact a signature.

David Sweeny, 22nd Century

## Attachment 1

### GUIDE FOR PROFESSIONAL SERVICES TRAVEL REIMBURSEMENT

22<sup>nd</sup> Century shall comply with the provisions of this Guide in seeking reimbursement for travel expenses. SBA Travel Reimbursement Expense Reports for All Third-Party Travelers submitted to the Board that are not consistent with this Guide are subject to disallowance.

#### Reimbursement of Travel Expenses

Requests for reimbursement of travel Expenses are made by completing the SBA Travel Reimbursement Expense Report for All Third-Party Travelers, a copy of which will be provided to Provider. All supporting invoices and documentation of expenses of \$25 or more per incident must be original documents and should be thoroughly completed and attached to SBA Travel Reimbursement Expense Report form.

22<sup>nd</sup> Century shall be entitled to reasonable expenses for travel when authorized in advance by the SBA's Executive Director or his or her designee, as provided in Section 112.061, Florida Statutes, as amended from time to time, and Chapter 69I-42, F.A.C. The following summary of per diem rates and other travel related requirements applies:

#### Travel Allowance Rates

Breakfast	\$6.00
Lunch	\$11.00
Dinner	\$19.00
Per Diem	\$80.00/day (\$20.00/quarter)
Mileage Allowance	\$.445/mile

The following expenses may also be reimbursed:

- Airfare at the standard coach class (If Provider chooses to use airfares other than coach, the Provider will be responsible for paying the amount in excess of the reasonable coach airfare).
- Reasonable rental car expenses at the compact rate, subject to larger size car for more than two passengers
- Reasonable cab fares
- Daily meal allowances as outlined above
- Reasonable lodging expenses at a single rate
- Incidental expenses which include portage at \$1 per bag (max \$5 per incident), parking, tolls, fax expenses, copying, and contract related phone calls

**Note: Receipts are required for expenses over \$25 per incident.**

Attachment 2

**STATE BOARD OF ADMINISTRATION  
DATA SECURITY ADDENDUM**

This Data Security Addendum (this “**Addendum**”) is entered into as of the Effective Date, by and between the State Board of Administration of Florida (the “**SBA**”) and 22<sup>nd</sup> Century Technologies, Inc. (the “**Contractor**”) and is hereby incorporated into and made a part of the Purchase Order No. 7466 (the “**Purchase Order**”) by and between the SBA and the Contractor. This Data Security Addendum specifically applies to enhancements and architecture improvements conducted under this Purchase Order.

1. **Data Security; SBA Data**. The Contractor shall comply with the provisions of applicable SBA policies, as amended by the SBA from time to time, including: SBA Policy #20-404 Remote Access; SBA Policy #20-411 Anti-Virus; and SBA Policy #10-409 Confidential/Sensitive Electronic Data Handling. The Contractor shall provide immediate notice to the SBA in the event it becomes aware of any security breach or any unauthorized transmission or loss of any SBA Data. The Contractor will provide immediate notice to the SBA of any known or suspected violation of any SBA policy. For purposes of this Addendum, “SBA Data” means all data accessed, created, maintained, obtained, processed, stored, or transmitted by the Contractor in the course of performing the Purchase Order and all information derived therefrom.
2. **Nondisclosure**. SBA Data shall be considered confidential and proprietary information to the extent permitted by Florida or other applicable law. The Contractor shall hold SBA Data in confidence and shall not disclose SBA Data to any person or entity except as authorized by the SBA or as required by law.
3. **Loss or Breach of Data**. In the event a loss (including destruction) or breach of SBA Data in Contractor’s possession is confirmed or suspected, the Purchase Order or will promptly perform due diligence and promptly report findings to the SBA. Contractor will pay all costs to remediate and correct any problems caused by or resulting from the loss or breach (including, without limitation, the cost to notify third parties, provide two years of credit monitoring services to third parties, and recreate lost data in a manner and on the schedule set by the SBA), in addition to any other damages the SBA may be entitled to by law or the Purchase Order. Notwithstanding the forgoing, the Contractor shall not be required to provide more than two years of credit monitoring services for the same incident under both the Purchase Order and the contractor’s agreement for services with the Department of Management Services, Division of Retirement, for the same member. The Contractor will also reimburse the SBA for costs paid to any vendor for data breach response services, which may include but is not limited to security-related call centers and website activation. The Contractor acknowledges that failure to maintain security that results in a loss or breach of SBA Data may subject the Contractor to the administrative sanctions for failure to comply with Section 501.171, Florida Statutes.
4. **Security Audits**. If SBA Data will reside in the Contractor’s system, the SBA may conduct, or may request the Contractor to conduct at the Contractor’s expense, an annual

network penetration test or security audit of the Contractor's system(s) on which SBA Data resides. If the term of the Purchase Order is less than a year long, the penetration test or security audit of the Contractor's system(s) on which SBA Data resides, may be exercised at any time during the term of the Purchase Order.

5. **Data Protection.** No SBA Data will be transmitted or shipped to entities outside of the United States of America, nor will it be stored or processed in systems located outside of the United States of America, regardless of the method or level of encryption employed. Access to SBA Data shall only be available to authorized Contractor Representatives that have a legitimate business need. For purposes of this Addendum, "Contractor Representatives" means the Contractor's officers, directors, employees, agents, contractors, subcontractors and consultants (including affiliates thereof). Requests for access to the SBA's information technology resources shall be submitted to the SBA's Support and Office Services ("**Help Desk**") staff. With the SBA's approval, Contractor Representatives may be granted access to SBA information technology resources as necessary for fulfillment of related responsibilities. Prior to the provision of access to SBA information technology resources, the Contractor agrees to provide the Contractor Representatives a written copy of the SBA's Systems Use Agreement in the form provided by the SBA and attached as Exhibit I hereto (which may be amended by the SBA from time to time in the SBA's sole discretion upon providing notice as set forth in section 18 of the Agreement) (the "Systems Use Agreement"). At such time as the SBA provides access to SBA technology resources, the Contractor and any Contractor Representative who has access to SBA technology resources will be deemed to have agreed to the Systems Use Agreement (as defined above). Further, Contractor agrees to be responsible in the event any Contractor Representatives breach any of the terms set forth in the Systems Use Agreement. Remote connections are subject to detailed monitoring as deemed appropriate by the SBA.
6. **Encryption.** The Contractor shall encrypt all SBA Data, in transmission and at rest, using SBA approved encryption technologies.
7. **Indemnification.** Notwithstanding any limitation of liability, the Contractor agrees to protect, indemnify, defend and hold harmless the SBA, its trustees, officers and employees from and against any and all costs, claims, demands, damages, losses, liabilities and expenses (including reasonable counsel fees and expenses, and investigation, collection, settlement and litigation costs) resulting or arising from or in any way related to the Contractor's breach of data security, negligent acts or omissions, fraud, willful misconduct, violation of law, or breach of this Addendum or the Purchase Order including, without limitation, any breach of the Systems Use Agreement as set forth in Section 5 herein.
8. **Specific security requirements.** The Contractor shall not use SBA Data except as permitted by the Purchase Order. The Contractor has established appropriate administrative, technical, and physical safeguards to protect the confidentiality of, and to prevent the unauthorized use or access to, SBA Data.

9. **Back-ups**. The Contractor shall maintain and secure adequate back-ups of all SBA Data, including, but without limitation, all documentation and programs utilized to process or access SBA Data.
10. **Data Security Procedures**. The Contractor shall develop data security procedures to ensure only authorized access to data and databases by Contractor Representatives for purposes of performing the Purchase Order and to ensure no unauthorized access to data or databases by individuals or entities other than those authorized by the Purchase Order or the SBA. The Contractor shall ensure that access to data and databases by Contractor Representatives will be provided on a need to know basis and will adhere to the principle of least privilege. (The principle of least privilege means giving a user account only those privileges which are essential to perform its intended function.)
11. **Ownership of Data**. The Contractor shall provide to the SBA, upon its request, SBA Data in the form and format reasonably requested by the SBA. The Contractor will not sell, assign, lease, or otherwise transfer any SBA Data to third parties, or commercially exploit SBA Data, except as authorized by the SBA. The Contractor will not possess or assert any lien or other right against or to any SBA Data in any circumstances. SBA Data is and shall remain the exclusive property of the SBA. SBA Data created by the Contractor, obtained by the Contractor from a source other than the SBA, or derived from SBA Data will become property of the SBA immediately upon the creation, receipt or derivation of such data, as applicable.
12. **Background Checks**. The Contractor shall ensure that Contractor Representatives assisting in the performance of the Purchase Order have passed appropriate, industry standard, background screening (include criminal background checks) and possess the qualifications and training to comply with the terms of the Purchase Order, before being provided access to SBA Data. Upon the SBA's request, the Contractor shall provide to the SBA an attestation that the foregoing background checks have been completed.
13. **Compliance**. The Contractor represents and warrants that it is in compliance with, and agrees and covenants that it will at all times during the term of the Purchase Order continue to be compliance with, all applicable laws, regulations and industry standards (including, without limitation, all applicable laws, regulations and industry standards relating to cybersecurity or data collection, storage, security or privacy).
14. **Return / Destruction of SBA Data**. The Contractor shall not at any time destroy any SBA Data without the prior written consent of the SBA. If requested by the SBA, within 30 days of the completion, termination or expiration of the Purchase Order, the Contractor will transfer SBA Data to the SBA (if so directed by the SBA) or, unless otherwise required by any applicable law, destroy all SBA Data possessed by the Contractor. The Contractor shall provide the SBA documentation affirming the completion of any SBA requested data transfer (including confirmation of receipt by the SBA) and the destruction of any SBA Data possessed by the Contractor.
15. **Subcontractor/Agents**. The Contractor shall be responsible and accountable for the acts or omissions of Contractor Representatives to the same extent it is responsible and

accountable for its own actions or omissions under this Addendum. The Contractor agrees to impose the requirements of this Addendum on all Contractor Representatives assisting in the performance of the Purchase Order, and the Contractor shall execute a written agreement with each such Contractor Representative containing equivalent terms to this Addendum.

16. **Right to Audit.**

- a. During the term of the Purchase Order and for a period of ten (10) years after the expiration or termination of the Purchase Order, the SBA shall have the right to have any person or entity designated by the SBA, including an independent public accountant or auditor and/or any federal or state auditor, to inspect, review and/or audit, any books, records and supporting documents relating to the Purchase Order and/or the subject matter of the Purchase Order (the “**Records**”). In the event such right is exercised and upon no less than ten (10) business days’ prior written notice by the SBA, the Contractor agrees to permit reasonable access to its premises and the Records during Contractor’s normal business hours. The SBA shall have the right, in connection with any such inspection, review and/or audit, to have one or more members of its staff present at all times. During the term of the Purchase Order and for a period of ten (10) years after the expiration or termination of the Purchase Order (or for any longer period of time that may be required by any applicable law relating to the retention of Records), the Contractor shall maintain and retain the Records, at its sole expense. In the event the SBA and/or its designees are in the process of conducting such an inspection, review and/or audit upon the expiration of the ten (10)-year access and/or retention periods described herein, then this Section 16 shall survive in its entirety until the conclusion of such inspection, review and/or audit, in the SBA’s or the SBA designee’s reasonable determination. For the avoidance of doubt, the scope of any inspection, review and/or audit under this Section 16 may include, without limitation, the Contractor’s compliance with the terms of the Purchase Order, compliance with any applicable foreign, federal, state and/or local law or regulation, an assessment of risks and controls and/or the source and application of the SBA’s funds.
- b. The Contractor shall use best efforts to cooperate with the SBA and any person or entity designated by the SBA in connection with any inspection, review and/or audit under this Section 16 including, without limitation, causing its relevant and knowledgeable employees and/or representatives to be available to assist and to respond to reasonable inquiries and requests of the SBA and/or its designees. The Contractor shall respond (including, if relevant and appropriate, with an action plan) within a reasonable time to any reports, findings and/or assessments provided to the Contractor by the SBA and/or its designees, and the Contractor shall provide a copy of all such responses to the SBA. The Contractor acknowledges and agrees that any such report, finding and/or assessment is intended for the sole use and for the benefit of the SBA.

- c. Except as set forth herein, the SBA shall bear the costs of any inspection, review and/or audit described in this Section 16. However, in the event, the SBA and/or its designees conclude that the Contractor overcharged the SBA or that the Contractor engaged in or committed (including through acts or omissions) any fraud, misrepresentation and/or non-performance, then the Contractor shall be obligated to reimburse the SBA for the total costs of inspection, review and/or audit no later than ninety (90) days after the SBA's request for reimbursement thereof. The Contractor's reimbursement obligation herein shall be in addition to all other rights, remedies and damages available to the SBA at law or in equity, which shall not be deemed waived or relinquished in any way because of the Contractor's additional reimbursement obligation hereunder.

17. **Public Records.** The Contractor acknowledges that SBA Data will constitute "public records" which will be subject to public access and disclosure under Chapter 119, Florida Statutes, as amended from time to time ("**Chapter 119, Florida Statutes**") unless such records are exempt from disclosure under Chapter 119, Florida Statutes. To the extent applicable, the Contractor shall comply with Chapter 119, Florida Statutes. In particular, the Contractor shall:

- (a) Keep and maintain public records required by the SBA in order to perform the services under the Purchase Order;
- (b) Upon request from the SBA's custodian of public records, provide the SBA with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes or as otherwise provided by Florida law;
- (c) Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the term of the Purchase Order and following completion of the Purchase Order if the Contractor does not transfer the records to the SBA; and
- (d) Upon completion of the Purchase Order, transfer, at no cost, to the SBA all public records in the Contractor's possession (if so directed by the SBA) or keep and maintain public records required by the SBA to perform the service. If the Contractor transfers all public records to the SBA upon completion of the Purchase Order, the Contractor shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the Contractor keeps and maintains public records upon completion of the Purchase Order, the Contractor shall meet all applicable requirements for retaining public records. The Contractor shall provide all records that are stored electronically to the SBA, upon request from the SBA's custodian of public records, in a format that is compatible with the information technology systems of the SBA.

**IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS**

**RELATING TO THIS PURCHASE ORDER, CONTACT THE  
CUSTODIAN OF THE PUBLIC RECORDS AT:**

**STATE BOARD OF ADMINISTRATION OF FLORIDA  
POST OFFICE BOX 13300  
TALLAHASSEE, FLORIDA 32317-3300  
(850) 488-4406  
SBAContracts\_DL@sbafla.com**

18. **Entire Agreement.** This Addendum and any and all exhibits, schedules and enclosures attached hereto, which are incorporated into the Addendum by this reference, constitute and embody the entire agreement and understanding of the parties with respect to the subject matter hereof, supersede any prior or contemporaneous agreements or understandings with respect to the subject matter hereof, and, unless otherwise provided herein, cannot be altered, amended, supplemented, or abridged or any provisions waived except by written agreement of the parties.
19. **Governing Law; Venue.** This Addendum shall be construed and enforced in accordance with the laws of the State of Florida without regard to conflict of law principles. Any proceeding to resolve disputes regarding or arising out of this Addendum shall be conducted in the state courts located in Leon County, Florida, and the parties hereby consent to the jurisdiction and venue of those courts.
20. **Counterparts.** This Addendum may be executed in several counterparts, each of which shall be deemed to be an original, but together shall constitute one and the same document.
21. **Survival.** This Addendum will survive any termination or expiration of the Purchase Order and will continue in effect until all SBA Data has been returned to the SBA (if so directed by the SBA) and all SBA Data retained by the Contractor is destroyed. Notwithstanding the foregoing, the provisions of Section 16 (Right to Audit) of this Addendum will survive any termination or expiration of the Purchase Order and will continue in effect as provided therein.