



County of Fairfax, Virginia

AMENDMENT

February 7, 2025

AMENDMENT NO. 2

CONTRACT TITLE: Continuous Duty Nursing & Temporary Health Care Services

CONTRACTOR

22nd Century Technologies, Inc.
8251 Greensboro Drive, Suite 900
McLean, VA 22102

SUPPLIER CODE

1000039057

CONTRACT NO.

4400012383

By mutual agreement, Contract 4400012383 is amended to add a Vehicle Use Agreement Addendum as included on Attachment A.

All other prices, terms, and conditions remain the same.

ACCEPTANCE:

DocuSigned by:
BY: Isha Sharma
F8A2F337FB124AE...
(Signature)

Contracts Manager
(Title)

Isha Sharma
(Printed)

2/4/2025
(Date)

DocuSigned by:
Lee Ann Pender
E239B762E600465...
Lee Ann Pender, CPPB
Director/County Purchasing Agent

DISTRIBUTION:

HD: Kimberly Smith
HD: Patricia Trahan
HD: Suzanne Lane
DFS: Shannon Murphy
DFS: Sandra Slappey Brown
DFS: Alicia Gallogly

CSB: Jennifer Ahearn
CSB: Elif Ekingen
Sherriff's Office: Michelle Nelson
Sherriff's Office: Shelia Grant
Contractor: healthcare@tscti.com
DPMM: Contract Specialist – Vincenza Githens

Department of Procurement and Material Management

12000 Government Center Parkway, Suite 427
Fairfax, VA 22035-0013

Website: www.fairfaxcounty.gov/procurement

Phone 703-324-3201, TTY: 711, Fax: 703-324-3228

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VEHICLE USE AGREEMENT ADDENDUM

This Vehicle Use Agreement Addendum is entered into by Fairfax County (hereinafter referred to as the "County") and 22nd Century Technologies, Inc. (hereinafter referred to as "Contractor") to define the requirements and obligations of the parties, and to ensure full compliance with the insurance requirements, for the use of the County-owned vehicles (the "Vehicle(s)") loaned to Contractor to be used during the performance of activities pursuant to the parties' agreement dated March 25, 2024, as amended, (referred to as the "Agreement"). The parties hereto agree as follows:

1. This Addendum is a bailment agreement for the Vehicle(s).
2. The County shall prepare and maintain an inventory list of the Vehicle(s).
3. The Vehicle(s) are provided in AS-IS condition. The County makes no warranties, express or implied, including warranty of merchantability or fitness for a particular purpose, regarding the Vehicle(s).
4. The Vehicle(s) may be operated only by drivers authorized by the Contractor ("Authorized Drivers") pursuant to the Contractor's vehicle driver authorization policy (the "Driver Authorization Policy"). Authorized Drivers must be listed as permissible drivers under the Contractor's auto insurance policy.
5. Contractor warrants and represents that its Driver Authorization Policy, at minimum, requires a valid driver's license, periodic driving record check of not less than four times per year, requirement to notify of any traffic citations, convictions, incidents, and accidents involving the use of company or borrowed vehicles, age restriction of 21 and older, use of the seatbelts and/or restraint devices on all vehicles so equipped, operation of a vehicle in accordance with the applicable motor vehicle laws and the terms of this Addendum. Contractor further warrants and represents that an Authorized Driver who violates the Driver Authorization Policy or the terms of this Addendum will be prohibited from operating the Vehicle(s).
6. Contractor shall keep the Vehicles free of liens and claims. Contractor and Authorized Drivers will not paint, letter, or place advertising stickers or decals of any kind or remove any interior or exterior County stickers, decals, or other markings on the Vehicle(s). The Vehicle(s) must be returned in the same condition as received, except for ordinary wear and tear. The County, in its sole and absolute discretion, may perform maintenance service, repairs, or modifications on the Vehicle(s). Contractor will not perform any service maintenance, repair, or modification on the Vehicle(s) or modify, replace, remove, or disconnect any part, equipment, or accessory on the Vehicle without obtaining prior written approval from the County. Contractor grants the County the right to inspect or perform maintenance service, repairs, or modifications on the Vehicle(s) while in the Contractor's possession or control.
7. Contractor shall have the risk of loss, and regardless of fault or availability of insurance coverage, Contractor is responsible for theft or loss of and all damage to the Vehicle(s), including, but not limited to, damage caused by collision, weather, road conditions, acts of nature, theft, and vandalism. Contractor's responsibility includes: (a) all physical damage to the Vehicle measured as follows: (i) if a Vehicle is a total loss, the actual cash value of such Vehicle or the Agreed Value, whichever is applicable; (ii) if a Vehicle is repairable: (1) the difference between the value of such Vehicle immediately before the damage and the value immediately after the damage; or (2) the reasonable estimated retail value or actual cost of repair plus Diminished Value; (b) a reasonable administrative

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- fee; (c) towing, storage, and impound charges and other reasonable incidental and consequential damages; and (d) all costs associated with the County's enforcement of this Addendum or collection of Charges, including attorneys' fees, collection fees, and costs whether or not litigation is commenced. Contractor shall be responsible for replacing missing or damaged equipment and the Vehicle documents, if any, and keys. Contractor must report all accidents and incidents of theft or vandalism involving the Vehicle(s) to the County.
8. Contractor agrees to indemnify, defend and hold the County, its agents, officials, employees and volunteers against Claims, actual or alleged, resulting from or arising out of this Addendum or the use of the Vehicle(s). As used in this Section, a Claim includes: injuries, death, damage to property, breach of data security, suits, liabilities, judgments, or costs and expenses (including attorney's fees and expert costs). Upon request by the County, Contractor must, at its own expense, appear, defend, and pay all attorney's fees and all costs and other expenses related to the Claim. If related to a Claim, any judgment is rendered against the County, or a settlement is reached that requires the County to pay money, Contractor must, at its own expense, satisfy and discharge the same. Contractor expressly understands and agrees that any performance bond or insurance protection required by this Contract, or otherwise provided by the Contractor, does not limit the Contractor's responsibility to indemnify, keep and save harmless, and defend the County as provided in this Contract.
9. The following uses of the Vehicle(s) are prohibited and constitute material breaches of the parties' Agreement, including this Addendum. The Vehicle(s) cannot be used: (a) by anyone who is not an Authorized Driver or by anyone whose driving license is suspended or revoked; (b) while the driver is impaired by alcohol or other substances; (c) for an illegal purpose or in the commission of a felony or other crime; (d) to carry persons or property for hire or other transportation services; (e) to tow an object in excess of the manufacturer's weight specifications; (f) in a race or speed contest; (g) to teach anyone to drive; (h) outside the geographic area applicable to the services provided under the Agreement; (i) when it is reasonable to expect that further operation of the Vehicle would damage it; (j) to carry more passengers than the number of existing seatbelts in the Vehicle; (k) while using a hand-held wireless communication device (or other device that is capable of receiving or transmitting telephonic communications, electronic data, mail or text messages) not in a hands-free mode; (l) in the manner that violates laws applicable to motor vehicles and their operation; (m) in a negligent, willful or reckless manner, or to intentionally damage the Vehicle or cause injury or property damage to others.
10. Contractor is liable for all tolls ("Tolls") and parking citations, speed camera enforcement fees, fines for toll evasion, and other fines, fees, and penalties (each a "Violation") assessed against the Authorized Driver, County, or the Vehicle during the Loan Period. If the County is notified by charging authorities that the County may be responsible for payment of a Toll or Violation, Contractor agrees that the County may, in its sole discretion and without prior notice to Contractor, pay the Toll or Violation plus applicable taxes on Contractor's behalf directly to the appropriate authority and offset such payments against any sums due Contractor.
11. Contractor is responsible for all damage, personal injuries, or loss caused to others arising from or related to the use of the Vehicle(s) while in Contractor's possession or control. In addition to the insurance requirements under the Agreement, Contractors agree to maintain insurance policies that provide the following primary coverages:
- (a) Automobile Liability insurance covering owned, non-owned, and hired vehicles in the amount of not less than \$5,000,000 per occurrence/aggregate, including property damage, covering all owned, non-

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owned, borrowed, leased, or rented vehicles operated by the Contractor. Such policy shall be specifically endorsed to indicate coverage, is primary and non-contributory to any County coverage or self-insurance for any of the Vehicle(s) and/or equipment, and shall contain no exclusions, conditions, and limitations applicable to the use or services for which the Vehicle(s) are being loaned to Contractor. In addition, all mobile equipment used by Contractor in connection with this Addendum, if any, will be insured under either a standard Automobile Liability policy or a Commercial General Liability policy;

- (b) Automobile Physical Damage Coverage to pay for a loss to the Vehicle(s) and/or equipment. The valuation for any equipment in excess of \$100,000 shall be on an Agreed Value basis as opposed to Actual Cash Value (ACV);
- (c) Inland Marine Coverage to pay for the direct physical loss or damage to tools and equipment, including emergency services equipment that is part of a Vehicle and/or equipment. The valuation for any equipment shall be on a Replacement Cost Value (RCV) basis.

Unavailability of insurance coverage shall not relieve Contractor of its liability for damages, personal injuries, or loss caused to others arising from or related to the use of the Vehicle(s).

- 12. The Vehicle(s) may be equipped with an infotainment system that permits a driver to connect a personal device and pre-set radio stations and GPS locations. If an infotainment system is used, the Vehicle(s) may automatically load the driver's address book and store the driver's incoming, outgoing, and missed telephone calls and other information from the driver's device. The County is not responsible for assuring the privacy of that information and cannot guarantee that other persons will not have access to this information after the Vehicle(s) are returned. Contractor shall inform any and all drivers and passengers of the Vehicle(s) of the terms of this Section.
- 13. The Vehicle may be equipped with a telematics system, including, but not limited to, global positioning satellite ("GPS") technology, onboard vehicle diagnostics, wireless telematics devices, and/or an event data recorder (collectively "Telematics Systems"). The use of the Vehicle(s) may be monitored through a Telematics System to the extent permitted by law. Remote monitoring may include the collection of Vehicle(s) data, such as location, odometer, oil life, fuel level, tire pressure, battery charge, diagnostic trouble codes, vehicle utilization, speed, safe driving habits, and other elements. Contractor acknowledges that these systems may use cellular telephone, wireless technology, or radio signals to transmit data. Therefore, there shall be no expectation of privacy related to the use of the Vehicle(s). Contractor shall inform any and all drivers and passengers of the Vehicle(s) of the terms of this Section. The County is not responsible and does not guarantee the operability of Telematics Systems on the Vehicle(s).
- 14. Contractor represents and agrees that all Authorized Drivers shall be under the control and supervision of Contractor and not be considered permissive users under any insurance maintained by the County.
- 15. Definitions: "Loan Period" means the period from the time Contractor takes possession of the Vehicle(s) until the time that the Vehicle is either returned to or recovered by the County, however, in no event later than the expiration date of the Agreement. "Diminished Value" means the actual cash value of the Vehicle just prior to damage or loss less the value of the Vehicle after repair or replacement. "Charges" means the fees and charges incurred under this Addendum.

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IN WITNESS WHEREOF, the parties have caused this Addendum to be duly executed as of the last date set forth below by the undersigned authorized representatives of the parties, intending thereby to be legally bound.

22nd Century Technologies, Inc.

DocuSigned by:
By: Isha Sharma
F8A2F337EB124AE...
(Signature)

Name: Isha Sharma
(Print)

Title: Contracts Manager

Date: 2/4/2025

Fairfax County

DocuSigned by:
By: Lee Ann Pender
E238B762F600465...
(Signature)

Name: Lee Ann Pender
(Print)

Title: Director/County Purchasing Agent

Date: 2/6/2025