

GEORGIA INFORMATION TECHNOLOGY STAFFING MANAGEMENT SYSTEM  
AGENCY SERVICE AGREEMENT  
(ADDENDUM\_\_\_\_\_ TO CONTRACT NO. GTA 0000009)

This Agency Service Agreement is entered into effective the last date indicated on the signature page hereto by and among \_\_\_\_\_ (hereinafter referred to as “AGENCY”), an agency, department, institution or other entity of the State of Georgia, and Personnel Group of America, Inc., a Delaware corporation, which does business as Venturi Technology Partners (hereinafter referred to as “PGA”) and is approved by Georgia Technology Authority, an agency of the State of Georgia (hereinafter referred to as “GTA”).

Whereas, GTA and PGA have entered into the GTA Contract (as defined herein); and

Whereas, Agency desires to be able to utilize the services of PGA and of the ITSMS (as defined below) as contemplated by the GTA Contract; and

Whereas, in order for Agency to be able to utilize the services of PGA and the ITSMS it must agree to certain terms as set forth herein.

Now therefore, in consideration of the above recitals, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto intending to be legally bound agree as follows:

DEFINITIONS.

The following terms shall have the meaning indicated below (all terms defined in this section or in any other provision of this Agreement in the singular are to have the same meanings when used in the plural and vice versa):

“Agency” has the meaning ascribed to it in the first sentence of this Agreement.

“Agency Acceptance” means that document evidencing a Member Agency’s acceptance of a Candidate to fill a position under a specified Agency Requisition.

“Agency Requisition” means that document entered into by a Member Agency and ITSMS that contains specifications and requirements pertaining to a need for service to be procured from a qualified Supplier in accordance with the terms and condition of the GTA Contract. An Agency Requisition will contain detailed and pertinent information regarding the specifications required for the assignment, including but not limited to anticipated dates of the assignment, a list of the skills, experience and educational requirements and special security requirements.

“Agreement” means this Agency Services Agreement, together with any exhibits, schedules or attachments hereto, as such may be amended, modified or supplemented from time to time.

“Billing Period” shall be either semi-monthly or monthly as specified by a Member Agency in this Agreement. If semi-monthly (a) the first period shall extend from the first day of each month and extend through the 15<sup>th</sup> day of such month and (b) the second period shall extend from the 16<sup>th</sup> day of each month through the last business day of such month. If monthly, the period shall extend from the first day of each month through the last business day of such month.

“Candidate” means any individual submitted by a Supplier to a Member Agency through the ITSMS in response to an Agency Requisition.

“Final Candidate List” means a list submitted to PGA of the Candidates that the Member Agency desires to interview, based upon its review of all qualified Supplier Offers.

“GTA” has the meaning ascribed to it in the first sentence of this Agreement.

“GTA Contract” means that certain contract, No. GTA-000009, made by and between GTA and PGA, dated as of July 13, 2001, including all exhibits and addenda thereto, as the same may be amended or supplemented from time to time pursuant to which PGA agrees to provide vendor management services to Member Agencies. This Agency Agreement shall be made an addendum to and incorporated into the GTA Contract. A copy of the GTA Contract is hereby attached as Exhibit A hereto for Agency review and information.

“ITSMS” means the Information Technology Staffing Management System, a web-based integrated system to: register information technology staffing contractors; post Agency requirements; receive offers; analyze bids; manage acceptance procedures; process timesheets of IT contractors; administer invoice and payment of IT contractors and oversee evaluation and closure of each agency IT requirement, all as more particularly described in the GTA Contract.

“Member Agency” means any subdivision of the State of Georgia, including any state, county, municipal or local governmental agency, department, court, or other governmental entity or body that elects to use the services made available to it pursuant to the GTA Contract. Without limiting the foregoing, the term Member Agency shall include GTA.

“PGA” has the meaning ascribed to it in the first sentence of this Agreement.

“Special IT Service Request” means any request by a Member Agency for a Supplier to provide bulk staffing, permanent placement or other special solutions to any information technology staffing problem that involves services in addition to those required in fulfilling an Agency Requisition. An Agency Requisition may be a part of a

Special IT Service Request, but will be treated as a separate request for purposes of this Agreement.

“The State” means the State of Georgia, including all departments, institutions or other entities thereof.

“Supplier” means, at any time, a vendor that is providing services to a Member Agency pursuant to a Supplier Agreement and who is not disqualified thereby from providing services to the applicable Member Agency and who PGA has determined to be a qualified service provider for Member Agencies.

“Supplier Agreement” means the agreement between PGA and each Supplier qualified to submit candidate to the ITSMS. All Member Agencies, including GTA, are anticipated to be third party beneficiaries of each Supplier Agreement. A copy of the form of Supplier Agreement is attached hereto as Exhibit B for Agency review and informational purposes.

“Supplier Employee” means that individual employed by a Supplier and assigned to a Member Agency through the ITSMS.

“Supplier Offer” means an offer made by a Supplier to assign one or more Candidates in response to an Agency Requisition submitted through the ITSMS. Each offer shall contain detailed information on the Candidate, including but not limited to a completed skills profile, resume, background investigation report and an hourly rate quote. If the Agency Requisition requires special equipment and/or services for the assignment, the offer will confirm that such special equipment and/or services can be provided and quote a cost for those equipment and/or services.

## 1. NATURE OF THE AGREEMENT

PGA and GTA have entered into the GTA Contract, which provides all Member Agencies with temporary IT staffing acquisition and management services. Agency desires to be able to submit Agency Requisitions and IT Service Requests to the ITSMS. Agency and PGA hereby agree that Agency will be able to submit Agency Requisitions and Special IT Service Requests on the terms and conditions set forth below.

Agency understands and agrees that this Agreement shall be, and hereby is, incorporated and made part of the GTA Contract. Agency agrees to be bound by the terms and conditions of the GTA Contract, subject to special supplemental terms and conditions applicable to Agency which are stated in Schedules 1 and 2 attached hereto, which such schedules are hereby incorporated into and made a part of this Agreement. In the event of any conflict between this Agreement and the GTA Contract, the GTA Contract shall control.

## 2. ACQUISITION/MANAGEMENT OF TEMPORARY IT STAFF

a. Solicitation of Supplier Offers

PGA will provide Agency with access to a secured website to enable Agency to submit all information required of Agency pursuant to this Agreement and to receive all information needed by Agency to acquire staff through the ITSMS and to maintain such staff for the duration of an assignment. Agency shall submit all requirements for a staffing assignment to be posted on the ITSMS on an Agency Requisition form that contains detailed relevant information, including necessary skills, experience, education, date of assignment, length of assignment, any maximum rate to be paid and any other special job requirements. PGA will send the Agency Requisition to all qualified Suppliers and also post the Agency Requisition to a website for viewing. Agency understands and agrees that, unless specified otherwise by Agency in this Agreement or in the relevant Agency Requisition, Suppliers will be given three business days (“Supplier Offer Period”) to submit for consideration by Agency through the ITSMS. At the end of the Supplier Offer Period, PGA will review all Supplier Offers to determine those that are the best qualified on the basis of the requirements submitted by Agency and will deliver the list of best qualified offers to Agency no later than the second business day following the Supplier Offer Period. PGA, as part of its duties as manager of the ITSMS will, from time to time, perform a review of Suppliers and in response to such review, add or delete Suppliers authorized to use the ITSMS or increase or decrease the ranking of Suppliers using the ITSMS.

b. Agency Review of Qualified Supplier Offers

Agency will conduct a review of all Supplier Offers by PGA within a reasonable time, which shall be presumed to be no more than three business days from the date of receiving the offers if no more than twenty-five offers are received by Agency and no more than six business days if no more than fifty offers are received. Agency will have a longer review period if more than fifty qualified Supplier Offers are received or if Agency informs PGA that other circumstances exist that require a longer review period. Agency acknowledges and assumes the risk that some or all of the qualified Candidates will no longer be available by the time it accepts an offer of Candidates by a Supplier and that such risk materially increases with the passage of each day following the submission of a Supplier Offer. Upon completion of its review, Agency will submit to PGA a Final Candidate List of all Candidates that Agency desires to interview and, unless instructed otherwise by Agency, PGA will inform Suppliers that all other offers have been rejected.

c. Acceptance of Qualified Supplier Offer

Upon completing the interviews of Candidates, Agency will submit an Agency Acceptance for the Candidate selected by it, if any, and PGA will

inform Suppliers that all other offers have been rejected. If Agency is interested in a Supplier Candidate but desires to make a counteroffer for a different rate or other material condition of the offer, Agency may submit a counteroffer to PGA and the Supplier. If Agency is unable to select a qualified Candidate from those interviewed or if a qualified Candidate is no longer available for any reason, PGA shall provide a list of any other submitted Candidates from the primary list of Suppliers; provided, however, that if such Candidates prove to be unacceptable, then PGA shall provide the Agency with Candidates from a secondary list of Suppliers. If none of the Candidates described above are acceptable to Agency, then Agency may resubmit an Agency Requisition, amended, if appropriate, to the ITSMS.

d. Implementation of Position Management Services

Upon receiving a signed Agency Acceptance of a Supplier Offer, PGA will set up a position management account for the processing of time sheets, invoices, payments and other services applicable to the position for the duration of the position assignment. All position accounts and services will be implemented and administered by PGA in accordance with requirements of the GTA Contract and any additional Agency specifications contained in this Agreement. A PGA program manager will maintain regular periodic communications with the Agency and the Supplier, including onsite visits to Agency. However, with regard to the performance of any Supplier Employees, Agency is expected to first work directly with the Supplier to resolve any problems. If the problem cannot be resolved between Agency and the Supplier, Agency should request assistance from PGA. Agency agrees to cooperate in good faith with PGA and each Supplier in connection with the implementation of this Agreement and the use of the ITSMS pursuant hereto.

e. Termination of Services

Agency may, in its sole discretion, determine that any Supplier Employee is unacceptable. Agency may request by delivering notice to PGA and Supplier that such Supplier Employee's services to Agency be terminated. PGA shall thereafter work to cause Agency to promptly terminate the services to Agency of such Supplier Employee and there shall be no further obligation on the part of Agency with respect to such Supplier Employee, other than payment of any invoice for the services rendered by such Supplier Employee's prior to such termination. Upon termination of a Supplier Employee, Agency will provide Supplier with a reasonable time period (determined by the circumstances existing at the time of the termination) to replace the terminated Supplier Employee, at the same cost as the terminated Supplier Employee, subject to the right of Agency to object to such replacement Supplier Employee proposed by Supplier.

f. Loss of Funding

If the source of payment for the total obligation of Agency no longer exists or is insufficient for Agency to meet its obligations under any particular Agency Acceptance, the obligations of Agency under such Agency Acceptance shall terminate without further obligation of the Agency as of that moment. The foregoing notwithstanding, the Agency shall make reasonable efforts to give at least 30 days notice (or such lesser notice as is practicable) to PGA when it determines that the loss of such source of payment is a reasonable possibility or probability. In all events Agency covenants to give immediate notice to PGA upon the occurrence of any event that renders the source of payment for the total obligation of Agency under an Agency Acceptance to PGA no longer in existence or otherwise insufficient. Agency shall remain obligated to pay for services performed and accepted by Agency prior to such termination. The good faith determination of Agency as to the occurrence of the events stated herein shall be conclusive. The requirement of "immediate notice" shall apply only when Agency, despite reasonable efforts, is unable to give a minimum of thirty days notice to PGA of an event resulting in a loss or lack of funding. In such event, Agency will be required to give immediate notice, or, in other words as soon as possible, although such notice may be less than thirty days prior to the termination of the effected Agency Acceptance.

g. Dispute Resolution

The term "Dispute", as used in this Section, shall not include a determination by Agency to terminate the services of any Supplier Employee, which Agency may do without notice except as required in the GTA Contract. In the event that Agency shall have any dispute, disagreement or cause of action (each, hereinafter, a "Dispute") arising pursuant to this Agreement with PGA, or any Supplier, then before instituting any legal proceedings with respect to such Dispute, Agency will first try in good faith to resolve such Dispute with such other party or parties and if such efforts prove unsuccessful will thereafter submit such Dispute to non-binding mediation by a member of the procurement, contracting or legal staff of GTA. In addition, in the event that PGA or any Supplier requests that Agency engage in such non-binding mediation with respect to any Dispute, then Agency agrees to engage in such mediation as though it had initiated mediation pursuant to this Section. Upon any initiation of mediation (actual or constructive) the requesting party shall promptly give notice to GTA that it desires it to mediate the Dispute. Thereafter, unless GTA refuses to mediate such Dispute, Agency shall cooperate for a period of 90 days (or such shorter period as is necessary to avoid material financial or administrative harm to it or avoid prejudicing the enforceability of any of its legal rights) from the date that the Notice is mailed (determined by post-mark) to GTA. In the event that

GTA refuses in writing to mediate a Dispute or such Dispute is not resolved to the satisfaction of Agency within the time period contemplated above, then Agency shall be free to engage in any legal process that it deems appropriate with respect to such Dispute. The foregoing provisions shall not be deemed to limit any response that Agency may make in response to any arbitration, lawsuit or other action initiated by PGA or the Supplier. Requests for mediation should be addressed to GTA/ITSMS Steering Committee, to the attention of David Candler.

### 3. INVOICES AND PAYMENT

- a. PGA will electronically submit to Agency an itemized invoice for all services acquired by Agency through the ITSMS (including associated expenses) in the form attached hereto as Schedule 1.
- b. Agency elects to receive invoices:
  - i. ( ) monthly on the last business day of the month
  - ii. ( ) semi-monthly on the fifteenth and last business day of the month
- c. Time sheets by consultants and other personnel subject to an Agency Requisition shall be due by the end of the first business day following the week in which services were performed by such persons. Regardless, Agency shall review by the end of the business day following the first business day of each week any and all time sheets and expense reports submitted to it by the close of business on the preceding business day. All reviewed time sheets and expense reports will be approved by Agency at such time unless disputed by Agency.
- d. Agency will pay PGA the amount agreed to be paid for all Supplier Employees , as specified in GTA Contract No. 000009 within thirty days after electronic transmission of the invoice to the Agency unless Agency has disputed part or all of the invoice at the time of approving the related time sheets or expenses as provided in Section 3(c), above, or upon subsequent discovery by the Agency of specific facts establishing a basis for such objection.
- e. If Agency disputes part of an invoice, Agency will withhold payment of the disputed amount only and will pay the remainder of the invoice without delay.
- f. Agency will pay all amounts due to PGA by check unless otherwise agreed to by PGA and Agency.
- g. Any special terms and conditions agreed to with regard to invoices and payments are set out in Schedule 2.

#### 4. SUPPLIER CANDIDATE BACKGROUND INVESTIGATIONS

- a. Agency understands and agrees that background checks will be performed by a Supplier on all Candidates submitted by a Supplier for consideration by Agency pursuant to a Supplier Offer in accordance with the requirements of the GTA Contract. If Agency requires that background checks be performed on all candidates submitted for consideration by a Supplier, that requirement shall be expressly stated on Schedule 2, hereto.
- b. PGA may from time to time establish or amend a preferred list of companies performing background checks for Supplier personnel (including Supplier Employees). Agency agrees to reasonably cooperate in using such companies where it is feasible and does not result in material additional out-of-pocket expenditures by Agency. PGA shall have the right to audit and review any and all background reports received by the Agency, subject to receipt of any necessary releases by the individuals subject to such background reports.
- c. Agency understands and agrees that background checks will be required to be performed on Candidates in accordance with the requirements of the GTA Contract. Agency may require more extensive background checks to be conducted on all or some Candidates, provided that such requirement is contained in Schedule 2. Agency understands that a list of Candidates will be provided to it for review by PGA (through the ITSMS) one business day after the required background checks have been completed.
- d. Agency understands and agrees that drug testing will not be performed on any Candidate unless Agency expressly requires such drug testing on an Agency Requisition. If Agency requires that all or some Candidates submitted in response to an Agency Registration be tested for drugs, that requirement is contained on Schedule 2.

#### 5. ADDITIONAL PROGRAM MANAGEMENT SERVICES OF PGA

- a. Training Services
  - i. Upon execution of this Agreement, PGA will schedule and conduct training for personnel of Agency who will be using the ITSMS.
  - ii. Agency personnel will have access to online training on use of the ITSMS.
  - iii. If Agency and PGA agree that PGA will provide additional training to Agency personnel, those training services are described in Schedule 2.
- b. Reporting Services

- i. Agency understands that PGA will collect data and produce the following reports in accordance with requirements of the GTA Contract No. 000009.
    - ii. If Agency and PGA agree that PGA will collect additional data or produce reports in addition to those listed herein, those services are described in Schedule 2.
  - c. Advising and Consultation
    - i. PGA will be available to Agency for reasonable consultation on issues related to Agency's use of the ITSMS and will provide reasonable technical assistance by phone and online regarding use of the ITSMS.
    - ii. PGA will regularly advise Agency of IT Staffing market trends to assist Agency with planning its IT staffing acquisitions.
    - iii. Agency understands that it is the policy of GTA to review the status of all Supplier Employees on assignment at the State for more than two years due to the higher cost and risk of liability to the State for long-term contract personnel. PGA will therefore notify Agency of the eighteen-month anniversary of each Supplier Employee providing services through the ITSMS to Agency so that Agency will have an opportunity to prepare a status report for GTA with regard to such Supplier Employee.
    - iv. If Agency and PGA agree that PGA will provide additional advising and consultation services, those services are described in Schedule 2.

## 6. IT TEAM STAFFING AND OTHER SPECIAL STAFFING REQUIREMENTS

- a. Agency may submit a Special IT Service Request through the ITSMS for a team, permanent placement of personnel or other special temporary IT staff augmentation requirements through the ITSMS. However, the ITSMS cannot be used to acquire services or other deliverables that are required to be procured separately in accordance with State law.
- b. To request team staffing through the ITSMS, Agency will complete and submit a Special IT Service Request, describing the project requiring a team assignment and providing reasons for use of the ITSMS rather than a separate procurement. An example of an appropriate temporary team assignment would be those on projects already implemented and underway, where the staffing requirement is strictly to boost the current services and not to acquire new deliverables.

- c. To request Supplier Offers of Candidates for a permanent placement into a State position through the ITSMS in accordance with terms and conditions of this Agreement, Agency will complete and submit an Agency Requisition, describing the qualifications required.

7. OPTION TO PERMANENTLY HIRE SUPPLIER EMPLOYEES

- (a) In the event that a Member Agency desires to hire on a permanent basis any Supplier personnel (each a "Supplier Employee"), it shall provide notice of such intent in writing to Supplier and Supplier shall negotiate in good faith with such Member Agency with respect to such employment. Except as otherwise agreed to by Supplier and the applicable Member Agency, no compensation shall be payable to Supplier as a result of the permanent hiring of any Supplier Employee (whether in lieu of lost profits or otherwise) provided that all amounts payable pursuant to an applicable Acceptance for services provided by Supplier Employee prior to his or her hiring by Member Agency shall remain an obligation of Member Agency unaffected by the hiring of such Supplier Employee.

8. MISCELLANEOUS

- a. This Agreement, with the GTA Contract, constitutes the entire agreement between the parties relating to the subject matter hereof and supercedes all prior agreements, written or oral, between the parties relating to the subject matter contained in this Agreement.
- b. Section titles used in this Agreement are for reference purposes only and shall not be deemed to be a part of this Agreement.
- c. Except as expressly provided herein, this Agreement shall not be amended except by written agreement by the parties. No oral waives, amendment or modification shall be effective under any circumstances.
- d. This Agreement may be entered into in one or more counterparts, each of which shall be an original and all of which shall constitute one and the same Agreement. Facsimile signatures will be accepted as original signatures.
- e. This Agreement is deemed to be made under and shall be construed in every respect according to the laws of the State of Georgia. Any lawsuit or other action based on a claim arising from this Agreement shall be brought in a court or other forum of competent jurisdiction within Fulton County, State of Georgia.

- f. If any term, covenant or condition of this Agreement shall for any reason be held unenforceable by a court of competent jurisdiction, the rest of this Agreement shall remain in full force and shall in no way be affected or impaired.

PGA AND AGENCY ACKNOWLEDGE THAT THEY HAVE READ AND UNDERSTAND THIS AGREEMENT, AND AGREE TO BE BOUND BY ALL TERMS AND CONDITIONS OF THIS AGREEMENT, AS INDICATED BY THEIR SIGNING OF THIS CONTRACT DOCUMENT ON THE DATES SET OUT BELOW. BY ITS SIGNING OF THIS AGREEMENT, GTA ACKNOWLEDGES ITS UNDERSTANDING AND APPROVAL OF THE AGENCY SERVICE AGREEMENT.

THIS CONTRACT SHALL BE EFFECTIVE AS OF THE DATE ON WHICH ALL PARTIES HAVE EXECUTED IT.

PERSONNEL GROUP OF AMERICA, INC.

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

Agency:

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

APPROVED:

GEORGIA TECHNOLOGY AUTHORITY

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_