

22nd Century Group, Inc.  
Form DEF 14A  
March 04, 2014

**UNITED STATES**

**SECURITIES AND EXCHANGE COMMISSION**

**WASHINGTON, DC 20549**

**SCHEDULE 14A**

**(RULE 14a-101)**

**SCHEDULE 14A INFORMATION**

**Proxy Statement Pursuant to Section 14(a) of the Securities**

**Exchange Act of 1934**

Filed by the Registrant   
Filed by a Party other than the Registrant

Check the appropriate box:

- Preliminary Proxy Statement
- Confidential, for Use of the Commission Only (as permitted by Rule 14a-6(e)(2))
- Definitive Proxy Statement
- Definitive Additional Materials
- Soliciting Material Pursuant to §240.14a-12

22nd Century Group, Inc.  
(Name of Registrant as Specified in its Charter)

(Name of Person(s) Filing Proxy Statement, if Other Than the Registrant)

Payment of Filing Fee (Check the appropriate box):

No fee required.

Fee computed on table below per Exchange Act Rules 14a-6(i)(1) and 0-11.

(1) Title of each class of securities to which transaction applies:

(2) Aggregate number of securities to which transaction applies:

(3) Per unit price or other underlying value of transaction computed pursuant to Exchange Act Rule 0-11 (set forth the amount on which the filing fee is calculated and state how it was determined):

(4) Proposed maximum aggregate value of transaction:

(5) Total fee paid:

Fee paid previously with preliminary materials.

Check box if any part of the fee is offset as provided by Exchange Act Rule 0-11(a)(2) and identify the filing for which the offsetting fee was paid previously. Identify the previous filing by registration statement number, or the Form or Schedule and the date of its filing.

(1) Amount Previously Paid:

(2) Form, Schedule or Registration Statement No.:

(3) Filing Party:

(4) Date Filed:

## NOTICE OF ANNUAL MEETING OF STOCKHOLDERS

The 2014 annual meeting of stockholders of 22nd Century Group, Inc. (the “Company”) will be held at Spaulding Lake Clubhouse, 4805 Spaulding Drive, Clarence, New York 14031, on Saturday, April 12, 2014, beginning at 2:00 P.M. local time. At the meeting, the holders of the Company’s outstanding common stock will act on the following matters:

(1) The approval of an amendment to our articles of incorporation to provide for a classified Board of Directors;

(2) The election of the five nominees named in the attached proxy statement as directors to serve terms expiring at the annual meeting of stockholders to be held in 2015 (unless Proposal No. 1 above is approved, in which case the directors will be elected to the class and for the terms provided in Proposal No. 1) and until their successors have been elected and qualified;

(3) The approval, on an advisory basis, of the 2013 compensation of the Company’s named executive officers;

(4) The approval of the 22nd Century Group, Inc. 2014 Omnibus Incentive Plan;

(5) The ratification of the appointment of Freed Maxick CPAs, P.C. as the Company’s independent registered certified public firm for fiscal 2014; and

(6) The transaction of any other business as may properly come before the meeting or any adjournment or postponement thereof.

Stockholders of record at the close of business on February 28, 2014 are entitled to notice of and to vote at the annual meeting and any postponements or adjournments thereof.

It is hoped you will be able to attend the meeting, but in any event, please vote according to the instructions on the enclosed proxy as promptly as possible. If you are able to be present at the meeting, you may revoke your proxy and vote in person.

**Important Notice Regarding the Availability of Proxy Materials for the Annual Meeting of Stockholders to be Held on April 12, 2014:** The 2013 Annual Report on Form 10-K and proxy statement of 22nd Century Group, Inc. are available online at <http://www.xxiicentury.com/sec-filings/>. For directions to the annual meeting, please contact Henry Sicignano III at 716-270-1523 or through [www.xxiicentury.com/contact](http://www.xxiicentury.com/contact).

By Order of the Board of Directors,  
/s/ Joseph Pandolfino  
Joseph Pandolfino  
Chairman and Chief Executive Officer

Dated: March 4, 2014

TABLE OF CONTENTS

ABOUT THE ANNUAL MEETING	1
PRINCIPAL STOCKHOLDERS	4
PROPOSAL NO. 1 AMENDMENT TO THE ARTICLES OF INCORPORATION TO PROVIDE FOR A CLASSIFIED BOARD OF DIRECTORS	6
PROPOSAL NO. 2 ELECTION OF DIRECTORS	7
CORPORATE GOVERNANCE	9
EXECUTIVE OFFICERS	11
EXECUTIVE COMPENSATION	12
CERTAIN RELATIONSHIPS AND RELATED TRANSACTIONS	16
PROPOSAL NO. 3 ADVISORY RESOLUTION ON EXECUTIVE COMPENSATION	17
PROPOSAL NO. 4 APPROVAL OF THE 22ND CENTURY GROUP, INC. 2014 OMNIBUS INCENTIVE PLAN	18
PROPOSAL NO. 5 THE RATIFICATION OF THE APPOINTMENT OF FREED MAXICK CPAs, PC AS THE COMPANY'S INDEPENDENT REGISTERED CERTIFIED PUBLIC ACCOUNTING FIRM FOR FISCAL YEAR 2014	29
AUDIT COMMITTEE REPORT	30
STOCKHOLDER PROPOSALS FOR THE 2015 MEETING	31
OTHER MATTERS	31

22nd Century Group, Inc.

9530 Main Street

Clarence, New York 14031

## ANNUAL MEETING OF STOCKHOLDERS

To Be Held April 12, 2014

## PROXY STATEMENT

The Board of Directors of 22nd Century Group, Inc. is soliciting proxies from its stockholders to be used at the annual meeting of stockholders to be held at Spaulding Lake Clubhouse, 4805 Spaulding Drive, Clarence, New York 14031, on Saturday, April 12, 2014, beginning at 2:00 P.M. local time, and at any postponements or adjournments thereof. This proxy statement contains information related to the annual meeting. This proxy statement and the accompanying form of proxy are first being sent to stockholders on or about March 4, 2014.

## ABOUT THE ANNUAL MEETING

Why did I receive these materials?

Our Board of Directors is soliciting proxies for the 2014 annual meeting of stockholders. You are receiving a proxy statement because you owned shares of our common stock on February 28, 2014 and that entitles you to vote at the meeting. By use of a proxy, you can vote whether or not you attend the meeting. This proxy statement describes the matters on which we would like you to vote and provides information on those matters so that you can make an informed decision.

What information is contained in this proxy statement?

The information in this proxy statement relates to the proposals to be voted on at the annual meeting, the voting process, our Board, the compensation of Directors and Executive Officers and other information that the Securities and Exchange Commission requires us to provide annually to our stockholders.

Who is entitled to vote at the meeting?

Holders of common stock as of the close of business on the record date, February 28, 2014, will receive notice of, and be eligible to vote at, the annual meeting and at any adjournment or postponement of the annual meeting. At the close of business on the record date, we had outstanding and entitled to vote 58,252,770 shares of common stock.

How many votes do I have?

Each outstanding share of our common stock you owned as of the record date will be entitled to one vote for each matter considered at the meeting. There is no cumulative voting.

Who can attend the meeting?

Only persons with evidence of stock ownership as of the record date or who are invited guests of the Company may attend and be admitted to the annual meeting of the stockholders. Stockholders with evidence of stock ownership as of the record date may be accompanied by one guest. Photo identification may be required (a valid driver's license, state identification or passport). If a stockholder's shares are registered in the name of a broker, trust, bank or other nominee, the stockholder must bring a proxy or a letter from that broker, trust, bank or other nominee or their most recent brokerage account statement that confirms that the stockholder was a beneficial owner of shares of stock of the Company as of the record date. Since seating is limited, admission to the meeting will be on a first-come, first-served basis.

Cameras (including cell phones with photographic capabilities), recording devices and other electronic devices will not be permitted at the meeting.

What constitutes a quorum?

The presence at the meeting, in person or by proxy, of the holders of one-third (33.33%) of the voting power of common stock issued and outstanding on the record date will constitute a quorum, permitting the conduct of business at the meeting. Proxies received but marked as abstentions or broker non-votes, if any, will be included in the calculation of the number of votes considered to be present at the meeting for purposes of a quorum.

How do I vote?

If you are a holder of record (that is, your shares are registered in your own name with our transfer agent), you can vote either in person at the annual meeting or by proxy without attending the annual meeting. We urge you to vote by proxy even if you plan to attend the annual meeting so that we will know as soon as possible that enough votes will be present for us to hold the meeting.

Each stockholder receiving proxy materials by mail may vote by proxy by using the accompanying proxy card. When you return a proxy card that is properly signed and completed, the shares represented by your proxy will be voted as you specify on the proxy card.

If you hold your shares in “street name,” you must either direct the bank, broker or other record holder of your shares as to how to vote your shares, or obtain a proxy from the bank, broker or other record holder to vote at the meeting. Please refer to the voter instruction cards used by your bank, broker or other record holder for specific instructions on methods of voting, including by telephone or by using the Internet.

Your shares will be voted as you indicate. If you return the proxy card but you do not indicate your voting preferences, then your shares will not be voted with respect to any proposal. The Board and management do not intend to present any matters at this time at the annual meeting other than those outlined in the notice of the annual meeting. Should any other matter requiring a vote of stockholders arise, stockholders returning the proxy card confer upon the individuals designated as proxy’s discretionary authority to vote the shares represented by such proxy on any such other matter in accordance with their best judgment.

Can I change my vote?



Yes. If you are a stockholder of record, you may revoke or change your vote at any time before the proxy is exercised by filing a notice of revocation with our Secretary or by mailing a proxy bearing a later date or by attending the annual meeting and voting in person. For shares you hold beneficially in "street name," you may change your vote by submitting new voting instructions to your bank, broker, other record holder of your shares or other nominee or, if you have obtained a legal proxy from your bank, broker, other record holder of your shares or other nominee giving you the right to vote your shares, by attending the meeting and voting in person. In either case, the powers of the proxy holders will be suspended if you attend the meeting in person and so request, although attendance at the meeting will not by itself revoke a previously granted proxy.

How are we soliciting this proxy?

We are soliciting this proxy on behalf of our Board of Directors and will pay all expenses associated with this solicitation. In addition to mailing these proxy materials, certain of our officers and other employees may, without compensation other than their regular compensation, solicit proxies through further mailing or personal conversations, or by telephone, facsimile or other electronic means. We will also, upon request, reimburse brokers and other persons holding stock in their names, or in the names of nominees, for their reasonable out-of-pocket expenses for forwarding proxy materials to the beneficial owners of our stock and to obtain proxies.

Will stockholders be asked to vote on any other matters?

To the knowledge of the Company and its management, stockholders will vote only on the matters described in this proxy statement. However, if any other matters properly come before the meeting, the persons named as proxies for stockholders will vote on those matters in the manner they consider appropriate.

What vote is required to approve each item?

The five nominees receiving the highest vote totals of the eligible shares of our common stock will be elected as our directors. The approval of the advisory resolution on executive compensation, the approval of the 2014 Omnibus Incentive Plan and the ratification of the appointment of Freed Maxick CPAs, P.C. (“Freed”) require the affirmative vote of the majority of the votes present, in person or by proxy, and entitled to vote at the meeting. The approval of the amendment to our articles of incorporation to provide for a classified board of directors requires the affirmative vote of the majority of the outstanding shares of our common stock.

How are votes counted?

With regard to the election of directors, votes may be cast in favor or withheld and votes that are withheld will be excluded entirely from the vote and will have no effect. You may not cumulate your votes for the election of directors.

For the other proposals, you may vote “FOR,” “AGAINST” or “ABSTAIN.” Abstentions are considered to be present and entitled to vote at the meeting and, therefore, will have the effect of a vote against each of the proposals.

If you hold your shares in “street name,” the Company has supplied copies of its proxy materials for its 2014 annual meeting of stockholders to the broker, bank or other nominee holding your shares of record and they have the responsibility to send these proxy materials to you. Your broker, bank or other nominee that have not received voting instructions from their clients may not vote on any proposal other than the appointment of Freed. These so-called “broker non-votes” will be included in the calculation of the number of votes considered to be present at the meeting for purposes of determining a quorum, but will not be considered in determining the number of votes necessary for approval of any of the proposals and will have no effect on the outcome of any of the proposals other than the approval of the amendment to our articles of incorporation to provide for a classified board of directors. Your broker, bank or other nominee is permitted to vote your shares on the appointment of Freed as our independent auditor without receiving voting instructions from you.

What should I do if I receive more than one set of voting materials?

You may receive more than one set of voting materials, including multiple copies of this proxy statement and multiple proxy cards or voting instruction cards. For example, if you hold your shares in more than one brokerage account, you may receive a separate voting instruction card for each brokerage account in which you hold shares. If you are a stockholder of record and your shares are registered in more than one name, you will receive more than one proxy

card. Please vote your shares applicable to each proxy card and voting instruction card that you receive.

## PRINCIPAL STOCKHOLDERS

The following table sets forth information regarding the beneficial ownership of our common stock as of February 7, 2014 by (i) each person who, to our knowledge, owns more than 5% of our common stock, (ii) each of our current directors and executive officers, and (iii) all of our current directors and executive officers as a group. Derivative securities exercisable or convertible into shares of our common stock within sixty (60) days of February 7, 2014 are deemed to be beneficially owned and outstanding for computing the share ownership and percentage of the person holding securities, but are not deemed outstanding for computing the percentage of any other person. Beneficial ownership representing less than 1% is denoted with an asterisk (\*). The address of named beneficial owners that are officers and/or directors is: c/o 22nd Century Group, Inc., 9530 Main Street, Clarence, New York 14031. The following table is based upon information supplied by officers and directors, and with respect to 5% or greater stockholders who are not officers or directors, information filed with the SEC.

Name of Beneficial Owner	Number of Shares Beneficially Owned	Percentage Beneficially Owned (1)	
Management and Directors:			
Joseph Pandolfino (2)	8,380,206	13.8	%
Henry Sicignano, III (3)	6,467,418	10.8	%
Michael R. Moynihan, Ph.D. (4)	1,793,733	3.1	%
John T. Brodfuehrer (5)	250,000	*	
Joseph Alexander Dunn, Ph.D. (6)	226,500	*	
James W. Cornell (7)	286,500	*	
Richard M. Sanders (8)	35,000	*	
All directors and executive officers as a group (7 persons) (2)-(8)	17,439,357	27.8	%
Other 5% Owners:			
Angelo J. Tomasello (9)	4,679,196	7.9	%
Richard G. Saffire (10)	4,087,246	6.8	%

(1) Based on 58,252,770 shares of common stock issued and outstanding (including outstanding restricted stock), as of February 7, 2014.

(2) Includes (a) 2,382,271 shares of common stock issuable to Mr. Pandolfino upon exercise of warrants and (b) 5,997,935 shares of common stock. Under the Company's 2010 Employee Incentive Plan, 320,000 of the shares issued to Mr. Pandolfino are grants that are subject to potential forfeiture over time in the event Mr. Pandolfino ceases employment with the Company prior to January 27, 2015.

(3) Consists of (a) 2,327,603 shares of common stock held by Henry Sicignano III (including 475,000 restricted shares issued as equity incentive awards under the Company's Equity Incentive Plan), (b) 2,542,347 shares of common stock held by Henry Sicignano III Group, LLC, (c) 414,277 shares of common stock issuable to Mr. Sicignano upon exercise of warrants, (d) 100,000 shares of common stock issuable to Mr. Sicignano upon exercise of stock options and (e) 1,083,191 shares of common stock issuable to Henry Sicignano III Group, LLC upon exercise of warrants. Mr. Sicignano is Managing Member of Henry Sicignano III Group, LLC and, accordingly, exercises voting and investment power with respect to the shares held by Henry Sicignano III Group, LLC. 375,000 of the shares issued to Mr. Sicignano under the Company's 2010 Employee Incentive Plan are grants that are subject to potential forfeiture over time in the event Mr. Sicignano ceases employment with the Company prior to April 1, 2015. On January 27, 2015, April 1, 2014 and April 1, 2015, the number of shares subject to forfeiture decreases by 75,000, 150,000 and 150,000 shares, respectively. Mr. Sicignano also holds 100,000 performance based shares of restricted stock issued as equity incentive awards under the Company's 2010 Employee Incentive Plan, which are subject to forfeiture unless certain performance milestones are achieved.

(4) Includes (a) 1,138,934 shares of common stock, (b) 479,799 shares of common stock issuable upon exercise of warrants and (c) 175,000 shares issuable upon the exercise of stock options. 160,000 of the shares issued to Dr. Moynihan under the Company's 2010 Employee Incentive Plan are grants that are subject to potential forfeiture over time in the event Dr. Moynihan ceases employment with the Company prior to January 27, 2015.

(5) Consists of 250,000 shares of common stock. 240,000 of the shares issued to Mr. Brodfuehrer under the Company's 2010 Employee Incentive Plan are grants that are subject to potential forfeiture over time in the event Mr. Brodfuehrer ceases employment with the Company prior to January 27, 2015. On March 19, 2014 and January 27, 2015 the number of shares subject to forfeiture decreases by 100,000 and 140,000 shares, respectively.

(6) Includes (a) 85,000 shares of common stock, (b) 31,500 shares of common stock issuable upon exercise of warrants and (c) 110,000 shares issuable upon the exercise of stock options. 35,000 of the shares issued to Dr. Dunn under the Company's 2010 Employee Incentive Plan are grants that are subject to potential forfeiture over time in the event Dr. Dunn ceases being a director of the Company prior to January 27, 2015.

(7) Includes (a) 145,000 shares of common stock, (b) 31,500 shares of common stock issuable upon exercise of warrants and (c) 110,000 shares issuable upon the exercise of stock options. 35,000 of the shares issued to Mr. Cornell under the Company's 2010 Employee Incentive Plan are grants that are subject to potential forfeiture over time in the event Mr. Cornell ceases being a director of the Company prior to January 27, 2015.

(8) Consists of 35,000 shares of common stock. The 35,000 shares issued to Mr. Sanders under the Company's 2010 Employee Incentive Plan are grants that are subject to potential forfeiture over time in the event Mr. Sanders ceases being a director of the Company prior to January 27, 2015.

(9) Includes (a) 3,576,336 shares of common stock, and (b) 1,102,860 shares of common stock issuable upon exercise of warrants. The address of Angelo Tomasello is 4720 Spaulding Drive, Clarence, New York 14031.

(10) Includes (a) 2,541,986 shares of common stock held by Richard G. Saffire, (b) 58,081 shares of common stock held by Clearwater Partners, LLC, and (c) 1,487,179 shares of common stock issuable upon exercise of warrants held by Clearwater Partners, LLC. Richard G. Saffire, Managing Member of Clearwater Partners, LLC exercises voting and investment power with respect to shares owned by Clearwater Partners, LLC. The address of Clearwater Partners, LLC is 34 Sunburst Circle, East Amherst, New York 14051.

#### SECTION 16(a) BENEFICIAL OWNERSHIP REPORTING COMPLIANCE

Section 16(a) of the Exchange Act requires our directors, executive officers, and stockholders holding more than 10% of our outstanding common stock to file with the SEC initial reports of ownership and reports of changes in beneficial ownership of our common stock. Executive officers, directors and greater-than-10% stockholders are required by SEC regulations to furnish us with copies of all Section 16(a) reports they file. Based on a review of the Securities and

Exchange Commission filed ownership reports during 2013, the Company believes that all Section 16(a) filing requirements were met during 2013, except Joseph Dunn filed a late Form 4 on November 5, 2013 reporting the sale of shares, and Clearwater Partners, LLC and Richard G Saffire each filed a late Form 4 on November 12, 2013 reporting the sale of shares.

PROPOSAL NO. 1

AMENDMENT TO THE ARTICLES OF INCORPORATION TO PROVIDE FOR A CLASSIFIED BOARD OF DIRECTORS

The amendment to the Articles of Incorporation that you are being asked to approve pursuant to this Proposal No. 1 will be substantially in the form of Appendix A attached to this Proxy Statement. Our directors are currently elected annually for a term of one year. Nevada law permits provisions in the bylaws or the articles of incorporation approved by stockholders that provide for a classified board of directors. The proposed classified board amendment to the Articles of Incorporation would provide that directors will be classified into three classes as nearly equal in number as possible.

The Class I directors would hold office initially for a term expiring at the 2015 annual meeting of stockholders; the Class II directors would hold office initially for a term expiring at the 2016 annual meeting of stockholders; and the Class III directors would hold office initially for a term expiring at the 2017 annual meeting of stockholders. At each annual meeting of stockholders following this initial classification and election, the successors to each class of directors whose terms expire at that annual meeting would be elected for a term of office to expire at the third succeeding annual meeting after their election and until their successors have been duly elected and qualified. Vacancies which occur during the term of office of any class of director may be filled by a person selected by the Board of Directors, with such appointee to serve for the remainder of the unexpired portion of the term of the class of director in which such vacancy occurred.

In the event that this Proposal No. 1 is approved, the Board of Directors has nominated the following persons to serve in each of the following classes of directors: (i) Henry Sicignano, III and Richard M. Sanders for election as Class I directors, and, if elected, their initial term will expire at the 2015 annual meeting of stockholders; (ii) Joseph Pandolfino and Joseph Alexander Dunn for election as Class II directors, and, if elected, their initial term will expire at the 2016 annual meeting of stockholders; and (iii) James W. Cornell for election as a Class III director, and, if elected, his initial term will expire at the 2017 annual meeting of stockholders. As stated above, at each annual meeting of stockholders following this initial classification and election, the successors to each class of directors whose terms expire at that annual meeting would be elected for a three-year term of office. Information concerning the current nominees for election as directors at this annual meeting is set forth below under "Election of Directors."

Our Board of Directors believes that staggered terms for directors provide stability and continuity in the Board of Directors' leadership and policies ensuring that a majority of directors will always be familiar with our long-term strategy and goals. This knowledge will assist the directors in fulfilling their duties to our stockholders, providing for greater effectiveness, which ultimately creates value for our stockholders. While management has not experienced any problems with such continuity in the past, it wishes to ensure that this experience will continue. Electing directors to three-year terms will not reduce their accountability to our stockholders. Regardless of their term, all directors will have the same duties and responsibilities to our stockholders.



The Board of Directors also believes that the classified board will assist the Board of Directors in protecting the interests of our stockholders against potentially coercive takeover tactics where a party might attempt to acquire control of our Company on terms that do not offer the greatest value to all stockholders. The proposed classified board amendment will significantly extend the time required to effect a change in control of the Board of Directors and may discourage hostile takeover bids for the Company. Currently, a change in control of the Board of Directors can be made by stockholders at a single annual meeting. If we implement a classified board of directors, it will take at least two annual meetings for even a majority of stockholders to make a change in control of the Board of Directors, because only a minority of the directors will be elected at each annual meeting of stockholders.

A classified board can be seen as a disadvantage on the other hand, because of the additional time required to change control of the Board of Directors, as the classified board proposal will tend to perpetuate the then current majority of the members of our Board of Directors. Without the ability to obtain immediate control of the Board of Directors, a takeover bidder will not be able to take action to remove other impediments to its acquisition of the Company. While this proposal is not intended as a takeover-resistive measure in response to a specific threat, it may discourage certain persons or groups from acquiring large blocks of our shares by causing it to take longer for such a person or group of persons who acquire such a block of shares to effect a change in a majority of the members of our Board of Directors.

If the proposal is approved, we will file the amendment to the Articles of Incorporation with the Nevada Secretary of State, which will become effective on the date the filing is accepted by the Secretary of State.

**The Board of Directors recommends a vote FOR the amendment of the Articles of Incorporation providing for a classified Board of Directors.**

PROPOSAL NO. 2  
ELECTION OF DIRECTORS

General

The number of authorized directors as of the date of this proxy statement is five (5). All of the nominees have indicated to the Company that they will be available to continue to serve as directors. If any nominee named herein for election as a director should for any reason become unavailable to serve prior to the annual meeting, the Board may, prior to the annual meeting, (i) reduce the size of the Board to eliminate the position for which that person was nominated, (ii) nominate a new candidate in place of such person or (iii) leave the position vacant to be filled at a later time. Directors elected at the 2014 annual meeting will hold office for a one year term expiring at the annual meeting in 2015 (unless Proposal No. 1 above is approved, in which case the directors will be elected to the class and for the terms provided in Proposal No. 1) and until their respective successors are elected and qualified, or until their earlier death, resignation or removal. All of the nominees are currently directors of the Company. The experience, qualifications, attributes and skills that led to the conclusion that the persons should serve as a director of our Company are described below in each director nominee's biography.

Director Nominees:

*Joseph Pandolfino, MBA.* Mr. Pandolfino, age 45, founded 22nd Century Limited, LLC in 1998 and has over 20 years of experience in all aspects of the tobacco industry, including over 15 years with genetically-engineered tobacco. He has served as our Chief Executive Officer and as a Director since the closing of the merger in January 2011 between the Company and 22nd Century Limited, LLC. Mr. Pandolfino previously served as President of 22nd Century Limited, LLC from 1998 until April 2010 and served as Chief Executive Officer of 22nd Century Limited, LLC since April 2010. Mr. Pandolfino oversees our operations, strategy and product development. He holds a B.S. Degree in Business Administration from Medaille College and an M.B.A. Degree from the State University of New York at Buffalo. Mr. Pandolfino's significant experience in all aspects of the tobacco industry and the fact that he founded and managed 22nd Century Limited, LLC since inception led to our conclusion that he should serve as a director of our Company. He was elected Chairman of the Board of Directors in February 2014.

Henry Sicignano, III, MBA. Mr. Sicignano, age 46, has served as our President and Secretary since the closing of the merger in January 2011 between the Company and 22nd Century Limited, LLC, as a Director since March 4, 2011, and as interim Chief Financial Officer from July 6, 2012 to April 1, 2013. From August 2005 to April 2009, Mr. Sicignano served as a General Manager and as the Director of Corporate Marketing for NOCO Energy Corp., a petroleum products company; and from March 2003 to July 2005, as Vice President of Kittinger Furniture Company, Inc., a fine furniture manufacturer. From February 1997 through July 2002, he served as Vice President and Marketing Director of Santa Fe Natural Tobacco Company, a specialty tobacco company, prior to the sale of that company to R.J. Reynolds Tobacco Company in 2002. Mr. Sicignano holds a B.A. Degree in Government from Harvard College

and an M.B.A. Degree from Harvard University. Mr. Sicignano's extensive experience in management, including in the tobacco industry, led to our conclusion that he should serve as a director of our Company.

James W. Cornell. Mr. Cornell, age 57, has served as a Director since March 4, 2011. Mr. Cornell is currently the President and Chief Executive Officer of Praxiis, LLC, an enterprise that provides support for clients in organizational change, leadership development and transactional advisory services. He has served in this capacity since October, 1988. Mr. Cornell is also the current Manager of Larkin Center Management, LLC, a real estate development company, and has served in this capacity since October 2010. From September 2006 until September 2010, Mr. Cornell served as Managing Director of New York New Jersey Rail, LLC, which is part of the national transportation rail system and moves rail freight by rail barge across New York City Harbor, and he now continues to serve as principal business advisor to that firm. From March 2005 until September 2008, Mr. Cornell served as the Chairman of the Board of Directors of New York Regional Rail Corp., which operates as a short-haul regional trucking company. From April 2006, until February 2007, Mr. Cornell served as Chief Restructuring Officer of Regus Industries, a waste management firm, and from January 2001 until November 2004, he served as Special Advisor to Pinkerton Government Services, Inc. and Securitas Nuclear and Government Services Unit, security services providers to the energy industry and government. Mr. Cornell holds a B.S. Degree in Business, Management, and Economics and an M.B.A. Degree, both from the State University of New York, Empire College. Mr. Cornell's extensive business management, strategy, and leadership experience led to our conclusion that he should serve as a director of our Company.

Joseph Alexander Dunn, Ph.D. Dr. Dunn, age 60, has served as a Director since March 4, 2011. Dr. Dunn is currently Associate Dean for Research and Professor of Pharmaceutical Sciences at D'Youville College of Pharmacy in Buffalo, New York and has served in this capacity since April 1, 2010. Dr. Dunn has also served as Chief Executive Officer of the National Center for Food and Agricultural Policy in Washington, D.C. since November 1, 2009 and as Chief Executive Officer and Director of Research at OmniPharm Research International, Inc., a drug company, and affiliated entities, Therex Technologies Inc., a drug company, and Therex LLC, a drug company, each located in Buffalo, New York since January, 1994. From May 1, 2008, until January 20, 2009, Dr. Dunn served as Deputy Under Secretary and from August 1, 2006, until April 30, 2008 Dr. Dunn served as Senior Scientific Advisor at the United States Department of Agriculture, Research, Education and Economics Mission Area in Washington, D.C. From December 1, 2006, until April 30, 2008 Dr. Dunn served as Executive Director of the United States Department of Agriculture NAREEE Advisory Board. From July, 1998 until July 1, 2006, Dr. Dunn served as Research Associate Professor in the Department of Oral Biology, School of Dental Medicine, at the State University of New York at Buffalo. Since June 1, 2010, Dr. Dunn has served as a member of the Board of Directors of Brothers of Mercy, Inc., a not-for-profit nursing and rehabilitation concern. Dr. Dunn holds a B.S. Degree in Medical Chemistry and a Ph.D. Degree in Pharmacology, both from the State University of New York at Buffalo School of Pharmacy. Dr. Dunn also served as a Postdoctoral Fellow in the Department of Pharmacology at Harvard Medical School and as a Staff Fellow at the National Institutes of Health, National Cancer Institute Laboratory of Cellular Carcinogenesis and Tumor Promotion. Dr. Dunn's extensive scientific and regulatory background led to our conclusion that he should serve as a director of our Company.

*Richard M. Sanders.* Mr. Sanders, age 61, has served as a Director since December 9, 2013. Since August 2009, Mr. Sanders has served as a General Partner of Phase One Ventures, LLC, a venture capital firm which focuses on nanotechnology and biotechnology start-up opportunities in New Mexico and surrounding states. From January 2002 until June 2009, Mr. Sanders served as President and CEO of Santa Fe Natural Tobacco Company (SFNTC), a division of Reynolds American, Inc., which manufactures and markets the Natural American Spirit cigarette brand. During his 7-year tenure as head of SFNTC, Mr. Sanders tripled Natural American Spirit's market share and SFNTC's operating earnings and directed the successful expansion of Natural American Spirit into international markets in Western Europe and Asia. Prior to directing SFNTC's spectacular growth, Mr. Sanders worked for R.J. Reynolds Tobacco Company where he began his career as a marketing assistant in 1977. From 1987 to 2002 he served in a wide spectrum of executive positions including, among others, Senior Vice President of Marketing and Vice President of Sales. A native of Minneapolis, Mr. Sanders earned a bachelor's degree in political science from Hamline University in St. Paul and an MBA from Washington University in St. Louis, Missouri. Mr. Sanders' extensive experience in management, including in the tobacco industry, led to our conclusion that he should serve as a director of our Company.

**Our Board of Directors recommends a vote FOR each of the Director nominees listed above.**

## CORPORATE GOVERNANCE

### Board Composition

Directors currently hold office for one year (unless Proposal No. 1 above is approved, in which case the directors will be elected to the class and for the terms as provided in Proposal No. 1) or until the earlier of their death, resignation, removal or until their successors have been duly elected and qualified. There are no family relationships among our Directors. Our bylaws provide that the number of members of our Board of Directors may be changed from time to time by resolutions adopted by the Board of Directors and/or the stockholders. Our Board of Directors currently consists of five (5) members.

### Board Leadership Structure

Our Board does not have a policy on whether the same person should serve as both the Chief Executive Officer and Chairman of the Board or, if the roles are separate, whether the Chairman should be selected from the non-employee directors or should be an employee. Our Board believes that it should have the flexibility to periodically determine the leadership structure that it believes is best for the Company. The Board believes that its current leadership structure, with Mr. Pandolfino serving as both Chief Executive Officer and Board Chairman, is appropriate given the efficiencies of having the Chief Executive Officer also serve in the role of Chairman. Our lead director is currently Mr. Cornell. The Chairman and Chief Executive Officer consults periodically with the lead director on Board matters and on issues facing the Company. In addition, the lead director serves as the principal liaison between the Chairman of the Board and the independent directors and presides at an executive session of non-management directors at each regularly scheduled Board meeting.

### Board Role in Risk Oversight

Risk is inherent with every business and we face a number of risks. Management is responsible for the day-to-day management of risks we face, while our Board of Directors is responsible for overseeing our management and operations, including overseeing its risk assessment and risk management functions.

### **Number of Meetings of the Board of Directors**

The Board held 10 meetings during 2013. Directors are expected to attend Board meetings and to spend time needed to meet as frequently as necessary to properly discharge their responsibilities. Each active director attended at least 75% of the aggregate number of meetings of the Board during 2013.

#### Attendance at Annual Meetings of the Stockholders

The Company has no policy requiring Directors and Director Nominees to attend its annual meeting of stockholders; however, all Directors and Director Nominees are encouraged to attend.

#### Director Independence

Joseph Alexander Dunn, Ph.D., James W. Cornell and Richard M. Sanders qualify as “independent” Directors under the applicable definition of the listing standards of each of the NASDAQ Capital Market (“NASDAQ”) and the New York Stock Exchange MKT (“NYSE”).

#### Stockholder Communications

Stockholders may send communications to the Company's directors as a group or individually, by writing to those individuals or the group: c/o the Chief Executive Officer c/o 22nd Century Group, Inc., 9530 Main Street, Clarence, New York 14031. The Chief Executive Officer will review all correspondence received and will forward all correspondence that is relevant to the duties and responsibilities of the Board or the business of the Company to the intended director(s). Examples of inappropriate communication include business solicitations, advertising and communication that is frivolous in nature, relates to routine business matters (such as product inquiries, complaints or suggestions), or raises grievances that are personal to the person submitting the communication. Upon request, any director may review communication that is not forwarded to the directors pursuant to this policy.

## **Committees of the Board of Directors**

Our Board of Directors has established three standing committees: an audit committee, a compensation committee and a nominating and corporate governance committee, which are described below. Members of these committees are elected annually at the regular board meeting held in conjunction with the annual stockholders' meeting. The charter of each committee is available on our website at [www.xxiiicentury.com](http://www.xxiiicentury.com).

### *Nominating and Governance Committee*

The Nominating and Governance Committee consists of Messrs. Cornell, Dunn and Sanders, with Dr. Dunn serving as chair. The Nominating and Governance Committee is responsible for: (a) developing and recommending corporate governance principles and procedures applicable to our board and employees; (b) recommending committee composition and assignments; (c) overseeing periodic self-evaluations by the board, its committees, individual directors and management with respect to their respective performance; (d) identifying individuals qualified to become directors; (e) recommending director nominees; (f) assisting in succession planning; (g) recommending whether incumbent directors should be nominated for re-election to our Board; and (h) reviewing the adequacy of the Nominating and Governance Committee charter on an annual basis.

Nominations of persons for election to the Board at the annual meeting may also be made by any stockholder entitled to vote for the election of directors at the meeting who complies with the notice procedures set forth in our bylaws. Such nominations by any stockholder shall be made pursuant to timely notice in writing to the Secretary. To be timely, a stockholder's notice shall be delivered to the Secretary at our principal executive offices not later than the close of business on the ninetieth (90th) day nor earlier than the close of business on the one hundred twentieth (120th) day prior to the first anniversary of the preceding year's annual meeting; provided, however, that in the event that the date of the annual meeting is more than thirty (30) days before or more than seventy (70) days after such anniversary date, notice by the stockholder must be so delivered not earlier than the close of business on the one hundred twentieth (120th) day prior to such annual meeting and not later than the close of business on the later of the ninetieth (90th) day prior to such annual meeting or the tenth (10th) day following the day on which public announcement of the date of such meeting is first made.

### *Audit Committee*

The Audit Committee consists of Messrs. Cornell, Dunn and Sanders, with Mr. Cornell serving as chair. Our Board has determined that Mr. Cornell is the audit committee financial expert as defined under the rules of the U.S. Securities and Exchange Commission ("SEC"), and all Audit Committee members are independent under the applicable listing standards of each of NASDAQ and the NYSE and applicable rules of the SEC. The Audit Committee oversees

our accounting and financial reporting processes and the audits of our financial statements.

The Audit Committee has sole authority for the appointment, compensation and oversight of the work of our independent registered public accounting firm, and responsibility for reviewing and discussing with management and our independent registered public accounting firm our audited consolidated financial statements included in our Annual Report on Form 10-K, our interim financial statements and our earnings press releases. The Audit Committee also reviews the independence and quality control procedures of our independent registered public accounting firm, reviews management's assessment of the effectiveness of internal controls, discusses with management the Company's policies with respect to risk assessment and risk management and will review the adequacy of the Audit Committee charter on an annual basis.

#### *Compensation Committee*

The Compensation Committee consists of Messrs. Cornell, Dunn and Sanders, with Mr. Sanders serving as chair. The Compensation Committee establishes, administers and reviews our policies, programs and procedures for compensating our executive officers and directors.

The Compensation Committee is responsible for: (a) assisting our Board in fulfilling its fiduciary duties with respect to the oversight of the Company's compensation plans, policies and programs, including assessing our overall compensation structure, reviewing all executive compensation programs, incentive compensation plans and equity-based plans, and determining executive compensation; and (b) reviewing the adequacy of the Compensation Committee charter on an annual basis.

#### **Director Compensation**

Directors that are not members of management receive cash compensation of \$15,000 each annually and in 2013 received restricted stock awards of 25,000 shares each which vested immediately and non-qualified stock options for 50,000 shares each. The following table sets forth information regarding the compensation of our non-executive directors for their service on our Board of Directors for fiscal year 2013:



Name	Year	Fees Earned or paid in cash	Stock Awards (4)	Option Awards(1)	Non-Equity Incentive Plan Compensation	Non-Qualified		Total
						Deferred Earnings	All Other Compensation(3)	
James W. Cornell	2013	\$ 15,000	\$20,000	\$ 34,375	\$ -	\$ -	\$ 1,680	\$71,055
Joseph A. Dunn, Ph.D.	2013	\$ 15,000	\$20,000	\$ 34,375	\$ -	\$ -	\$ 1,680	\$71,055
Richard M. Sanders (2)	2013	\$ -	\$-	\$ -	\$ -	\$ -	\$ -	\$-

Represents the grant date fair value calculated pursuant to ASC Topic 718. The fair value of each option grant is (1) estimated on the date of grant using the Black-Scholes option-pricing model. The following assumptions were used:

Risk-free interest rate	1.89%
Expected dividend yield	0%
Expected stock price volatility	90%
Expected life of options	10 years

(2) Mr. Sanders term began on December 9, 2013, and he received no compensation during 2013.

(3) Represents taxes paid by the Company on behalf of the Director on their stock awards.

(4) The amounts included in this column are the aggregate grant date fair value determined in accordance with FASB ASC 718.

In 2014 non-executive Directors will each receive an annual retainer of \$10,000 plus a restricted stock award of 35,000 shares that will vest one year after issuance. In addition each non-executive Director will receive \$2,000 for attendance at regularly-scheduled quarterly Board meetings plus \$250 each for attendance at any telephonic Board meeting. The non-executive Directors will also receive \$2,500 per annum for chairing a Board Committee and \$500 per annum for participating on a Board Committee where they do not serve as the chair.

## EXECUTIVE OFFICERS

Certain information regarding our Executive Officers is provided below:

<b>Name</b>	<b>Age</b>	<b>Position</b>
Joseph Pandolfino	45	Chairman and Chief Executive Officer
Henry Sicignano, III	46	President, Secretary and Director
John T. Brodfuehrer	56	Chief Financial Officer
Michael R. Moynihan, Ph.D.	61	Vice President of R&D

For information with respect to Joseph Pandolfino and Henry Sicignano, III, please see the information about the members of our Board of Directors on the preceding pages. There are no family relationships among our Directors or Executive Officers.

*John T. Brodfuehrer, Chief Financial Officer.* Mr. Brodfuehrer has serviced as our Chief Financial Officer since April 2013. Prior to that, Mr. Brodfuehrer served from March 2011 through December 2012 as Chief Financial Officer of Latina Boulevard Foods, LLC, or LBF, an entity formed as the result of a merger of two long-time Western New York wholesale food distributors. Prior to his employment with LBF, from May 2010 through February 2011, Mr. Brodfuehrer was Vice-President of Retail Accounting for United Refining Company, or URC, an independent refiner and marketer of petroleum products. Prior to his time at URC, from April 1985 through July 2009, Mr. Brodfuehrer served in multiple roles over a twenty-four year span with NOCO Energy Corp, a diversified distributor of energy products and related services. Mr. Brodfuehrer served as NOCO's Chief Financial Officer, Vice-President and as a member of the Board of Directors from 2000 to 2009. Mr. Brodfuehrer earned a Bachelor of Science in Business Administration, *summa cum laude*, from the State University of New York at Buffalo in 1979 and became a New York State Certified Public Accountant in 1981.

*Michael R. Moynihan, Ph.D., Vice President of R&D.* Dr. Moynihan has served as our Vice President of R&D since March 2011 and served as Vice President of R&D for 22nd Century Limited, LLC since January, 2007. He has also been a consultant for 22nd Century Limited, LLC since 1999. From 2001 to 2006 he served as Director of Biotechnology Development at Fundacion Chile and from 1995 to 2000 as Senior Project Director at InterLink Biotechnologies LLC. Dr. Moynihan holds a Bachelor of Science Degree in Biology from Brown University and a Master's Degree and Ph.D. in Biology from Harvard University. He previously served as a Visiting Research Fellow at the Institute for Molecular and Cellular Biology, Osaka University, Japan; a Postdoctoral Associate in the Section of Plant Biology, Cornell University; and a Postdoctoral Associate at the Center for Agricultural Molecular Biology, Rutgers University.

## EXECUTIVE COMPENSATION

### Compensation Policies and Practices and Risk Management

The Board considers, in establishing and reviewing our compensation philosophy and programs, whether such programs encourage unnecessary or excessive risk taking. Base salaries are fixed in amount and consequently the Board does not see them as encouraging risk taking. We also provide Named Executive Officers and other senior managers with long-term equity awards to help further align their interests with our interests and those of our stockholders. The Board believes that these awards do not encourage unnecessary or excessive risk taking since the awards are generally provided at the beginning of an employee's tenure or at various intervals to award achievements or provide additional incentive to build long-term value and are subject to vesting schedules to help ensure that executives and senior managers have significant value tied to our long-term corporate success and performance.

The Board believes that our compensation philosophy and programs encourage employees to strive to achieve both short- and long-term goals that are important to our success and building stockholder value, without promoting unnecessary or excessive risk taking. The Board has concluded that our compensation philosophy and practices are

not reasonably likely to have a material adverse effect on us.

In future periods, the newly formed Compensation Committee of the Board of Directors will undertake such analysis and make such determinations. In addition, the Compensation Committee will make decisions regarding the levels of compensation for each of our executive officers.

The following table summarizes the compensation paid by us in each of the last two completed fiscal years for our principal executive officer and the two most highly compensated executive officers who received annual compensation in excess of \$100,000. These officers are referred to herein as our “Named Executive Officers.”

### Summary Compensation Table for Years Ended December 31, 2013 and 2012

Name and Principal Position	Year	Salary (\$)	Bonus (\$)	Stock Awards (\$) (1)	Option Awards (\$)(2)	Non-Equity Incentive Plan Compensation (\$)	Non-qualified Deferred Compensation Earnings (\$)	All Other Compensation (\$) (3)	Total Compensation (\$)
Joseph Pandolfino Chief Executive Officer	2013	170,192	60,000	400,000	-	-	-	57,777	687,969
	2012	150,000	-	310,500	-	-	-	15,609	476,109
Henry Sicignano III President and Secretary	2013	159,615	-	180,000	-	-	-	37,179	376,794
	2012	150,000	-	69,000	59,600	-	-	16,286	294,886
John T. Brodfuehrer Chief Financial Officer and Treasurer (5)	2013	83,077	-	90,000	-	-	-	12,979	186,056
	2012	-	-	-	-	-	-	-	-
Michael R. Moynihan, Ph.D. Vice President of R&D	2013	124,231	-	60,000	51,563	-	-	17,908	253,702
	2012	115,000	-	85,474	(4) 59,600	-	-	9,239	269,313

(1) The amounts included in this column are the aggregate grant date fair value determined in accordance with FASB ASC 718.

(2) Represents the grant date fair value calculated pursuant to ASC Topic 718. The fair value of each option grant is estimated on the date of grant using the Black-Scholes option-pricing model. The following assumptions were used:

Risk-free interest rate	1.89%
Expected dividend yield	0%
Expected stock price volatility	90%
Expected life of options	10 years

(3) All Other Compensation consists of the following:

Name	Year	Health and Dental Insurance (\$)	Employer Contributions to Company 401(k) Plan (\$)	Taxes Paid by Company on Stock Awards (\$)	All Other Compensation Total (\$)
Joseph Pandolfino	2013	17,271	6,906	33,600	57,777
	2012	15,609	-	-	15,609
Henry Sicignano III	2013	17,271	4,788	15,120	37,179
	2012	16,286	-	-	16,286
John T. Brodfuehrer	2013	3,846	1,033	8,100	12,979
	2012	-	-	-	-
Michael R. Moynihan, Ph.D.	2013	9,141	3,727	5,040	17,908
	2012	9,239	-	-	9,239

(4) Amount represents fair value of stock issued in excess of the carrying value of Dr. Moynihan's 4% interest in Goodrich Tobacco Company, LLC.

(5) Mr. Brodfuehrer's employment with the Company began in April 2013.

## Outstanding Equity Awards at 2013 Fiscal Year-End

Name	Option Awards				Stock Awards		Equity Incentive Plan Awards: Number of Shares, Units or Other Rights That Have Not Vested (#)	Equity Incentive Plan Awards: Market or Payout Value of Unearned Shares, Units or Other Rights That Have Not Vested (\$) <sup>(2)</sup>
	Number of Securities Underlying Unexercised Options Exercisable (#)	Number of Securities Underlying Unexercised Options exercisable (#)	Option Exercise Price	Option Expiration Date	Number of Shares or Units of Stock That Have Not Vested (#) <sup>(2)</sup>	Market Value of Shares or Units of Stock That Have Not Vested (\$) <sup>(2)</sup>		
Mr. Sicignano	100,000	-	\$ 0.69	5/18/2022	400,000 <sup>(1)</sup>	\$ 856,000	-	-
Dr. Moynihan	100,000	-	\$ 0.69	5/18/2022	-	-	-	-
	75,000	-	\$ 0.80	2/25/2023	-	-	-	-
Mr. Brodfuehrer	-	-	-	-	100,000 <sup>(3)</sup>	\$ 214,000	-	-

(1) 300,000 of the shares are time-based awards subject to vesting over the next 2 years on April 1 of 2014 to 2015, such that 150,000 shares shall vest on April 1 of each such year; 100,000 of the shares are performance based, which are subject to forfeiture unless certain performance milestones are achieved.

(2) Market value calculated based on the price of our common stock as of the last business day of our fiscal year.

(3) Shares are a time-based award subject to vesting over a 1 year time period. The shares vest on March 19, 2014.

## Agreements with Executive Officers

We have entered into employment agreements with each of Messrs. Pandolfino and Sicignano that provide for annual compensation of \$150,000 and \$150,000, respectively, subject to increases as contained in such employment agreements and/or as decided by our Board of Directors. Dr. Moynihan has an employment agreement with the Company that provides for annual compensation of \$115,000. Mr. Brodfuehrer has an employment agreement with the Company that provides for annual compensation of \$110,000. During October 2013, our Board of Directors approved increases in the annual compensation for Mr. Pandolfino, Mr. Sicignano, Dr. Moynihan, and Mr. Brodfuehrer such that their current annual compensation is \$225,000, \$200,000, \$140,000 and \$135,000, respectively, effective October 25, 2013.

Employment agreements for each of these four executives also contain non-compete covenants and change of control provisions.

The employment agreement of Messrs. Pandolfino and Sicignano provides that during the executive officer's employment by us and for a period of two (2) years after the executive officer ceases to be employed by us, the following non-compete covenants will apply: (i) the executive officer will not (except on behalf of us) provide or offer to provide any goods or services to any entity engaged in the United States in the making, offering, marketing, distributing and/or selling of products made from the tobacco ( *Nicotiana* ) plant, and/or providing or offering to provide the same or substantially similar services to any customer or prospective customer, (ii) the executive officer will not interfere with our relationships with any customer, prospective customer, supplier, distributor, farmer and/or manufacturer, and (iii) the executive will not induce or attempt to induce any persons employed by us to leave their employment with us, nor hire or employ, or attempt to hire or employ, any persons employed by us, nor assist or facilitate in any way any other person or entity in the hiring of any persons employed by us.

The employment agreement of Dr. Moynihan contains the same non-compete covenants but they are in effect for a period of three (3) years after the executive officer ceases to be employed by us. Dr. Moynihan's employment agreement contains a severance provision which provides that upon the termination of his employment without Cause (as defined in his employment agreement), Dr. Moynihan will receive severance compensation equal to the base salary then in effect beginning on the date of termination and continuing until the later of one year following termination or the expiration of the initial term of his employment agreement.

The employment agreement of Mr. Brodfuehrer contains the same non-compete covenants but they are in effect for a period of four (4) years after the executive officer ceases to be employed by us. Mr. Brodfuehrer's employment agreement contains a severance provision which provides that upon the termination of his employment without Cause (as defined in his employment agreement), Mr. Brodfuehrer will receive severance compensation equal to the base salary then in effect beginning on the date of termination and continuing until the later of six months following termination or the expiration of the initial term of his employment agreement.

The employment agreements of Messrs. Pandolfino and Sicignano provide that in the event of a change in control (as defined in the employment agreements) of our Company, then during the three (3)-year period following such change in control if certain triggering events occur as defined in such employment agreements, such as if the executive is terminated other than for cause (as defined in each of the employment agreements), death or disability, or if the executive officer's responsibilities are diminished after the change in control as compared to the executive officer's responsibilities prior to the change in control, or if the executive officer's base salary or benefits are reduced, or the executive is required to relocate more than twenty-five (25) miles from his current place of employment, then in any such events the executive officer will have the option, exercisable within ninety (90) days of the occurrence of such an event, to resign his employment with us, in which case the executive officer will be entitled to receive: (A) the greater of either his base salary for the then remaining portion of the initial 5-year term of the agreement or his base salary for three (3) years thereafter; (B) reimbursement for eighteen (18) months of his reasonable costs for medical, dental, life, disability and other benefits and insurance coverage that the executive officer received during his employment; (C) outplacement services for two (2) years; and (D) the immediate vesting of all options and/or restricted stock grants previously granted or to be granted to the executive officer. We also provide each of these individuals with health insurance and vacation benefits.



## Equity Incentive Plan

On October 21, 2010, we established the 2010 Equity Incentive Plan (the “Existing EIP”) for officers, employees, directors, consultants and advisors to the Company and its affiliates, consisting of 4,250,000 shares of common stock reserved for issuance under the Existing EIP. The Existing EIP has a term of ten years and is administered by our Board or a committee to be established by our Board, to determine the various types of incentive awards that may be granted to recipients under this plan, such as stock grants, stock options, stock appreciation rights, performance share awards, restricted stock and restricted stock units, and the number of shares of common stock to underlie each such award under the Existing EIP. On April 1, 2011, under our Existing EIP, the Board granted an aggregate of 1,150,000 shares of our common stock to our officers and Directors and options to purchase an aggregate of 35,000 shares of our common stock to our employees. On April 26, 2012, under our Existing EIP, the Board granted an aggregate of 550,000 shares of our common stock and options to purchase 345,000 shares of our common stock to our officers and Directors and options to purchase an aggregate of 70,000 shares of our common stock to our employees. On July 6, 2012, 25,000 options to purchase our shares were forfeited by an executive who resigned his employment with the Company; these forfeited options were added back to the Existing EIP. On February 25, 2013, under our Existing EIP, the Board granted of 890,000 shares of our common stock and options to purchase 100,000 shares of our common stock to our officers and Directors and options to purchase an aggregate of 85,000 shares of our common stock to our employees. From approximately June 2012 through April 2013, in consideration of services provided to the Company, the Board granted 30,000 shares of common stock and 70,000 options to purchase our shares to three individual consultants. On March 19, 2013, the Board granted 100,000 shares of common stock to a newly hired chief financial officer. On January 13, 2014, under our Existing EIP, the Board granted an aggregate of 850,000 shares of our common stock to our officers, employees and Directors. As of January 14, 2014, net of all grants and forfeitures, there were no shares of common stock available for issuance under the Existing EIP.

## CERTAIN RELATIONSHIPS AND RELATED TRANSACTIONS

We have conducted transactions with Alternative Cigarettes, Inc. (“AC”), which is 95% owned by three holders of our common stock, including Joseph Pandolfino, our Chief Executive Officer, and Angelo Tomasello, who beneficially owned approximately over 10% of our common stock at the time of the majority of these transactions (7.9% as of February 7, 2014). We previously shared office space and employee services with AC. AC has also advanced funds to us from time to time. Since January 1, 2010, the largest net amount due from us to AC was approximately \$127,000. No interest has been accrued or paid on these amounts due to AC and there are no repayment terms between the parties. In February 2011, AC was paid \$22,500 by 22nd Century Ltd for AC’s assignment of its *MAGIC* trademark to 22nd Century Ltd and other minor assets. During the years ended December 31, 2013 and 2012, transactions with AC consisted mainly of repayments and advances. The net amount due from AC amounted to \$42,069 as of December 31, 2013 (\$36,969 as of December 31, 2012). No interest has been accrued or paid on amount due from or to AC and there are no repayment terms.

Mr. Sicignano exchanged certain notes to acquire \$247,250 of our December 14, 2011 Convertible Notes. In December 2012, Mr. Sicignano agreed to forebear on the collection of our December 14, 2011 Convertible Notes. On

January 22, 2013, we paid Mr. Sicignano the total amount of \$250,696 in principal plus accrued but unpaid interest as payment in full of the December 14, 2011 Convertible Notes owned by Mr. Sicignano. On that same date of January 22, 2013, Mr. Sicignano loaned us \$150,000 and we issued a promissory note to Mr. Sicignano due and payable on July 1, 2013 in the principal amount of \$150,000, with 15% interest per annum accruing thereon. Subsequently, Mr. Sicignano agreed to extend the maturity date to October 1, 2013. On October 2, 2013, the Company made a payment to Mr. Sicignano in the amount of \$165,473 in full satisfaction of the note and all accrued interest.

On November 9, 2012, Mr. Pandolfino, our Chief Executive Officer, Mr. Sicignano, our President, Mr. Cornell, our director, and Dr. Dunn, our director, participated in our private placement and acquired 480,000, 600,000, 60,000 and 60,000 shares of our common stock, \$0.00001 par value, respectively, and warrants with a 5-year term to purchase up to 240,000, 300,000, 30,000 and 30,000 shares of the Company's common stock, respectively, at an exercise price of \$1.00 per share, which exercise price was subsequently adjusted pursuant to the terms of the warrants to be \$0.60 per share as of January 22, 2013. The purchase price was \$0.25 per unit.

PROPOSAL NO. 3  
ADVISORY RESOLUTION ON EXECUTIVE COMPENSATION

We are asking stockholders to approve an advisory resolution on the Company's 2013 executive compensation as reported in this proxy statement. As described in this proxy statement, our compensation policies and determinations, including those made for fiscal year 2013, have been the product of discussions between our entire Board. Our recently formed Compensation Committee will make all compensation decisions regarding executive compensation in future periods. Accordingly, the compensation paid to our named executive officers for fiscal year 2013 is not necessarily indicative of how we will compensate our named executive officers in the future.

We urge stockholders to read the "Executive Compensation" section beginning on page 12 of this proxy statement, as well as the Summary Compensation Table and other related compensation tables and narrative in this proxy statement, which provide detailed information on the compensation of our named executive officers.

In accordance with Section 14A of the Securities Exchange Act of 1934, as amended (the "Exchange Act"), and as a matter of good corporate governance, we are asking stockholders to approve the following advisory resolution:

RESOLVED, that the stockholders of 22nd Century Group, Inc. (the "Company") approve, on an advisory basis, the 2013 compensation of the Company's named executive officers disclosed in the Executive Compensation section and the related compensation tables, notes and narrative in the Proxy Statement for the Company's 2014 Annual Meeting of Stockholders.

This advisory resolution, commonly referred to as a "say-on-pay" resolution, is non-binding on the board of directors. Although non-binding, the board will review and consider the voting results when making future decisions regarding our executive compensation program.

**Our Board of Directors recommends that a vote FOR the approval of the advisory resolution on executive compensation.**

PROPOSAL NO. 4

APPROVAL OF THE 22nd CENTURY GROUP, INC. 2014 OMNIBUS INCENTIVE PLAN

Our Board of Directors has adopted the 22nd Century Group, Inc. 2014 Omnibus Incentive Plan (the “Plan”), subject to approval by the holders of our common stock at the 2014 annual meeting. If approved by our stockholders, the Plan will allow for the granting of equity and cash incentive awards to eligible individuals, including the issuance of up to 5,000,000 shares of our common stock pursuant to awards under the Plan. Awards under the Plan are intended to support the creation of long-term value and business returns for our stockholders. We believe the Plan strikes an appropriate balance between rewarding performance and limiting stockholder dilution, while providing our company with the flexibility to meet changing compensation needs.

**Authorized Shares and Stock Price**

Our amended and restated certificate of incorporation authorizes the issuance of 300,000,000 shares of common stock. There were 58,252,770 shares of common stock issued and outstanding as of February 14, 2014, and the market value of a share of common stock as of that date was \$3.10.

To determine the number of shares of common stock to be authorized under the Plan, our Board of Directors considered the needs of our company for shares, based on the current and expected future equity grant mix, and the potential dilution that awarding the requested shares may cause to existing stockholders. Our Board of Directors also considered the need for stockholder approval of the performance goals in the Plan to maintain our ability to grant awards that qualify as performance-based compensation under Section 162(m) of the Internal Revenue Code of 1986 (the “Code”). Such performance-based compensation is not included in the limit of \$1,000,000 per year per covered executive on compensation that is deductible by us. Our existing equity incentive plan, the 22nd Century Group, Inc. 2010 Equity Incentive Plan, has no shares remaining available for future awards and, accordingly, no more awards may be granted under that plan.

Our Board of Directors determined that 5,000,000 shares should be authorized under the Plan. Our Board of Directors is seeking stockholder approval for the Plan and the pool of shares available under the Plan. Because this proposal to approve the Plan does not contemplate the amount or timing of specific equity awards in the future, it is not possible to calculate with certainty the number of years of awards that will be available and the amount of subsequent dilution that may ultimately result from such awards.

**Summary of the Terms of the Plan**

The following is a summary of the material provisions of the Plan, a copy of which is attached hereto as Appendix B and incorporated by reference herein. This summary is qualified in its entirety by reference to the full and complete text of the Plan. Any inconsistencies between this summary and the text of the Plan will be governed by the text of the Plan.

### **Purpose and Effective Date**

The two complementary purposes of the Plan are (1) to attract, retain, focus and motivate our executives and other selected employees, directors, consultants and advisors; and (2) to increase stockholder value. The Plan will become effective if approved by our stockholders at the 2014 annual meeting.

### **Administration and Eligibility**

The Compensation Committee of our Board of Directors, or any successor committee with similar authority that the Board may appoint, which in either case consists of not less than two members of the Board who meet the “outside director” requirements of Section 162(m) of the Code and the “non-employee director” requirements of Rule 16b-3(b)(3) under the Securities Exchange Act of 1934 (the “Exchange Act”) (either referred to as the “Committee”) will administer the Plan (the “Administrator”). The Plan authorizes the Committee to interpret the provisions of the Plan; prescribe, amend and rescind rules and regulations relating to the Plan; correct any defect, supply any omission, or reconcile any inconsistency in the Plan, any award or any agreement covering an award; and make all other determinations necessary or advisable for the administration of the Plan, in each case in its sole discretion. The Board may also administer the Plan to the extent it retains authority and responsibility as administrator of the Plan.

To the extent applicable law permits, the Board may delegate to another committee of the Board, or the Compensation Committee may delegate to one or more of our officers, any or all of their respective authority and responsibility as an administrator of the Plan. However, no such delegation is permitted with respect to stock-based awards made to any participant who is subject to the reporting requirements of Section 16(a) of the Exchange Act or the liability provisions of Section 16(b) of the Exchange Act at the time any such delegated authority or responsibility is exercised unless the delegation is to another committee of the Board consisting entirely of non-employee directors.

The Administrator may designate any of the following as a participant from time to time, to the extent of the Administrator's authority: any officer or other employee of our company or its affiliates; any individual who we or one of our affiliates has engaged to become an officer or employee; any consultant or advisor who provides services to the Company or its affiliates; or any director, including a non-employee director. Currently the persons eligible to participate in the Plan consist of approximately eight employees and three non-employee directors.

### **Types of Awards**

The Plan permits the grant of stock options (including incentive stock options), stock appreciation rights, restricted stock, restricted stock units, performance shares, performance units, annual cash incentives, long-term cash incentives, dividend equivalent units and other types of stock-based awards. These award types are described in further detail below.

### **Stock Subject to the Plan**

The Plan provides that 5,000,000 shares of our common stock are reserved for issuance under the Plan. The Plan also provides that we may issue an aggregate of 5,000,000 shares upon the exercise of incentive stock options.

The number of shares reserved under the Plan will be depleted by the maximum number of shares, if any, that may be issuable under an award at the time of grant. In general, if an award granted under the Plan lapses, expires, terminates or is cancelled without the issuance of shares under the award, if it is determined during or at the conclusion of the term of an award that all or some portion of the shares under the award will not be issuable on the basis that the conditions for such issuance will not be satisfied, if shares are forfeited under an award or if shares are issued under any award and we reacquire them pursuant to rights reserved upon the issuance of the shares, then such shares will again be available for issuance under the Plan, except that shares reacquired pursuant to reserved rights may not be issued pursuant to incentive stock options. Shares not issued or delivered as a result of the net settlement of an outstanding option or stock appreciation right, shares tendered in payment of the exercise price of an option, shares withheld to satisfy tax withholding obligations and shares purchased by us using proceeds from option exercises may not be re-credited to the reserve.

## **Options**

The Administrator will generally determine all terms and conditions of each option. However, the grant date may not be any day prior to the date that the Administrator approves the grant, the exercise price may not be less than the fair market value of the shares subject to the option as determined on the date of grant and the option must terminate no later than ten years after the date of grant. Unless restricted by the Administrator, and subject to such procedures as the Administrator may specify, the payment of the exercise price of options may be made (1) by delivery of cash or other of our shares or other securities having a then fair market value equal to the purchase price of such shares; (2) by delivery to us or our designated agent of an executed irrevocable option exercise form together with irrevocable instructions to a broker-dealer to sell or margin a sufficient portion of the shares and deliver the sale or margin loan proceeds directly to us to pay for the exercise price; (3) by surrendering the right to receive shares otherwise deliverable to the participant upon exercise of the award having a fair market value at the time of exercise equal to the total exercise price; or (4) by any combination of (1), (2) and/or (3). Except to the extent otherwise set forth in an award agreement, a participant will have no rights as a holder of our common stock as a result of the grant of an option until the option is exercised, the exercise price and applicable withholding taxes are paid and the shares subject to the option are issued thereunder.

## **Stock Appreciation Rights**

The Administrator will generally determine all terms and conditions of each stock appreciation right. A stock appreciation right is the right of a participant to receive cash in an amount, and/or common stock with a fair market value, equal to the appreciation of the fair market value of a share of our common stock during a specified period of time. However, the grant date may not be any day prior to the date that the Administrator approves the grant, the grant price may not be less than the fair market value of the shares subject to the stock appreciation right as determined on the date of grant and the stock appreciation right must terminate no later than ten years after the date of grant.

## **Performance and Stock Awards**

The Administrator will generally determine all terms and conditions of each award of shares, restricted stock, restricted stock units, performance shares or performance units. Restricted stock means shares of our common stock that are subject to a risk of forfeiture, restrictions on transfer or both a risk of forfeiture and restrictions on transfer. Restricted stock unit means the right to receive a payment equal to the fair market value of one share of our common stock. Performance share means the right to receive shares of our common stock, including restricted stock, to the extent performance goals are achieved. Performance unit means the right to receive a payment valued in relation to a unit that has a designated dollar value or the value of which is equal to the fair market value of one or more shares of our common stock, to the extent performance goals are achieved. The terms and conditions that the Administrator will determine include the length of the vesting and/or performance period, but any period of vesting applicable to restricted stock or restricted stock units that are not subject to a performance goal and that are granted to a participant other than a non-employee director may not lapse more quickly than ratably over three years from the date of grant, subject to the Plan's provisions on accelerated vesting in specified circumstances.

## **Incentive Awards**

The Administrator has the authority to grant annual and long-term incentive awards. An incentive awards is the right to receive a cash payment to the extent performance goals are achieved. The Administrator will determine all of the terms and conditions of each incentive award, including the performance goals, the performance period, the potential amount payable and the timing of payment, provided that the Administrator must require that payment of all or any portion of the amount subject to the award is contingent on the achievement of one or more performance goals during the period the Administrator specifies, although the Administrator may specify that all or a portion of the goals are deemed achieved upon a participant's death, disability or (for awards not intended to qualify as performance-based compensation within the meaning of Code Section 162(m)) retirement, or such other circumstances as the Administrator may specify. For long-term incentive awards, the performance period must relate to a period of more than one fiscal year.

The Administrator has the authority to grant dividend equivalent units in connection with awards other than options, stock appreciation rights or other stock rights within the meaning of Code Section 409A. A dividend equivalent unit is the right to receive a payment, in cash or shares of common stock, equal to the cash dividends or other distributions that we pay with respect to a share of our common stock. No dividend equivalent unit granted in tandem with another award may include vesting provisions more favorable to the participant than the vesting provisions, if any, to which the tandem award is subject. Any performance period applicable to an award of dividend equivalent units must relate to a period of at least one year except that, if the award is made in the year the Plan becomes effective, at the time of commencement of employment with us or on the occasion of a promotion, then the award may relate to a period shorter than one year.



## **Other Stock-Based Awards**

The Administrator may grant to participants other types of awards that may be denominated or payable in, valued in whole or in part by reference to, or otherwise based on, shares of our common stock, either alone or in addition to or in conjunction with other awards, and payable in shares or cash. Subject to the limits of the Plan, an award may include the issuance of shares of unrestricted common stock, which may be awarded in payment of director fees, in lieu of cash compensation, in exchange for cancellation of a compensation right, as a bonus, or upon the attainment of performance goals or otherwise, or rights to acquire our common stock from us. The Administrator will generally determine all terms and conditions of the award, except that any award that provides for purchase rights must be priced at 100% of fair market value on the date of the award.

## **Performance Goals**

For purposes of the Plan, performance goals means any goals the Administrator establishes that relate to one or more of the following with respect to us or any one or more of our subsidiaries, affiliates or other business units: net sales; earnings before interest and taxes; earnings before interest, taxes, depreciation and amortization; Fair Market Value of Shares; basic earnings per share; diluted earnings per share; return on stockholder equity; return on average equity; return on average total capital employed; return on net assets employed before interest and taxes; economic value added; return on year-end equity; capital; cost of capital; cost of equity; cost of debt; taxes; market share; operating ratios; productivity measurements; revenue to budget compliance; net income to budget compliance; return on total rewards investment; net free cash flow; new sales; divisional profitability; customer satisfaction measurements; production quotas; project criteria or a combination of the foregoing.

As to each performance goal, the relevant measurement of performance will be computed in accordance with generally accepted accounting principles to the extent applicable, except that the Administrator may, at the time of establishing the Performance Goal(s), exclude the effects of (1) extraordinary, unusual and/or non-recurring items of gain or loss, (2) gains or losses on the disposition of a business, (3) changes in tax or accounting regulations or laws, or (4) the effect of a merger or acquisition. Certain other adjustments are permitted to the extent consistent with Code Section 162(m) (to the extent an award is intended to qualify as performance-based compensation under Code Section 162(m)). Performance goals may be expressed in terms of attaining a specified level of the particular criterion or the attainment of an increase or decrease (expressed as absolute numbers, averages and/or percentages) in the particular criterion or achievement in relation to a peer group or other index. The performance goals also may include a threshold level of performance below which no payment will be made (or no vesting will occur), levels of performance at which specified payments will be paid (or specified vesting will occur), and a maximum level of performance above which no additional payment will be made (or at which full vesting will occur). In addition, in the case of awards that the Administrator determines at the date of grant will not be considered “performance-based compensation” under Code Section 162(m), the Administrator may establish other performance goals and provide for other exclusions or adjustments not listed in the Plan.

To qualify eligible awards under the Plan as “performance-based compensation” under Section 162(m) of the Code, we are required to establish limits on the number of awards that we may grant to a particular participant. The award limits in the Plan were established in order to provide us with maximum flexibility, and are not necessarily indicative of the size of award that we expect to make to any particular participant. Under the Plan, no participant may be granted awards that could result in such participant:

receiving options for, or stock appreciation rights with respect to, more than 450,000 shares of our common stock (150,000 shares for non-employee director participants) during any fiscal year;

receiving awards of restricted stock and/or restricted stock units relating to more than 450,000 shares of our common stock (150,000 shares for non-employee director participants) during any fiscal year;

receiving awards of performance shares and/or awards of performance units, the value of which is based on the fair market value of our common stock, for more than 450,000 shares of our common stock (150,000 shares for non-employee director participants) during any fiscal year; or

receiving awards, including awards of performance units the value of which is not based on the fair market value of our common stock, long-term incentive awards or dividend equivalent units, that would pay more than \$2,000,000 in any fiscal year.

Each of these limitations is subject to adjustment as described below.

### **Effect of Termination of Employment or Service on Awards**

The Administrator will have the discretion to determine, at the time an award is made to a participant or any time thereafter, the effect of the participant's termination of employment or service with us or our affiliates on the award.

### **Transferability of Awards**

Awards under the Plan generally will be nontransferable except (a) as otherwise determined by the Compensation Committee; (b) by will or the laws of descent and distribution; and (c) to the spouse, children, or grandchildren of a participant, or to trusts or partnerships for their benefit, under certain circumstances.

### **Adjustments**

Under the terms of the Plan, if any of the following occurs:

- We are involved in a merger or other transaction in which our common stock is changed or exchanged;
- We subdivide or combine our common stock or declare a dividend payable in our common stock, other securities or other property;

We effect a cash dividend, the amount of which, on a per share basis, exceeds 10% of the fair market value of a share of our common stock at the time the dividend is declared, or we effect any other dividend or other distribution on our common stock in the form of cash, or a repurchase of shares of our common stock, that our Board of Directors determines is special or extraordinary in nature or that is in connection with a transaction that we characterize publicly as a recapitalization or reorganization involving our common stock; or

Any other event occurs, which, in the judgment of our Board of Directors or Compensation Committee necessitates an adjustment to prevent an increase or decrease in the benefits or potential benefits intended to be made available under the Plan;

then the Administrator will, in a manner it deems equitable to prevent an increase or decrease in the benefits or potential benefits intended to be made available under the Plan and subject to certain provisions of the Code, adjust the number and type of shares of our common stock subject to the Plan and which may, after the event, be made the subject of awards; the number and type of shares of our common stock subject to outstanding awards; the grant, purchase or exercise price with respect to any award; and performance goals of an award.

In any such case, the Administrator may also provide for a cash payment to the holder of an outstanding award in exchange for the cancellation of all or a portion of the award (without the consent of the holder) in an amount and at a time determined by the Administrator. No such adjustments may be authorized in the case of incentive stock options to the extent that such authority would cause the Plan to violate Code Section 422(b).

Without limitation, if there is a reorganization, merger, consolidation, combination or other similar corporate transaction or event, whether or not constituting a change of control (other than any such transaction in which we are the continuing corporation and in which the outstanding shares are not being converted into or exchanged for different securities, cash or other property, or any combination thereof), the Administrator may substitute for each share then subject to an award and the shares subject to the Plan the number and kind of shares of stock, other securities, cash or other property to which holders of our common stock will be entitled in respect of each share pursuant to the transaction.

In the case of a stock dividend (other than a stock dividend declared in lieu of an ordinary cash dividend) or subdivision or combination of the shares (including a reverse stock split), if no action is taken by the Administrator,

the adjustments described above will automatically be made.

In connection with any merger, consolidation, acquisition of property or stock, or reorganization, the Administrator may authorize the issuance or assumption of awards under the Plan.

### **Change of Control**

Unless otherwise provided in an applicable employment, retention, change of control, severance, award or similar agreement, in the event of a change of control, the successor or purchaser in the change of control transaction may assume an award or provide a substitute award with similar terms and conditions and preserving the same benefits as the award it is replacing. If the awards are not so assumed or replaced, then unless otherwise determined by the board of directors prior to the date of the change of control, immediately prior to the date of the change of control:

each stock option or stock appreciation right that is then held by a participant who is employed by or in the service of us or one of our affiliates will become fully vested, and all stock options and stock appreciation rights will be cancelled in exchange for a cash payment equal to the excess of the change of control price (as determined by the administrator) of the shares of common stock covered by the stock option or stock appreciation right over the purchase or grant price of such shares of common stock under the award;

- restricted stock, restricted stock units and share awards that are not vested will vest;

each holder of a performance share and/or performance unit that has been earned but not yet paid will receive cash equal to the value of the performance share and/or performance unit, and each performance share and/or performance unit for which the performance period has not expired will be cancelled in exchange for a cash payment equal to the value of the performan