

STATE OF MICHIGAN
 DEPARTMENT OF MANAGEMENT AND BUDGET
 ACQUISITION SERVICES
 P.O. BOX 30026, LANSING, MI 48909
 OR
 530 W. ALLEGAN, LANSING, MI 48933

May 4, 2006

CHANGE NOTICE NO. 3
TO
CONTRACT NO. 071B1001767
between
THE STATE OF MICHIGAN
and

NAME & ADDRESS OF VENDOR QED Information Systems, Inc. 7 Eves Drive Marlton, NJ 08053	TELEPHONE George Shore (856) 797-1200
	VENDOR NUMBER/MAIL CODE
	BUYER/CA (517) 241-3215 Steve Motz
Contract Compliance Inspector: Mark Lawrence (517) 241-1640 Investment Accounting & Portfolio Management – Department of Treasury	
CONTRACT PERIOD: From: September 17, 2001 To: September 17, 2011	
TERMS Net 30	SHIPMENT N/A
F.O.B. Destination	SHIPPED FROM N/A
MINIMUM DELIVERY REQUIREMENTS N/A	

NATURE OF CHANGE (S):

Effective immediately, this contract is hereby **INCREASED** by \$903,984.24 and **EXTENDED** through September 17, 2011 at the modified pricing table attached below for the 5 optional years. No additional changes in pricing, terms, conditions or specifications are required.

Please Note: Contract Compliance Inspector has been changed to Mark Lawrence

INCREASE: \$903,984.24

TOTAL REVISED ESTIMATED CONTRACT VALUE: \$2,488,684.24

Maintenance and Customization	Old Contract Pricing	FY	New Pricing CN#3
License Agreement Yr. 1	\$110,000.00	2002	No Change
License Agreement Yr. 2	118,000.00	2003	No Change
License Agreement Yr. 3	127,000.00	2004	No Change
License Agreement Yr. 4	137,000.00	2005	No Change
License Agreement Yr. 5	147,000.00	2006	No Change
License Agreement Yr. 6	158,000.00	2007	154,000.00
License Agreement Yr. 7	170,000.00	2008	160,160.00
License Agreement Yr. 8	183,000.00	2009	166,566.40
License Agreement Yr. 9	197,000.00	2010	173,229.06
License Agreement Yr. 10	212,000.00	2011	180,158.22
Total (yrs 6-10)	\$920,000.00		\$834,113.67

Business Continuity	Old Contract Pricing	FY	New Pricing CN#3
License Agreement Yr. 1	\$12,000.00	2002	No Change
License Agreement Yr. 2	12,000.00	2003	No Change
License Agreement Yr. 3	12,000.00	2004	No Change
License Agreement Yr. 4	12,900.00	2005	No Change
License Agreement Yr. 5	13,900.00	2006	No Change
License Agreement Yr. 6	14,950.00	2007	12,900.00
License Agreement Yr. 7	16,000.00	2008	13,416.00
License Agreement Yr. 8	17,200.00	2009	13,952.64
License Agreement Yr. 9	18,500.00	2010	14,510.75
License Agreement Yr. 10	19,800.00	2011	15,091.18
Total (yrs 6-10)	\$86,450.00		\$69,870.56

Combined : (Maintenance and Customization) and (Business Continuity)	Old Contract Pricing	FY	New Pricing CN#3
License Agreement Yr. 1	\$122,000.00	2002	No Change
License Agreement Yr. 2	130,000.00	2003	No Change
License Agreement Yr. 3	139,000.00	2004	No Change
License Agreement Yr. 4	149,900.00	2005	No Change
License Agreement Yr. 5	160,900.00	2006	No Change
License Agreement Yr. 6	172,950.00	2007	166,900.00
License Agreement Yr. 7	186,000.00	2008	173,576.00
License Agreement Yr. 8	200,200.00	2009	180,519.04
License Agreement Yr. 9	215,500.00	2010	187,739.80
License Agreement Yr. 10	231,800.00	2011	195,249.39
Total (yrs 6-10)	\$1,006,450.00		\$903,984.24

STATE OF MICHIGAN
 DEPARTMENT OF MANAGEMENT AND BUDGET
 ACQUISITION SERVICES
 P.O. BOX 30026, LANSING, MI 48909
 OR
 530 W. ALLEGAN, LANSING, MI 48933

November 2, 2005

CHANGE NOTICE NO. 2
TO
CONTRACT NO. 071B1001767
between
THE STATE OF MICHIGAN
and

NAME & ADDRESS OF VENDOR QED Information Systems, Inc. 7 Eves Drive Marlton, NJ 08053	TELEPHONE George Shore (856) 797-1200
	VENDOR NUMBER/MAIL CODE
	BUYER/CA (517) 241-3215 Steve Motz
Contract Compliance Inspector: Walt Wisniewski Investment Accounting & Portfolio Management – Department of Treasury	
CONTRACT PERIOD: From: September 17, 2001 To: September 17, 2006	
TERMS <p style="text-align: center;">Net 30</p>	SHIPMENT <p style="text-align: center;">N/A</p>
F.O.B. <p style="text-align: center;">Destination</p>	SHIPPED FROM <p style="text-align: center;">N/A</p>
MINIMUM DELIVERY REQUIREMENTS <p style="text-align: center;">N/A</p>	

NATURE OF CHANGE (S):

Effective immediately, this contract is hereby **INCREASED** by \$32,900.00 for system support services. No additional changed in pricing, terms, conditions or specifications are required.

PLEASE NOTE: The buyer has been **CHANGED** to Steve Motz.

INCREASE: \$32,900.00

TOTAL REVISED ESTIMATED CONTRACT VALUE: \$1,584,700.00

STATE OF MICHIGAN
 DEPARTMENT OF MANAGEMENT AND BUDGET
 ACQUISITION SERVICES
 P.O. BOX 30026, LANSING, MI 48909
 OR
 530 W. ALLEGAN, LANSING, MI 48933

August 8, 2002

CHANGE NOTICE NO. 1
TO
CONTRACT NO. 071B1001767
between
THE STATE OF MICHIGAN
and

NAME & ADDRESS OF VENDOR QED Information Systems, Inc. 7 Eves Drive Marlton, NJ 08053	TELEPHONE George Shore (856) 797-1200
	VENDOR NUMBER/MAIL CODE
	BUYER (517) 241-1646 Greg Faremouth
Contract Administrator: Walt Wisniewski Investment Accounting & Portfolio Management – Department of Treasury	
CONTRACT PERIOD: From: September 17, 2001 To: September 17, 2006	
TERMS Net 30	SHIPMENT N/A
F.O.B. Destination	SHIPPED FROM N/A
MINIMUM DELIVERY REQUIREMENTS N/A	

NATURE OF CHANGE (S):

Effective August 16, 2002, a Business Continuation Plan is hereby incorporated into the contract per the attached work statement. Also, this contract is hereby INCREASED by \$62,800.00 All other terms, conditions, and specifications remain the same.

INCREASE: \$62,800.00

TOTAL REVISED ESTIMATED CONTRACT VALUE: \$1,551,800.00

STATE OF MICHIGAN
 DEPARTMENT OF MANAGEMENT AND BUDGET
 OFFICE OF PURCHASING
 P.O. BOX 30026, LANSING, MI 48909
 OR
 530 W. ALLEGAN, LANSING, MI 48933

October 1, 2001

NOTICE
 OF
 CONTRACT NO. 071B1001767
 between
 THE STATE OF MICHIGAN
 and

NAME & ADDRESS OF VENDOR QED Information Systems, Inc. 7 Eves Drive Marlton, NJ 08053	TELEPHONE George Shore (856) 797-1200
	VENDOR NUMBER/MAIL CODE
	BUYER (517) 241-1646 Greg Faremouth
Contract Administrator: Walt Wisniewski Investment Accounting & Portfolio Management – Department of Treasury	
CONTRACT PERIOD: From: September 17, 2001 To: September 17, 2006	
TERMS Net 30	SHIPMENT N/A
F.O.B. Destination	SHIPPED FROM N/A
MINIMUM DELIVERY REQUIREMENTS N/A	

The terms and conditions are represented within this contract.

Estimated Contract Value: \$1,489,000.00

STATE OF MICHIGAN
DEPARTMENT OF MANAGEMENT AND BUDGET
OFFICE OF PURCHASING
 P.O. BOX 30026, LANSING, MI 48909
 OR
 530 W. ALLEGAN, LANSING, MI 48933

CONTRACT NO. 071B1001767
between
THE STATE OF MICHIGAN
and

NAME & ADDRESS OF VENDOR <p style="text-align: center;">QED Information Systems, Inc. 7 Eves Drive Marlton, NJ 08053</p>	TELEPHONE George Shore (856) 797-1200 <hr/> VENDOR NUMBER/MAIL CODE <hr/> BUYER (517) 241-1646 Greg Faremouth
Contract Administrator: Walt Wisniewski <p style="text-align: center;">Investment Accounting & Portfolio Management – Department of Treasury</p>	
CONTRACT PERIOD: From: September 17, 2001 To: September 17, 2006	
TERMS <p style="text-align: center;">Net 30</p>	SHIPMENT <p style="text-align: center;">N/A</p>
F.O.B. <p style="text-align: center;">Destination</p>	SHIPPED FROM <p style="text-align: center;">N/A</p>
MINIMUM DELIVERY REQUIREMENTS <p style="text-align: center;">N/A</p>	
MISCELLANEOUS INFORMATION: <p>The terms and conditions are represented within this contract.</p>	
Estimated Contract Value: \$1,489,000.00	

THIS IS NOT AN ORDER: This Contract Agreement is awarded on the basis of our inquiry bearing the **ITB No. 071I1000376**. A Purchase Order Form will be issued only as the requirements of the State Departments are submitted to the Office of Purchasing. Orders for delivery may be issued directly by the State Departments through the issuance of a Purchase Order Form.

All terms and conditions of the invitation to bid are made a part hereof.

FOR THE VENDOR:	FOR THE STATE:
Firm Name	Signature
Authorized Agent Signature	Joseph D. Chin Jr, Divison Director
Authorized Agent (Print or Type)	Name
Date	Technology & Professional Services Division
	Title
	Date



**STATE OF MICHIGAN,
DEPARTMENT OF TREASURY,
BUREAU OF INVESTMENTS**

A G R E E M E N T S

- I. SOFTWARE INSTALLATION AND MAINTENANCE AGREEMENT**
- II. LICENSE AGREEMENT**
- III. CONFIDENTIALITY AND NON-DISCLOSURE AGREEMENT**



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I. SOFTWARE INSTALLATION AND MAINTENANCE AGREEMENT

This is a Software Installation and Maintenance Agreement (“Maintenance Agreement”, or “Agreement”) between QED Information Systems, Inc., a corporation of the State of New Jersey, located at 7 Eves Drive, Marlton, New Jersey 08053 (hereinafter referred to as “Company”, “Contractor”, or “QED”), and the State of Michigan, Department of Management and Budget, Office of Purchasing (“DMB”) for the State of Michigan, Department of Treasury, Bureau of Investments (“BOI”), Stephen T. Mason Building, 530 W. Allegan St., Lansing, MI 48933 (hereinafter referred to as “Licensee”, or “State”).

WHEREAS Licensee and Company have entered into a licensing agreement for Licensee's use and operation of the IMS-2000 Global Portfolio Management and Investment Accounting software system and VisualQED data access software system (hereinafter referred to as “Product” or “Software”), and

WHEREAS the parties desire to enter into an agreement providing for the maintenance and support of the Product.

NOW THEREFORE, in consideration of the mutual promises and covenants contained herein the parties agree as follows:

SECTION 1: AGREEMENT AND TERMS AND CONDITIONS

DEFINITION OF TERMS

- Contract A binding agreement entered into by the State of Michigan resulting from a bidder’s proposal, comprising both the License Agreement and the Software Installation and Maintenance Agreement together; see also “Blanket Purchase Order.”
- Contractor The successful bidder who is awarded a Contract.
- DMB Michigan Department of Management and Budget
- RFP Request For Proposal - A term used by the State to solicit proposals for services such as consulting. Typically used when the requesting agency requires vendor assistance in identifying an acceptable manner of solving a problem.
- ITB Invitation to Bid - A generic form used by the Office of Purchasing to solicit quotations for services or commodities. The ITB serves as the document for transmitting the RFP to interested potential bidders.
- Successful Bidder The bidder(s) awarded a Contract as a result of a solicitation.



State	The State of Michigan. For Purposes of Indemnification as set forth in section I-J, State means the State of Michigan, its departments, divisions, agencies, offices, commissions, officers, employees and agents.
Blanket Purchase Order	Alternate term for “Contract” used in the State’s Computer system (Michigan Automated Information Network [MAIN])
Expiration	Except where specifically provided for in the Contract, the ending and termination of the contractual duties and obligations of the parties to the Contract pursuant to a mutually agreed upon date.
Cancellation	Ending all rights and obligations of the State and Contractor, except for any rights and obligations that are due and owing.
Work Product	Work Product means any data compilations, reports, and any other media, materials, or other objects or works of authorship created or produced by the Contractor as a result of and in furtherance of performing the services required by this Contract.
Interface	A process for importing data to the software that captures data from a third party system, or a process for exporting data from the software in required format to a third party system.
Quanto	Is a notional amount hedged to the U.S. dollar.
Local	Is a notional amount exposed to the changes in the local currency.
Notional Amount	Is the amount of the swap agreement.

A: PURPOSE

The purpose of this Contract is to obtain a turnkey investment accounting and portfolio management system, including software, hardware, modifications as may be necessary to support critical functionality, implementation services, and ongoing maintenance support for the Bureau of Investments, Michigan Department of Treasury.

B: TERM OF CONTRACT

1. The State of Michigan is not liable for any cost incurred by any bidder prior to signing of a Contract by all parties.
2. The activities, which include, the acquisition and implementation of investment accounting software (License Agreement), and subsequent service agreement (Software Installation and Maintenance Agreement) in the proposed Contracts cover the period from September 17, 2001 to September 17, 2006, with optional extensions for five each one-year periods. The Initial Term of this Agreement is from the Effective Date for a period of five years to the next Anniversary Date. Subsequent annual terms begin on the Anniversary Date of the Agreement.



3. The initial objective is to have the system with modifications completed and fully operational by January 1, 2002, and in a full production mode by April 1, 2002. The balance of the duration of the contract period will cover the service agreement(s). The State fiscal year is October 1 through September 30. The prospective Contractor should realize that payments in any given fiscal year are contingent upon enactment of legislative appropriations.

C: ISSUING OFFICE

This Contract is issued by the State of Michigan, Department of Management and Budget (DMB), Office of Purchasing, hereafter known as the Office of Purchasing, for the State of Michigan, Department of Treasury, Bureau of Investments, hereafter known as the Bureau of Investments (BOI). Where actions are a combination of those of the Office of Purchasing and Bureau of Investments, the authority will be known as the State.

The Office of Purchasing is the sole point of contact in the State with regard to all contractual matters relating to the services described herein. The Office of Purchasing is the only office authorized to change, modify, amend, alter, clarify, etc., the prices, specifications, terms, and conditions of this Contract. The Office of Purchasing will remain the sole point of contact throughout the contractual process, until such time as the Director of Purchasing shall direct otherwise in writing. All communications concerning this contract must be addressed to:

Greg Faremouth, Buyer
 Technology and Professional Services Division
 DMB, Office of Purchasing
 2nd Floor, Mason Building
 P.O. Box 30026
 Lansing, MI 48909
 Faremouthg@state.mi.us
 (517) 241-1646

D: CONTRACT ADMINISTRATOR

Upon receipt at the Office of Purchasing of the properly executed Contract Agreement, it is anticipated that the Director of Purchasing will direct that the person named below or any other person so designated be authorized to administer the Contract on a day-to-day basis during the term of the Contract. However, administration of this Contract implies no authority to change, modify, clarify, amend, or otherwise alter the prices, terms, conditions, and specifications of such Contract. That authority is retained by the Office of Purchasing. The Contract Administrator for this project is:

Walter M. Wisniewski, Director
 Bureau of Investments
 Administrative Services
 Department of Treasury
 2501 Coolidge Road, Suite 400
 East Lansing, Michigan 48823
 wwisniewski@invest.treas.state.mi.us
 Telephone: (517) 373-3142



E: COST LIABILITY

The State of Michigan assumes no responsibility or liability for costs incurred by the Contractor prior to the signing of any Contract resulting from this Request. Total liability of the State is limited to the terms and conditions of any resulting Contract.

F: CONTRACTOR RESPONSIBILITIES

The Contractor will be required to assume responsibility for all contractual activities offered in their proposal whether or not that Contractor performs them. Further, the State will consider the Prime Contractor to be the sole point of contact with regard to contractual matters, including but not limited to payment of any and all costs resulting from the anticipated Contract. If any part of the work is to be subcontracted, the contractor must notify the state and identify the subcontractor(s), including firm name and address, contact person, complete description of work to be subcontracted, and descriptive information concerning subcontractor's organizational abilities. The State reserves the right to approve subcontractors for this project and to require the Contractor to replace subcontractors found to be unacceptable. The Contractor is totally responsible for adherence by the subcontractor to all provisions of the Contract.

G: NEWS RELEASES

News releases pertaining to this document or the services, study, data, or project to which it relates will not be made without prior written State approval, and then only in accordance with the explicit written instructions from the State. No results of the program are to be released without prior approval of the State and then only to persons designated.

H: DISCLOSURE

All information in a bidder's proposal and any Contract resulting from this ITB is subject to the provisions of the Freedom of Information Act, 1976 Public Act No. 442, as amended, MCL 15.231, *et seq.*

I: ACCOUNTING RECORDS

The Contractor will be required to maintain all pertinent financial and accounting records and evidence pertaining to the Contract in accordance with generally accepted principles of accounting and other procedures specified by the State of Michigan. Financial and accounting records shall be made available, upon request, to the State of Michigan, its designees, or the Michigan Department of Auditor General at any time during the Contract period and any extension thereof, and for three (3) years from the expiration date and final payment on the Contract or extension thereof.

J: INDEMNIFICATION

A. General Indemnification

Upon receipt of written notice, as required herein, the contractor shall indemnify, defend and hold harmless the State, its departments, divisions, agencies, sections, commissions, officers, employees and agents from and against all losses, liabilities, penalties, fines, damages and claims (including taxes), and all related costs and expenses (including reasonable attorneys' fees and disbursements and costs of



investigation, litigation, settlement, judgments, interest and penalties), arising from or in connection with any of the following:

- (1) any claim, demand, action, citation or legal proceeding against the State, its departments, divisions, agencies, sections, commissions, officers, employees and agents for any negligence or wrongful acts arising out of or resulting from (1) the services and products provided or (2) performance of the work, duties, responsibilities, actions or omissions of the contractor or any of its subcontractors under this contract;
- (2) any claim, demand, action, citation or legal proceeding against the State, its departments, divisions, agencies, sections, commissions, officers, employees and agents arising out of or resulting from a material breach by the contractor of any representation or warranty made by the contractor in the contract;
- (3) any claim, demand, action, citation or legal proceeding against the State, its departments, divisions, agencies, sections, commissions, officers, employees and agents arising out of or related to occurrences that the contractor is required to insure against as provided for in this contract;
- (4) any claim, demand, action, citation or legal proceeding against the State, its departments divisions, agencies, sections, commissions, officers, employees and agents arising out of or resulting from the death or bodily injury of any person, or the damage, loss or destruction of any real or tangible personal property, in connection with the performance of services by the contractor, by any of its subcontractors, by anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable; provided, however, that this indemnification obligation shall not apply to the extent, if any, that such death, bodily injury or property damage is caused by the negligence or reckless or intentional wrongful conduct of the State;
- (5) any claim, demand, action, citation or legal proceeding against the State, its departments, divisions, agencies, sections, commissions, officers, employees and agents which results from an act or omission of the contractor or any of its subcontractors in its or their capacity as an employer of a person.

B. Patent/Copyright Infringement Indemnification

The contractor shall indemnify, defend and hold harmless the State, its departments, divisions, agencies, sections, commissions, officers, employees and agents from and against all losses, liabilities, penalties, fines, damages (including taxes), and all related costs and expenses (including reasonable attorneys' fees and disbursements and costs of investigation, litigation, settlement, judgments, interest and penalties) incurred in connection with any action or proceeding threatened or brought against the State by a third party to the extent that such action or proceeding is based on a claim that any piece of equipment, software, commodity or service supplied by the contractor or its subcontractors, or the operation of such equipment, software, commodity or service, infringes any United States or foreign patent, copyright, trade secret or other proprietary right of any person or entity, which right is enforceable under the laws of the United States. In addition, should the equipment, software, commodity, or service, or the operation thereof, become or in the Contractor's



opinion be likely to become the subject of a claim of infringement, the contractor shall at the Contractor's sole expense (I) procure for the State the right to continue using the equipment, software, commodity or service or, if such option is not reasonably available to the contractor, (ii) replace or modify the same with equipment, software, commodity or service of equivalent function and performance so that it becomes non-infringing, or, if such option is not reasonably available to contractor, (iii) accept its return by the State with appropriate credits to the State against the Contractor's charges and reimburse the State for any losses or costs incurred as a consequence of the State ceasing its use and returning it.

C. Indemnification Obligation Not Limited

In any and all claims against the State of Michigan, its departments, divisions, agencies, sections, commissions, officers, employees and agents, by any employee of the contractor or any of its subcontractors, the indemnification obligation under the contract shall not be limited in any way by the amount or type of damages, compensation or benefits payable by or for the contractor or any of its subcontractors under worker's disability compensation acts, disability benefit acts or other employee benefit acts. This indemnification clause is intended to be comprehensive. Any overlap in subclauses, or the fact that greater specificity is provided as to some categories of risk, is not intended to limit the scope of indemnification under any other subclauses.

D. Continuation of Indemnification Obligation

The duty to indemnify will continue in full force and effect notwithstanding the expiration or early termination of the contract with respect to any claims based on facts or conditions which occurred prior to termination.

K: NON INFRINGEMENT/COMPLIANCE WITH LAWS

The Contractor warrants that in performing the services called for by this Contract it will not violate any applicable law, rule, or regulation, any contracts with third parties, or any intellectual rights of any third party, including but not limited to, any United States patent, trademark, copyright, or trade secret.

L: WARRANTIES AND REPRESENTATIONS

The Contract will contain customary representations and warranties by the Contractor, including, without limitation, the following:

- The Contractor will perform all services in accordance with high professional standards in the industry;
- The Contractor will use adequate numbers of qualified individuals with suitable training, education, experience and skill to perform the services;
- The Contractor will use its best efforts to use efficiently any resources or services necessary to provide the services that are separately chargeable to the State;
- The Contractor will use its best efforts to perform the services in the most cost effective manner consistent with the required level of quality and performance;



- The Contractor will perform the services in a manner that does not infringe the proprietary rights of any third party;
- The Contractor will perform the services in a manner that complies with all applicable laws and regulations;
- The Contractor has duly authorized the execution, delivery and performance of the Contract;
- The Contractor has not provided any gifts, payments or other inducements to any officer, employee or agent of the State;
- The Contractor will maintain all equipment and software for which it has maintenance responsibilities in good operating condition and will undertake all repairs and preventive maintenance in accordance with applicable manufacturer's recommendations;
- The Contractor will use its best efforts to ensure that no viruses or similar items are coded or introduced into the systems used to provide the services;
- The Contractor will not insert or activate any disabling code into the systems used to provide the services without the State's prior written approval notwithstanding license validation;
- A ninety (90) day warranty on all purchased and developed software, data conversion programs, and data and customization to the product performed by the contractor.

M: TIME IS OF THE ESSENCE

The Contractor agrees that time is of the essence in the performance of the Contractor's obligations under this Contract.

N: STAFFING OBLIGATIONS

The State reserves the right to approve the Contractor's assignment of Key Personnel to this project and to recommend reassignment of personnel deemed unsatisfactory by the State.

The Contractor shall not remove or reassign, without the State's prior written approval any of the Key Personnel until such time as the Key Personnel have completed all of their planned and assigned responsibilities in connection with performance of the Contractor's obligations under this Contract. The Contractor agrees that the continuity of Key Personnel is critical and agrees to the continuity of Key Personnel. Removal of Key Personnel without the written consent of the State may be considered by the State to be a material breach of this Contract. The prohibition against removal or reassignment shall not apply where Key Personnel must be replaced for reasons beyond the reasonable control of the Contractor including but not limited to illness, disability, resignation or termination of the Key Personnel's employment.



The State and the Contractor agree that the following personnel are Key Personnel for purposes of this Contract:

- Bruce Faulkner, Project Manager
- Dennis Case, Manager of Business Development
- MaryBeth O’Leary, Data Conversion
- Michael Frankunas, Manager EDI
- Michael Huber, Vice President Corporate Development

O: WORK PRODUCT AND OWNERSHIP

1. Work Products shall be defined as the information derived from the Software. This information shall belong exclusively to the State and its designees, unless specifically provided otherwise by mutual agreement of the Contractor and the State. If by operation of law any of the Work Product, including all related intellectual property rights, is not owned in its entirety by the State automatically upon creation thereof, the Contractor agrees to assign, and hereby assigns to the State and its designees the ownership of such Work Product, including all related intellectual property rights. The Contractor agrees to provide, at no additional charge, any assistance and to execute any action reasonably required for the State to perfect its intellectual property rights with respect to the aforementioned Work Product.
2. Notwithstanding any provision of this Contract to the contrary, any preexisting work or materials including, but not limited to, any routines, libraries, tools, methodologies, processes or technologies (collectively, the “Development Tools”) created, adapted or used by the Contractor in its business generally, including any all associated intellectual property rights, shall be and remain the sole property of the Contractor, and the State shall have no interest in or claim to such preexisting work, materials or Development Tools, except as necessary to exercise its rights in the Work Product. Such rights belonging to the State shall include, but not be limited to, the right to use, execute, reproduce, display, perform and distribute copies of and prepare derivative works based upon the Work Product, and the right to authorize others to do any of the foregoing, irrespective of the existence therein of preexisting work, materials and Development Tools, except as specifically limited herein.
3. The Contractor and its subcontractors shall be free to use and employ their general skills, knowledge and expertise, and to use, disclose, and employ any generalized ideas, concepts, knowledge, methods, techniques or skills gained or learned during the course of performing the services under this Contract, so long as the Contractor or its subcontractors acquire and apply such information without disclosure of any confidential or proprietary information of the State, and without any unauthorized use or disclosure of any Work Product resulting from this Contract.
4. During the life of this Agreement, Company may provide the Licensee with new versions of the Software. Such new versions may include improvements, enhancements and new features added to the Software and may also include changes or additions to the manuals and documentation provided. Any additional programs, functionality or documentation provided to Licensee under this Agreement shall



automatically be added as part of Software licensed to Licensee, and shall thereafter be subject to all of the terms and conditions set forth under this Agreement.

P: CONFIDENTIALITY OF DATA AND INFORMATION

1. All financial, statistical, personnel, technical and other data and information relating to the State's operation which are designated confidential by the State and made available to the Contractor in order to carry out this Contract, or which become available to the Contractor in carrying out this Contract, shall be protected by the Contractor from unauthorized use and disclosure through the observance of the same or more effective procedural requirements as are applicable to the State. The identification of all such confidential data and information as well as the State's procedural requirements for protection of such data and information from unauthorized use and disclosure shall be provided by the State in writing to the Contractor. If the methods and procedures employed by the Contractor for the protection of the Contractor's data and information are deemed by the State to be adequate for the protection of the State's confidential information, such methods and procedures may be used, with the written consent of the State, to carry out the intent of this section.
2. The Contractor shall not be required under the provisions of this section to keep confidential, (1) information generally available to the public, (2) information released by the State generally, or to the Contractor without restriction, (3) information independently developed or acquired by the Contractor or its personnel without reliance in any way on otherwise protected information of the State. Notwithstanding the foregoing restrictions, the Contractor and its personnel may use and disclose any information which it is otherwise required by law to disclose, but in each case only after the State has been so notified, and has had the opportunity, if possible, to obtain reasonable protection for such information in connection with such disclosure.
3. Licensee shall take all steps reasonably necessary to insure that the Software or components thereof will not be made available by Licensee, except as required by law, to any agent, employee, servant, independent contractor, or officer of Licensee, or to any other person, firm, governmental entity or corporation without prior written consent from Company. Licensee shall make every reasonable effort to insure that those persons having access to the Software shall observe and perform said non-disclosure covenants and that it will establish procedures for this purpose.
4. Licensee shall not disclose to any third party any terms of this Agreement, except where Licensee is required to make disclosure by decree, court order, law, or applicable regulation, or where Licensee reasonably deems such disclosure necessary to its auditors, accountants, bankers, attorneys, financial intermediary, or regulatory agencies.

Q: REMEDIES FOR BREACH OF CONFIDENTIALITY

The Contractor acknowledges that a breach of its confidentiality obligations as set forth in section I-Q of this Contract, shall be considered a material breach of the Contract. Furthermore the Contractor acknowledges that in the event of such a breach the State shall be irreparably harmed. Accordingly, if a court should find that the Contractor has



breached or attempted to breach any such obligations, the Contractor will not oppose the entry of an appropriate order restraining it from any further breaches or attempted or threatened breaches. This remedy shall be in addition to and not in limitation of any other remedy or damages provided by law.

R: CONTRACTOR'S LIABILITY INSURANCE

The Contractor shall purchase and maintain such insurance as will protect him/her from claims set forth below which may arise out of or result from the Contractor's operations under the Contract (Purchase Order), whether such operations be by himself/herself or by any subcontractor or by anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable:

1. Claims under workers' disability compensation, disability benefit and other similar employee benefit act. A non-resident Contractor shall have insurance for benefits payable under Michigan's Workers' Disability Compensation Law for any employee resident of and hired in Michigan; and as respects any other employee protected by workers' disability compensation laws of any other State the Contractor shall have insurance or participate in a mandatory State fund to cover the benefits payable to any such employee.
2. Claims for damages because of bodily injury, occupational sickness or disease, or death of his/her employees.
3. Claims for damages because of bodily injury, sickness or disease, or death of any person other than his/her employees, subject to limits of liability of not less than \$300,000.00 each occurrence and, when applicable \$1,000,000.00 annual aggregate, for non-automobile hazards and as required by law for automobile hazards.
4. Claims for damages because of injury to or destruction of tangible property, including loss of use resulting therefrom, subject to a limit of liability of not less than \$50,000.00 each occurrence for non-automobile hazards and as required by law for automobile hazards.
5. Insurance for Subparagraphs (3) and (4) non-automobile hazards on a combined single limit of liability basis shall not be less than \$300,000.00 each occurrence and when applicable, \$1,000,000.00 annual aggregate.
6. Claims for damages because of Errors and Omissions in the performance of duties inherent to the profession of computer system design, development and integration, are subject to a limit of liability of not less than \$300,000.00 each occurrence and, when applicable, \$1,000,000.00 annual aggregate. For this coverage, the State requires that it be named as a co-insured party.

The insurance shall be written for not less than any limits of liability herein specified or required by law, whichever is greater, and shall include contractual liability insurance as applicable to the Contractor's obligations under the Indemnification Clause of the Contract (Purchase Order).

UPON CONTRACT EXECUTION, THE CONTRACTOR'S INSURANCE AGENCY MUST FURNISH TO THE DIRECTOR OF THE OFFICE OF PURCHASING, ORIGINAL CERTIFICATE(S) OF INSURANCE VERIFYING LIABILITY



COVERAGE. THE CONTRACT OR PURCHASE ORDER NO. MUST BE SHOWN ON THE CERTIFICATE OF INSURANCE TO ASSURE CORRECT FILING. These Certificates shall contain a provision that coverage's afforded under the policies will not be canceled until at least fifteen days prior written notice bearing the Contract Number or Purchase Order Number has been given to the Director of Purchasing.

S: NOTICE AND RIGHT TO CURE

In the event of a curable breach by the Contractor, the State shall provide the Contractor written notice of the breach and a time period to cure said breach described in the notice. This section requiring notice and an opportunity to cure shall not be applicable in the event of successive or repeated breaches of the same nature or if the State determines in its sole discretion that the breach poses a serious and imminent threat to the health or safety of any person or the imminent loss, damage or destruction of any real or tangible personal property.

T: CANCELLATION AND TERMINATION

The State may cancel this Contract without further liability or penalty to the State, its departments, divisions, agencies, offices, commissions, officers, agents and employees for any of the following reasons:

1. **Material Breach by the Contractor.** In the event that either Party breaches any of its material duties or obligations under the Contract, which are either not capable of or subject to being cured, or are not cured within the time period specified in the written notice of breach provided by the Party, or pose a serious and imminent threat to the health and safety of any person, or the imminent loss, damage or destruction of any real or tangible personal property, the Party may, having provided written notice of cancellation to the Contractor, cancel this Contract in whole or in part, for cause, as of the date specified in the notice of cancellation.

In the event that this Contract is cancelled for cause, in addition to any legal remedies otherwise available to the State by law or equity, the Contractor shall be responsible for all costs incurred by the State in canceling the Contract, including but not limited to, State administrative costs, attorneys fees and court costs, and any additional costs the State may incur to procure the services required by this Contract from other sources. All excess procurement costs and damages shall not be considered by the parties to be consequential, indirect or incidental, and shall not be excluded by any other terms otherwise included in the Contract.

In the event this Contract is cancelled for cause pursuant to this section, and it is therefore determined, for any reason, that the Contractor was not in breach of contract pursuant to the provisions of this section, that cancellation for cause shall be deemed to have been a cancellation for convenience, effective as of the same date, and the rights and obligations of the parties shall be limited to that otherwise provided in the Contract for a cancellation for convenience.



2. Cancellation For Convenience By the State. The State may cancel this Contract for its convenience, in whole or part, if the State determines that such a cancellation is in the State's best interest. Reasons for such cancellation shall be left to the sole discretion of the State and may include, but not necessarily be limited to (a) the State no longer needs the services or products specified in the Contract, (b) relocation of office, program changes, changes in laws, rules, or regulations make implementation of the Contract services no longer practical or feasible, and (c) unacceptable prices for additional services requested by the State. The State may cancel the Contract for its convenience, in whole or in part, by giving the Contractor written notice 30 days prior to the date of cancellation. If the State chooses to cancel this Contract in part, the charges payable under this Contract shall be equitably adjusted to reflect those services that are cancelled.
3. Non-Appropriation. In the event that funds to enable the State to effect continued payment under this Contract are not appropriated or otherwise made available. The Contractor acknowledges that, if this Contract extends for several fiscal years, continuation of this Contract is subject to appropriation or availability of funds for this project. If funds are not appropriated or otherwise made available, the State shall have the right to cancel this Contract at the end of the last period for which funds have been appropriated or otherwise made available by giving written notice of cancellation to the Contractor. The State shall give the Contractor written notice of such non-appropriation or unavailability within 30 days after it receives notice of such non-appropriation or unavailability.
4. Criminal Conviction. In the event the Contractor, an officer of the Contractor, or an owner of a 25% or greater share of the Contractor, is convicted of a criminal offense incident to the application for or performance of a State, public or private Contract or subcontract; or convicted of a criminal offense including but not limited to any of the following: embezzlement, theft, forgery, bribery, falsification or destruction of records, receiving stolen property, attempting to influence a public employee to breach the ethical conduct standards for State of Michigan employees; convicted under State or federal antitrust statutes; or convicted of any other criminal offense which in the sole discretion of the State, reflects upon the Contractor's business integrity.
5. Approval(s) Rescinded. In the event any final administrative or judicial decision or adjudication disapproves a previously approved request for purchase of personal services pursuant to Constitution 1963, Article 11, section 5, and Civil Service Rule 4-6. Cancellation may be in whole or in part and may be immediate as of the date of the written notice to the Contractor or may be effective as of the date stated in such written notice.
6. No waiver of any breach of any provision of this Agreement shall constitute a waiver of any prior, concurrent or subsequent breach of the same or any other provisions hereof and no waiver shall be in effect unless made in writing. In the event that any provision of this Agreement shall be illegal or otherwise unenforceable, such provision shall be severed and the entire Agreement shall not fail on account thereof and the balance of the Agreement shall continue in full force and effect



U: RIGHTS AND OBLIGATIONS UPON CANCELLATION

1. If the Contract is canceled by the State for any reason, the Contractor shall, (a) stop all work as specified in the notice of cancellation, (b) take any action that may be necessary, or that the State may direct, for preservation and protection of Work Product or other property derived or resulting from the Contract that may be in the Contractor's possession, (c) return all materials and property provided directly or indirectly to the Contractor by any entity, agent or employee of the State, (d) transfer title and deliver to the State, unless otherwise directed by the Contract Administrator or his or her designee, all Work Product resulting from the Contract, and (e) take any action to mitigate and limit any potential damages, or requests for Contractor adjustment or cancellation settlement costs, to the maximum practical extent, including, but not limited to, canceling or limiting as otherwise applicable, those subcontracts, and outstanding orders for material and supplies resulting from the canceled Contract.
2. In the event the State cancels this Contract prior to its expiration for its own convenience, the State shall pay the Contractor for all charges due for services provided prior to the date of cancellation and if applicable as a separate item of payment pursuant to the Contract, for partially completed Work Product, on a percentage of completion basis. In the event of a cancellation for cause, or any other reason under the Contract, the State will pay, if applicable, as a separate item of payment pursuant to the Contract, for all partially completed Work Products, to the extent that the State requires the Contractor to submit to the State any such deliverables, and for all charges due under the Contract for any cancelled services provided by the Contractor prior to the cancellation date. All completed or partially completed Work Product prepared by the Contractor pursuant to this Contract shall, at the option of the State, become the State's property, and the Contractor shall be entitled to receive just and fair compensation for such Work Product. Regardless of the basis for the cancellation, the State shall not be obligated to pay, or otherwise compensate, the Contractor for any lost expected future profits, costs or expenses incurred with respect to Services not actually performed for the State.
3. If any such cancellation by the State is for cause, the State shall have the right to set-off against any amounts due the Contractor, the amount of any damages for which the Contractor is liable to the State under this Contract or pursuant to law and equity.
4. Upon a good faith cancellation, the State shall have the right to assume, at its option, any and all subcontracts and agreements for services and materials provided under this Contract, and may further pursue completion of the Work Product under this Contract by replacement contract or otherwise as the State may in its sole judgment deem expedient.
5. Upon termination of this Agreement, Licensee agrees to return all equipment, manuals, documentation, notes and any other materials provided to Licensee by Company exclusive of the hardware and software as specified in Section 4. Licensee further agrees that upon termination, Licensee shall immediately destroy and/or render inaccessible all copies of delivered Software, related files and data structures that are in Licensee's possession whether in physical or electronic form.



V: EXCUSABLE FAILURE

1. Neither party shall be liable for any default or delay in the performance of its obligations under the Contract if and to the extent such default or delay is caused, directly or indirectly, by: fire, flood, earthquake, elements of nature or acts of God; riots, civil disorders, rebellions or revolutions in any country; the failure of the other party to perform its material responsibilities under the Contract (either itself or through another contractor); injunctions (provided the injunction was not issued as a result of any fault or negligence of the party seeking to have its default or delay excused); or any other cause beyond the reasonable control of such party; provided the non-performing party and its subcontractors are without fault in causing such default or delay, and such default or delay could not have been prevented by reasonable precautions and cannot reasonably be circumvented by the non-performing party through the use of alternate sources, workaround plans or other means, including disaster recovery plans. In such event, the non-performing party will be excused from any further performance or observance of the obligation(s) so affected for as long as such circumstances prevail and such party continues to use its best efforts to recommence performance or observance whenever and to whatever extent possible without delay provided such party promptly notifies the other party in writing of the inception of the excusable failure occurrence, and also of its abatement or cessation.

2. If any of the above enumerated circumstances substantially prevent, hinder, or delay performance of the services necessary for the performance of the State's functions for more than 14 consecutive days, and the State determines that performance is not likely to be resumed within a period of time that is satisfactory to the State in its reasonable discretion, then at the State's option: (a) the State may procure the affected services from an alternate source, and the State shall not be liable for payments for the unperformed services under the Contract for so long as the delay in performance shall continue; (b) the State may cancel any portions of the Contract so affected and the charges payable thereunder shall be equitably adjusted to reflect those services canceled; or (c) the Contract will be canceled without liability of the State to the Contractor as of the date specified by the State in a written notice of cancellation to the Contractor. The Contractor will not have the right to any additional payments from the State as a result of any excusable failure occurrence or to payments for services not rendered as a result of the excusable failure condition. Defaults or delays in performance by the Contractor which are caused by acts or omissions of its subcontractors will not relieve the Contractor of its obligations under the Contract except to the extent that a subcontractor is itself subject to any excusable failure condition described above and the Contractor cannot reasonably circumvent the effect of the subcontractor's default or delay in performance through the use of alternate sources, workaround plans or other means.



W: ASSIGNMENT

Each party shall not have the right to assign this Contract or to assign or delegate any of its rights, title, interest, duties or obligations under this Contract to any other party (whether by operation of law or otherwise), without the prior written consent of the other Party . Any purported assignment in violation of this section shall be null and void. Further, the Contractor may not assign the right to receive money due under the Contract without the prior written consent of the State Purchasing Director.

X: DELEGATION

The Contractor shall not delegate any duties or obligations under this Contract to a subcontractor other than a subcontractor named in the bid unless the State Purchasing Director has given written consent to the delegation.

Y: NON-DISCRIMINATION CLAUSE

In the performance of any Contract or purchase order resulting herefrom, the bidder agrees not to discriminate against any employee or applicant for employment, with respect to their hire, tenure, terms, conditions or privileges of employment, or any matter directly or indirectly related to employment, because of race, color, religion, national origin, ancestry, age, sex, height, weight, marital status, physical or mental disability unrelated to the individual's ability to perform the duties of the particular job or position. The bidder further agrees that every subcontract entered into for the performance of any Contract or purchase order resulting herefrom will contain a provision requiring non-discrimination in employment, as herein specified, binding upon each subcontractor. This covenant is required pursuant to the Elliot Larsen Civil Rights Act, 1976 Public Act 453, as amended, MCL 37.2101, *et seq*, and the Persons with Disabilities Civil Rights Act, 1976 Public Act 220, as amended, MCL 37.1101, *et seq*, and any breach thereof may be regarded as a material breach of the Contract or purchase order.

Z: MODIFICATION OF SERVICE

The Director of Purchasing reserves the right to modify this service during the course of this Contract. Such modification may include adding or deleting tasks that this service shall encompass and/or any other modifications deemed necessary.

This Contract may not be revised, modified, amended, extended, or augmented, except by a writing executed by the parties hereto, and any breach or default by a party shall not be waived or released other than in writing signed by the other party.

The State reserves the right to request from time to time, any changes to the requirements and specifications of the Contract and the work to be performed by the Contractor under the Contract. The Contractor shall provide a change order process and all requisite forms. At a minimum, the State would like the Contractor to provide a detailed outline of all work to be done, including tasks necessary to accomplish the deliverables, timeframes, listing of key personnel assigned, estimated hours for each individual per task, and a complete and detailed cost justification.



1. Within five (5) business days of receipt of a request by the State for any such change, or such other period of time as to which the parties may agree mutually in writing, the Contractor shall submit to the State a proposal describing any changes in products, services, timing of delivery, assignment of personnel, and the like, and any associated price adjustment. The price adjustment shall be based on a good faith determination and calculation by the Contractor of the additional cost to the Contractor in implementing the change request less any savings realized by the Contractor as a result of implementing the change request. The Contractor's proposal shall describe in reasonable detail the basis for the Contractor's proposed price adjustment, including the estimated number of hours by task by labor category required to implement the change request.
2. If the State accepts the Contractor's proposal, it will issue a change notice and the Contractor will implement the change request described therein. The Contractor will not implement any change request until a change notice has been issued validly. The Contractor shall not be entitled to any compensation for implementing any change request or change notice except as provided explicitly in an approved change notice.
3. If the State does not accept the Contractor's proposal, the State may:
 - a) withdraw its change request; or
 - b) modify its change request, in which case the procedures set forth above will apply to the modified change request.

If the State requests or directs the Contractor to perform any activities that are outside the scope of the Contractor's responsibilities under the Contract ("New Work"), the Contractor must notify the State promptly, and before commencing performance of the requested activities, that it believes the requested activities are New Work. If the Contractor fails to so notify the State prior to commencing performance of the requested activities, any such activities performed before notice is given by the Contractor shall be conclusively considered to be In-scope Services, not New Work.

If the State requests or directs the Contractor to perform any services or functions that are consistent with and similar to the services being provided by the Contractor under the Contract, but which the Contractor reasonably and in good faith believes are not included within the scope of the Contractor's responsibilities and charges as set forth in the Contract, then prior to performing such services or function, the Contractor shall promptly notify the State in writing that it considers the services or function to be an "Additional Service" for which the Contractor should receive additional compensation. If the Contractor does not so notify the State, the Contractor shall have no right to claim thereafter that it is entitled to additional compensation for performing such services or functions. If the Contractor does so notify the State, then such a service or function shall be governed by the change request procedure set forth in the preceding paragraph.

IN THE EVENT PRICES ARE NOT ACCEPTABLE TO THE STATE, THE CONTRACT SHALL BE SUBJECT TO COMPETITIVE BIDDING BASED UPON THE NEW SPECIFICATIONS.



AA: NOTICES

Any notice given to a party under this Contract must be written and shall be deemed effective, if addressed to such party as addressed below upon (i) delivery, if hand delivered; (ii) receipt of a confirmed transmission by facsimile if a copy of the notice is sent by another means specified in this section; (iii) the third (3rd) Business Day after being sent by U.S. mail, postage pre-paid, return receipt requested; or (iv) the next Business Day after being sent by a nationally recognized overnight express courier with a reliable tracking system.

For the Contractor: George Shore QED Information Systems, 7 Eves Drive, Marlton, NJ 08053

For the State: Greg Faremouth, Buyer The State of Michigan, Department of Management and Budget, Office of Purchasing (“DMB”) for the State of Michigan, Department of Treasury, Bureau of Investments (“BOI”), Stephen T. Mason Building, 530 W. Allegan St., Lansing, MI 48933.

Either party may change its address where notices are to be sent giving written notice in accordance with this section.

BB: ENTIRE AGREEMENT

This Contract, representing the License Agreement and the Software Installation and Maintenance Agreement, shall represent the entire agreement between the parties and supersedes all proposals or other prior agreements, oral or written, and all other communications between the parties relating to this subject.

CC: NO WAIVER OF DEFAULT

The failure of a party to insist upon strict adherence to any term of a Contract shall not be considered a waiver or deprive the party of the right thereafter to insist upon strict adherence to that term, or any other term, of the Contract.

DD: SEVERABILITY

Each provision of the Contract shall be deemed to be severable from all other provisions of the Contract and, if one or more of the provisions of the Contract shall be declared invalid, the remaining provisions of the Contract shall remain in full force and effect.

EE: HEADINGS

Captions and headings used in the Contract are for information and organization purposes. Captions and headings, including inaccurate references, do not, in any way, define or limit the requirements or terms and conditions of this Contract.

FF: RELATIONSHIP OF THE PARTIES

The relationship between the State and the Contractor is that of client and independent Contractor. No agent, employee, or servant of the Contractor or any of its subcontractors shall be or shall be deemed to be an employee, agent, or servant of the State for any reason. The Contractor will be solely and entirely responsible for its acts and the acts of its agents, employees, servants and subcontractors during the performance of this Contract.



GG: UNFAIR LABOR PRACTICES

Pursuant to 1980 Public Act 278, as amended, MCL 423.231, et seq, the State shall not award a Contract or subcontract to an employer whose name appears in the current register of employers failing to correct an unfair labor practice compiled pursuant to section 2 of the Act. This information is compiled by the United States National Labor Relations Board.

A Contractor of the State, in relation to the Contract, shall not enter into a Contract with a subcontractor, manufacturer, or supplier whose name appears in this register. Pursuant to section 4 of 1980 Public Act 278, MCL 423.324, the State may void any Contract if, subsequent to award of the Contract, the name of the Contractor as an employer, or the name of the subcontractor, manufacturer or supplier of the Contractor appears in the register.

HH: SURVIVOR

Any provisions of the Contract that impose continuing obligations on the parties including, but not limited to the Contractor's indemnity and other obligations shall survive the expiration or cancellation of this Contract for any reason.

II: GOVERNING LAW

This Contract shall in all respects be governed by, and construed in accordance with, the laws of the State of Michigan. Any dispute arising herein shall be resolved in the State of Michigan.

JJ: YEAR 2000 SOFTWARE COMPLIANCE

The vendor warrants that all software for which the vendor either sells or licenses to the State of Michigan and used by the State prior to, during or after the calendar year 2000, includes or shall include, at no added cost to the State, design and performance so the State shall not experience software abnormality and/or the generation of incorrect results from the software, due to date oriented processing, in the operation of the business of the State of Michigan.

The software design, to insure year 2000 compatibility, shall include, but is not limited to: data structures (databases, data files, etc.) that provide 4-digit century recognition; stored data that contain date century recognition, including, but not limited to, data stored in databases and hardware device internal system dates; calculations and program logic (e.g., sort algorithms, calendar generation, event recognition, and all processing actions that use or produce date values) that accommodates same century and multi-century formulas and date values; interfaces that supply data to and receive data from other systems or organizations that prevent non-compliant dates and data from entering any State system; user interfaces (i.e., screens, reports, etc.) that accurately indicate 4 digit years; and assurance that the year 2000 shall be correctly treated as a leap year within all calculation and calendar logic.



KK: CONTRACT DISTRIBUTION

The Office of Purchasing shall retain the sole right of Contract distribution to all State agencies and local units of government unless other arrangements are authorized by the Office of Purchasing.

LL: STATEWIDE CONTRACTS

If the contract is for the use of more than one agency and if the goods or services provided under the contract do not meet the form, function and utility required by an agency, that agency may, subject to state purchasing policies, procure the goods or services from another source.

MM: ADHERANCE TO PM METHODOLOGY STANDARD

The State has adopted a standard, documented Project Management Methodology (PMM) for use on all Information Technology (IT) based projects. This policy is referenced in the document titled “Project Management Methodology” – DMB Administrative Guide Procedure 1380.02 issued June 2000. Vendors may obtain a copy of this procedure by contacting the DMB Office of Information Technology Solutions. The State of Michigan Project Management Methodology can be obtained from the DMB Office of Project Management’s website at <http://www.state.mi.us/cio/opm>.

The contractor shall use the State’s PMM to manage State of Michigan Information Technology (IT) based projects. The requesting agency will provide the applicable documentation and internal agency processes for the methodology. If the vendor requires training on the methodology, those costs shall be the responsibility of the vendor, unless otherwise stated.

NN: TRANSITION ASSISTANCE

If this Contract is not renewed at the end of this term, or is canceled prior to its expiration, for any reason, the Contractor must provide for up to 12 months after the expiration or cancellation of this Contract, all reasonable transition assistance requested by the State, to allow for the expired or canceled portion of the Services to continue without interruption or adverse effect, and to facilitate the orderly transfer of such services to the State or its designees. Such transition assistance will be deemed by the parties to be governed by the terms and conditions of this Contract, (notwithstanding this expiration or cancellation) except for those Contract terms or conditions that do not reasonably apply to such transition assistance. The State shall pay the Contractor for any resources utilized in performing such transition assistance at the most current rates provided by the Contract for Contract performance. If the State cancels this Contract for cause, then the State will be entitled to off set the cost of paying the Contractor for the additional resources the Contractor utilized in providing transition assistance with any damages the State may have otherwise accrued as a result of said cancellation.

OO: DISCLOSURE OF LITIGATION

1. The Contractor shall notify the State, if it, or any of its subcontractors, or their officers, directors, or key personnel under this Contract, have ever been convicted of a felony, or any crime involving moral turpitude, including, but not limited to fraud, misappropriation or deception. Contractor shall promptly notify the State of any



criminal litigation, investigations or proceeding which may have arisen or may arise involving the Contractor or any of the Contractor's subcontractor, or any of the foregoing entities' then current officers or directors during the term of this Contract and three years thereafter.

2. The Contractor shall notify the State thereafter as otherwise applicable, of any civil litigation, arbitration, proceeding, or judgments that may have arisen against it or its subcontractors during the five years preceding its bid proposal, or which may occur during the term of this Contract or three years thereafter, which involve (1) products or services similar to those provided to the State under this Contract and which either involve a claim in excess of \$250,000 or which otherwise may affect the viability or financial stability of the Contractor, or (2) a claim or written allegation of fraud by the Contractor or any subcontractor hereunder, arising out of their business activities, or (3) a claim or written allegation that the Contractor or any subcontractor hereunder violated any federal, state or local statute, regulation or ordinance. Multiple lawsuits and or judgments against the Contractor or subcontractor, in any an amount less than \$250,000 shall be disclosed to the State to the extent they affect the financial solvency and integrity of the Contractor or subcontractor.
3. All notices under subsection 1 and 2 herein shall be provided in writing to the State within fifteen business days after the Contractor learns about any such criminal or civil investigations and within fifteen days after the commencement of any proceeding, litigation, or arbitration, as otherwise applicable. Details of settlements which are prevented from disclosure by the terms of the settlement shall be annotated as such. Semi-annually, during the term of the Contract, and thereafter for three years, Contractor shall certify that it is in compliance with this Section. Contractor may rely on similar good faith certifications of its subcontractors, which certifications shall be available for inspection at the option of the State.
4. Assurances - In the event that such investigation, litigation, arbitration or other proceedings disclosed to the State pursuant to this Section, or of which the State otherwise becomes aware, during the term of this Contract, causes the State to be reasonably concerned about:
 - a) the ability of the Contractor or its subcontractor to continue to perform this Contract in accordance with its terms and conditions, or
 - b) whether the Contractor or its subcontractor in performing services is engaged in conduct which is similar in nature to conduct alleged in such investigation, litigation, arbitration or other proceedings, which conduct would constitute a breach of this Contract or violation of Michigan or Federal law, regulation or public policy, then

the Contractor shall be required to provide the State all reasonable assurances requested by the State to demonstrate that: (a) the Contractor or its subcontractors hereunder will be able to continue to perform this Contract in accordance with its terms and conditions, (b) the Contractor or its subcontractors will not engage in conduct in performing services under this Contract which is similar in nature to the conduct alleged in any such litigation, arbitration or other proceedings.



5. The Contractor's failure to fully and timely comply with the terms of this section, including providing reasonable assurances satisfactory to the State, may constitute a material breach of this Contract.

PP: STOP WORK

1. The State may, at any time, by written stop work order to the Contractor, require that the Contractor stop all, or any part, of the work called for by this Contract for a period of up to 90 days after the stop work order is delivered to the Contractor, and for any further period to which the parties may agree. The stop work order shall be specifically identified as such and shall indicate that it is issued under this section. Upon receipt of the stop work order, the Contractor shall immediately comply with its terms and take all reasonable steps to minimize the incurrence of costs allocable to the work covered by the stop work order during the period of work stoppage. Within the period of the stop work order, the State shall either:
 - a) Cancel the stop work order; or
 - b) Cancel the work covered by the stop work order as provided in the cancellation section of this Contract.
2. If a stop work order issued under this section is canceled or the period of the stop work order or any extension thereof expires, the Contractor shall resume work. The State shall make an equitable adjustment in the delivery schedule, the contract price, or both, and the Contract shall be modified, in writing, accordingly, if:
 - a) The stop work order results in an increase in the time required for, or in the Contractor's costs properly allocable to the performance of any part of this Contract; and
 - b) The Contractor asserts its right to an equitable adjustment within 30 days after the end of the period of work stoppage; provided, that if the State decides the facts justify the action, the State may receive and act upon a proposal submitted at any time before final payment under this Contract.
3. If the stop work order is not canceled and the work covered by the stop work order is canceled for reasons other than material breach, the State shall allow reasonable costs resulting from the stop work order in arriving at the cancellation settlement.
4. If a stop work order is not canceled and the work covered by the stop work order is canceled for material breach, the State shall not allow, by equitable adjustment or otherwise, reasonable costs resulting from the stop work order.

An appropriate equitable adjustment may be made in any related contract of the Contractor that provides for adjustment and is affected by any stop work order under this section. The State shall not be liable to the Contractor for loss of profits because of a stop work order issued under this section.



QQ: PERFORMANCE AND RELIABILITY EVALUATION (PARE)

When the State requires that a performance and reliability evaluation (PARE) is to be performed, the standard of performance for the PARE will be closely monitored during the acceptance period.

A. Pre-PARE Period

It will be assumed that all testing has been completed and user acceptance approvals received prior to initiating the PARE. The PARE shall be comprised of a specification compliance review of the equipment (if any) listed on the ordering documents. Such equipment, if required by the vendor, shall be checked for total compliance with all required specifications of the contract, the software provider and the State. In the event that the State determines that any component or feature of the delivered equipment or software does not comply with the mandatory specifications of the contract, the State shall so notify the Contractor, allowing five calendar days for rectification by the Contractor. Should the Contractor be unable to rectify the deficiency, the State reserves the right to cancel the ordering document. Should the equipment and software pass the specification conformance review, the equipment shall enter the PARE.

All custom modifications must be completed, tested and be functional with the core application prior to beginning the PARE.

The PARE committee will develop a PARE execution plan. At minimum, 100% of the mandatory software requirements and 80% of the optional requirements of the State must be tested during the PARE.

B. PARE Period

1. Determination of System Readiness

- a. Prior to the PARE, a committee of three persons will be formed to evaluate the system's performance on a daily basis. The committee will consist of one Contractor representative and two State personnel.
- b. The PARE will begin on the installation dates when the Contractor certifies that the equipment is ready for use by the State.
- c. The software must perform at 99% successfully.

2. During the PARE:

All rerun times resulting from preventive maintenance, hardware or software failure shall be excluded from the performance hours.

- a. All reconfiguration and reload time shall be excluded from the performance hours.
- b. If files are destroyed as a result of a problem with State's equipment and must be rebuilt, the time required to rebuild the files will be considered "down-time" for the system.



- c. If the Contractor requests access to failed equipment and the State refuses, then such maintenance will be deferred to a mutually agreeable time and the intervening time will not count against the PARE.
- d. In the event that the PARE is suspended for any reason, at any time, the contractor will have one day to remedy the component deficiency or to develop a specific plan to remedy the deficiency. No deficiency should remain for longer than five days. Further, the contractor must certify that the component(s) that failed, or did not materially comply with the requirements of the contract, have been corrected and tested and now comply with the requirements of the contract, as a pre-requisite for re-starting the PARE.
- e. A functional benchmark demonstration will be run for the PARE Committee to confirm that the installed system is capable of performing the same functions that were demonstrated. This run must be completed to the satisfaction of the PARE Committee.

C. STANDARD OF PERFORMANCE

- a. The performance period (a period of 45 consecutive calendar days) shall commence on the user sign-off date, at which time the operational control becomes the responsibility of the State. It is not required that one 45-day period expire in order for another performance period to begin.
- b. If each component operates at an average level of effectiveness of 95 percent or more for a period of 45 consecutive days from the commencement date of the performance period, it shall be deemed to have met the State's standard of performance period. The State shall notify the Contractor in writing of the successful completion of the performance period. The average effectiveness level is a percentage figure determined by dividing the total operational use time by the total operational use time plus associated down-time.
- c. During the successful performance period, all rerun time resulting from equipment failure and preventive maintenance time shall be excluded from the performance period hours. All reconfigurations and reload time shall be excluded from the performance hours. Equipment failure down-time shall be measured by those intervals during the performance period between the time that the Contractor is notified of equipment failure and the time that the equipment is returned to the State in operating condition.
- d. During the successful performance period, a minimum of 80 hours of operational use time on each component will be required as a basis for computation of the average effectiveness level. However, in computing the effectiveness level, the actual number of operational use hours shall be used when in excess of the minimum stated above.
- e. No more than one hour will accrue to the performance hours during any one-wall clock hour.
- f. Equipment shall not be accepted by the State and no charges will be paid by the State until the standard of performance is met.



- g. When a system involves on-line machines which are remote to the basic installation, the required effectiveness level shall apply separately to each component in the system.
- h. Promptly upon successful completion of the performance period, the State shall notify the Contractor in writing of acceptance of the equipment and authorize the monthly payments to begin on the first day of the successful performance period.
- i. If successful completion of the performance period is not attained within 90 days of the installation date, the State shall have the option of terminating the Contract, or continuing the performance tests. The State's option to terminate the contract shall remain in effect until such time as a successful completion of the performance period is attained. The Contractor shall be liable for all outbound preparation and shipping costs for contracted items returned under this clause.
- j. The PARE will be complete when the equipment has met the required effectiveness level for the prescribed time period.

RR: LIQUIDATED DAMAGES

The PARE Review Committee will be the initial arbiter and judge of PARE effectiveness. The Office of Purchasing will validate any findings that would cause liquidated damages to be invoked on the vendor.

1. The State and the Contractor hereby agree to the specific standards set forth in this Contract. It is agreed between the Contractor and the State that the actual damages to the State as a result of Contractor's failure to provide promised services would be difficult or impossible to determine with accuracy. The State and the Contractor therefore agree that liquidated damages as set out herein shall be a reasonable approximation of the damages that shall be suffered by the State as a result thereof. Accordingly, in the event of such damages, at the written direction of the State, the Contractor shall pay the State the indicated amount as liquidated damages, and not as a penalty. Amounts due the State as liquidated damages, if not paid by the Contractor within fifteen (15) days of notification of assessment, may be deducted by the State from any money payable to the Contractor pursuant to this Contract. The State will notify the Contractor in writing of any claim for liquidated damages pursuant to this paragraph on or before the date the State deducts such sums from money payable to the contractor. No delay by the State in assessing or collecting liquidated damages shall be construed as a waiver of such rights.
2. The Contractor shall not be liable for liquidated damages when delays arise out of causes beyond the control and without fault or negligence of the Contractor. Such causes may include, but are not restricted to, acts of God or of the public enemy, acts of the State in either its sovereign or contractual capacity, fires, flood, earthquakes, epidemics, quarantine restrictions, strikes, freight embargoes, and unusually severe weather; but in every case, the delays must be beyond control and without the fault or negligence of this Contractor.



3. Liquidated Damages - The parties acknowledge and agree that in the event that the Contractor fails to complete certain obligations as specified in the Contract, damage shall be sustained by the State. The parties also agree that it is impractical and difficult to determine the actual amount of such damages. Therefore, the parties agree that the State may receive liquidated damages in the amounts specified below for any of the following failures due to the sole fault of the Contractor.
 - a.) Failure by QED to deliver a substantially acceptable Software system as determined by system acceptance test plan within 150 days following acceptance by the State of the Project Plan or March 15th 2002, whichever occurs later. The Liquidated Damage amount shall be one thousand five hundred dollars (\$1,500) per day.
 - b.) In no event shall the total amount of Liquidated Damages in this provision exceed one hundred thousand dollars (\$100,000).

The State is not obligated to assess liquidated damages before availing itself of any other remedy. The State may chose to discontinue liquidated damages and avail itself of any other remedy available under this contract or at law or equity provided however the contractor shall receive credit for said liquidated damages previously withheld, unless the contract is cancelled by the State for contractors material breach.

SS. LOCATION OF OPERATION

The Software may be used only for, by and on the behalf of the Licensee and only at the facility location specified above and herein. Any change of location shall require prior written consent of Company, which shall not be unduly withheld.

TT. RISK OF LOSS

On delivery and acceptance of equipment, all risk shall transfer to Licensee.

UU. DISCLAIMER OF WARRANTY

COMPANY HEREBY EXPRESSLY DISCLAIMS ALL EXPRESS AND IMPLIED WARRANTIES, INCLUDING BUT NOT LIMITED TO, ALL EXPRESS WARRANTIES, ALL IMPLIED WARRANTIES OF FITNESS FOR A PARTICULAR PURPOSE AND ALL WARRANTIES OF MERCHANTABILITY. COMPANY HAS AUTHORIZED NO WARRANTY WITH RESPECT TO THE SOFTWARE AND SERVICES AND LICENSEE HAS NOT RELIED ON ANY OTHER WARRANTY IN ITS DECISION TO EXECUTE THIS LICENSE.

VV. LIMITATION OF LIABILITY OF COMPANY

COMPANY SHALL NOT, IN ANY CIRCUMSTANCES, BE LIABLE WHETHER IN CONTRACT, TORT OR OTHERWISE, FOR ANY INDIRECT, SPECIAL, INCIDENTAL OR CONSEQUENTIAL LOSS OR DAMAGE HOWSOEVER ARISING AND OF WHATSOEVER NATURE SUFFERED OR INCURRED BY LICENSEE, INCLUDING (WITHOUT LIMITATION) LOSS OF PROFITS, LOSS OF CONTRACTS, LOSS OF DATA, LOSS OF OPERATION TIME, OR LOSS OF THE USE OF ANY EQUIPMENT OR PROCESS SUFFERED DIRECTLY OR INDIRECTLY BY LICENSEE, OR LOSS OF ANTICIPATED SAVINGS, WHETHER OR NOT ADVISED OF THE POSSIBILITY OF SUCH LOSS AND WITHOUT



REGARD TO ANY DETERMINATION THAT A REMEDY SPECIFIED
HEREUNDER FAILS ITS ESSENTIAL PURPOSE.

WW. HARDWARE

1. This Maintenance Agreement is contingent upon the continued operation of licensed product on the equipment designated in section 4: Hardware and Third Party Software Configuration of the IMS-2000 License Agreement, using a computer operating system version and release as specified therein. Maintenance shall be limited to installation and operation of the licensed Product on one such computer.
2. Licensee may at a later date obtain additional equipment or updated equipment to be used in conjunction with the Software. Equipment obtained directly through Company will be in accordance with and will not void nor contradict Section SS/1 of the IMS-2000 License Agreement. Equipment obtained from other sources will void this Maintenance Agreement or may necessitate additional support, assistance, consulting, and maintenance fees to Company.
3. Licensee is responsible for the purchase of any hardware maintenance contracts with third parties, in addition to any standard maintenance provisions that may be provided by the hardware manufacturer.

XX. UPGRADES

1. During the life of the Maintenance Agreement, Company shall provide at no additional charge to Licensee, new versions of the licensed Product which may be developed from time to time, at the discretion of Company. Such new versions may include changes, improvements, substitutions, enhancements or new features that improve performance, utility, or existing syntax, or that improve or reduce the Product computer resource requirement, or that allow Product to operate on later releases and versions of the Sun Solaris computer operating system or some other computer hardware or operating system.
2. Any additional programs, functionality and documentation created by Company and provided to Licensee under this section of the Maintenance Agreement shall automatically be added as a Product licensed to Licensee under the then effective License Agreement, and shall thereafter be subject to all of the terms and conditions set forth thereunder.

YY. SERVICES

During the life of this Maintenance Agreement, Company shall provide at no additional charge to Licensee the services included in Section 3 of the Maintenance Agreement. These services include those to be provided for the annual maintenance and for implementation and conversion services.

ZZ. ERROR CORRECTION

1. During the life of this Maintenance Agreement, Company will provide corrections to errors in the Product which have been identified and reported by Licensee to Company, at no additional charge to the Licensee.



2. Company will, for all reports made to Company by Licensee in accordance with the above section, on a best efforts basis, provide corrections as defined in the above section in a timely fashion, and on a high priority basis, and deliver such corrections to Licensee by the most expeditious means, electronic transmission, or overnight courier.

AB. DOCUMENTATION

1. Company will provide, at no additional charge to Licensee, on-line documentation of Product, one (1) copy of each manual or document concerning the operation and administration of the Product. Company will also provide periodic documentation updates to reflect changes or new features that may be incorporated into the Product from time to time.
2. Licensee may request to receive, upon thirty (30) days written notice, and Company will provide, additional copies of any manual or document concerning the operation, administration or use of the Product at a cost not to exceed the publication, printing and shipping costs as incurred by the Company.

AC. PRICING SECURITIES

It is hereby stipulated and agreed between the parties that all portions of the Product that affect "Securities Pricing", "Announcement Services" and "Corporate Actions", as delivered, requires third party market data services that will be provided to Licensee by Company as a separately charged service. Company makes no claims or warranties as to the fitness or accuracy of the data to be provided, and is not responsible for changes or omissions provided therein.

AD. REMOTE ACCESS

During the life of this Maintenance Agreement, Licensee shall provide Company with Internet access to their host computer for the purpose of product support, data delivery, and assisting Licensee in the administration and operation of the Product and related equipment. Licensee agrees to operate and maintain its own electronic communication equipment. Licensee further agrees to reimburse Company for all telephone charges incurred by Company in the event that dial up modem access is necessary.

AE. CUSTOM PROGRAMMING AND ADDITIONAL SERVICES

1. Whenever Licensee shall require of Company the creation of additional programs not part of the licensed programs, or modifications, enhancements or changes to the Product or any program, or any services not mentioned herein, or levels of service above the limits established herein, such additional services shall be provided by Company pursuant to this section of the Maintenance Agreement.
2. Such invoices shall be due and payable upon presentation by Company to Licensee. Company shall periodically prepare and make available to Licensee, upon Licensee's reasonable request, an accounting of the hours used by Licensee and detail of the work performed under this section of the Maintenance Agreement.



3. Any additional programming and documentation created by Company as further development for Licensee under this section of the Maintenance Agreement shall automatically be added as software licensed to Licensee, and shall thereafter be subject to all of the terms and conditions set forth under the terms of the License Agreement then in force.
4. Either Licensee or Company may request that detailed system requirements, program specifications and/or timetables be prepared for Licensee's approval prior to the start of work on each project by Company. Company will charge Licensee to prepare such documents according to the terms and conditions set forth under this Maintenance Agreement.

AF. TRAVEL EXPENSE

Licensee agrees to reimburse Company for all travel expenses incurred by Company whenever Company's performance under this Software Implementation and Maintenance Agreement requires visitation of Company representative(s) at Licensee's location at Licensee's request. Licensee shall provide pre-authorization of all travel by Company. Expenses shall be reimbursed at the State of Michigan set rates at the time of that the expenses are incurred. See Section 3, #7 for Agreement specifications.

AG. MODIFICATION

1. This Agreement constitutes the entire, sole, and exclusive agreement between the parties and supercedes all prior communication and negotiations between the parties. No warranties, representations, guarantees, or other terms and conditions not contained in this Agreement shall be of any force or effect.
2. No amendment, modification or other change to the terms and conditions of this Agreement shall be effective unless such amendment, modification or waiver is in writing signed by both parties.
3. All changes to this Agreement, if any, are reflected in Addendum(s) and Amendment(s) which are hereby made part of this Agreement

AH. SUPPLEMENTAL TERMS

Taxes - The payments made to Company by Licensee under this Agreement are exclusive of any applicable sales, use or similar taxes, payable with respect to the Software or other services provided by Company to Licensee under this Agreement, other than taxes levied or imposed upon Company's income ("Income Tax"). Licensee agrees to pay to Company any such taxes and (where appropriate) an amount in request thereof shall be added by Company to Licensee's invoices as they are incurred. The State of Michigan is not a taxable entity and no state taxes will be due under this Contract at the time of execution.



SECTION 2: WORK STATEMENT

A. BACKGROUND/PROBLEM STATEMENT

The Bureau of Investments (BOI) is responsible for the investing activities of the State of Michigan Retirement System (SMRS), the general fund of the State, and various Trust funds such as the Lottery and Michigan Education Trust. The BOI has an operating budget of over \$8 million and is authorized to employ 87 employees of which approximately 46 are professional. The BOI is broken down into seven divisions by investment discipline: Alternative Investments, Short Term Fixed Income, Long Term Fixed Income, Mortgage and Real Estate, Quantitative Analysis, Stock Analysis and Trust Accounting. In carrying out its investment responsibilities, the BOI runs a broadly diversified portfolio that is primarily internally managed and includes over 2,000 individual investments.

SMRS is a \$48 billion Defined Benefits Plan representing over 525,000 beneficiaries. The plan assets represent the thirteenth largest public pension plan in the U.S. It is a pooled fund comprised of four funds: Public School Employees, State Employees, State Police and Judges. The State Treasurer is the sole fiduciary of the SMRS which is overseen by a five-person Investment Advisory Committee (IAC) comprised of outstanding governmental, economic and investment professionals.

Alternative Investments Division - The Alternative Investments Division is responsible for managing investments in the non-traditional asset classes of private equity and mergers and acquisitions, through both dedicated partnerships and directly into operating companies, using a variety of equity and debt instruments. Employees are responsible for establishing and maintaining relationships with private sector investment professionals, evaluating and recommending venture capital and merger/acquisition investment opportunities and portfolio management.

Short Term Fixed Income Division - The Short Term Fixed Income Division is responsible for the research, analysis and investment of assets in fixed income securities with a maturity of less than one year according to the guidelines of the BOI and the State Treasurer.

Long Term Fixed Income Division - The Long Term Fixed Income Division is responsible for the research, analysis and investment of assets in fixed income securities maturing in more than one year according to the guidelines of the BOI and the State Treasurer.

Mortgage and Real Estate Division - The Mortgage and Real Estate Division is responsible for managing SMRS assets allocated to real estate and mortgages. A single investment can range anywhere from \$10 million or more and includes investments such as office buildings, apartments, malls, etc. The staff consists of real estate specialists who oversee and make recommendations concerning the management of the investments, including buying, selling and structuring, and clerical staff who provide support to the specialists.

Quantitative Analysis Division - The Quantitative Analysis Division is responsible for managing SMRS assets allocated to passive equity investments targeting the returns of the U.S. and International stock indices. These investments targeting the S & P 500 and other benchmark indices are, or closely resemble, enhanced index funds. Staffed by investment specialists, the Division purchases and sells stocks and derivative securities, and provides information for management analysis and decision-making.



Stock Analysis Division - The Stock Analysis Division invests funds for SMRS in publicly traded stocks. The Division's purpose is to maximize rates of return without placing undue risk on the portfolio. The staff consists of equity investment specialists who research and recommend the purchase and sale of stocks of primary U.S.-based companies. These investments range in value from \$25 to \$500 million.

Trust Accounting Division - The Trust Accounting Division provides trust services to various investment divisions within the bureau and to other agencies and state departments. The division is comprised of four sections delineated by function or responsibility:

1. The Information Support Section supports the BOI Local Area Network, comprised of 90 workstations.
2. The Operations Section is responsible for processing daily cash and accounting transactions and the security settlement.
3. The Accounting and Systems Controls Section is responsible for cash and general ledger control functions, in addition to financial statement analysis and preparation.
4. The Specialized Accounting Section is responsible for managing the Performance Measurement Process and accounting for derivatives and international investments.

B. OBJECTIVES

BOI desires to expand and upgrade its internally dedicated investment local area network (LAN) software resources. During the last ten years SMRS assets have grown 193% and have become the thirteenth largest public pension in the United States. Today, SMRS investment portfolios are valued in excess of \$48 billion. By conservative estimates, SMRS assets will double during the next ten years. Consequently, the BOI desires to acquire and implement investment accounting, portfolio management, and cash management in order to:

- Provide more accurate, high speed processing of information for accounting/analysis/reporting;
- Expand the use of electronic means to collect, process and analyze information and more fully automate these processes, and;
- Support accounting and investment functions for a variety of pension, agency and fund investment structures including pooled fund investment unit accounting and related ancillary functions, including participant accounting and;
- Provide for continued growth in volume and size of investment transactions.

This contract focuses on investment accounting functionality as the core solution; including portfolio management and analytical functionality.

Company will provide Licensee an investment accounting system that is comprised of software, hardware, implementation services, and maintenance support. The system enables Licensee to process investment securities, investment accounting including interfacing to the existing general ledger, pooled fund accounting, manage cash, provide AIMR compliant performance measurement, account for investments on an average cost basis, and support



external interfaces with Licensee’s custodian bank, DTC, trading systems, and other external required interfaces. Company will convert Licensee’s existing data, train administrative and system personnel, and play a lead role in the management of the conversion project. Company understands that Licensee has an active project and that “time is of the essence” in the management of the project.

The system will enable real-time processing, be scalable client-server technology, be compatible on the client/desktop side with Microsoft NT/Windows 2000, will have the ability to export data to external ODBC compliant databases, support at least 75 concurrent users, enable Licensee to process high speed large volumes of transactions of over 300 transactions per minute, provide roll back and roll forward data integrity, and provide capabilities for tape backup and recovery.

The project will be completed to the specifications, and within the timeframe, established by the State of Michigan. QED has provided a methodology for milestone completion, which incorporates all of the major tasks, as required by The State of Michigan as described in the remainder of this section.

QED will provide a complete turnkey solution using IMS-2000. IMS-2000 will be installed at the State’s offices. Necessary hardware and software required to maintain the System will be installed, including a high-end server and configure the necessary workstations. QED will provide necessary on-site support as required to meet the State’s objective of being in production by April 1, 2002.

Following are the major project tasks necessary to initiate and complete the proposed project. Accomplishment of these tasks will require the commitment and availability of both QED and the Bureau of Investments personnel resources.

1) Final Agreements.

2) Milestones – Perform an initial technology and requirements study to determine native compatibility between IMS-2000 and Bureau of Investments existing platforms and operating environments and ascertain the degree of migration necessary for IMS-2000 to comply with any proposed system requirements including:

- Hardware requirements
- Internal/external electronic interface requirements
- Functional specifications and operational features
- Reporting requirements
- Team responsibilities

SPECIFIC ITEMS TO BE IDENTIFIED INCLUDE:

- One time conversion of Licensee's historical investment position as of June 30, 2001, and configuration of all definition tables. Company will attempt, on a best efforts basis, conversion of data currently resident within Licensee’s existing investment



accounting system database, as provided to Company by Licensee in a format and on an electronic medium in accordance with Company’s specifications.

- One time-preliminary planning and organization meeting (“kick-off meeting”), on site.
- One time, on-site initial Product installation, set-up, and configuration.
- On-site operator and administrator initial training.
- On-site continuation operator and administrator training within three months of the date of system installation Development and installation of IMS-2000 electronic communication interfaces to custodian bank.
- On-site project management and implementation services as requested by Licensee.
- Configuration of all IMS-2000 designated desktop computer workstations.

DEVELOPMENTAL REQUIREMENTS

- Development as required for the implementation of external and internal electronic communications, interfaces, system functionality, and reporting applications.
- Development of general ledger interfaces with the Michigan Administrative Information Network (MAIN).
- Development of an interface to the Macgregor, Indata, or Flextrade trading systems, as specified by Licensee. Licensee and Company agree that additional interfaces with other trading systems, if required by Licensee, will not be a development deliverable within the time constraints of this Agreement.
- Licensee and Company agree that additional interfaces with other systems, such as a Cash Management System, additional investment data vendors or service providers, etc. if required by Licensee and outside of the scope of this agreement, will not be a development deliverable within the time constraints of this Agreement and will be covered by the development provisions identified in Section 3, #8 and section AE.
- Development of position and transaction reconciliation interfaces to State Street Bank.
- Support Depository Trust & Clearing Corporation (DTCC) interface

3. Minimum System Accounting Functionality -will be provided as listed in Section 5: Table of Accounting Functionality and as listed below:

- Pooled/unit fund accounting.
- Accounting for equity swap derivatives.
- Accounting for limited partnerships on the equity basis.
- Cash management from transaction to pool levels.
- Allow client to open and close accounting periods.



- Recognize investment transactions on effective date and provide AIMR compliance performance measurement, while recognizing accounting transactions in current open period.
- Account for investments using average cost.
- Ability to support, on demand, AIMR compliance performance measurement.

3a. Derivative strategies have input, accounting and reporting requirements unique to the State of Michigan Retirement System. The requirements are:

1. Linking the two or more individual security components that comprise specific lots/slices within each strategy;
2. Unique data elements to link, account and report for that investment type;
3. Potentially new transaction types unique to each strategy, and those used elsewhere in the system.
4. Development of customized screens to facilitate the data input, processing and reporting functions.

3b. Accounting for complex international equity swaps, consisting of the following:

1. Purchase of a Long position in a Real LIBOR Floating Rate Note for Local and Quanto.
2. Purchase of Accrued Interest for Local and Quanto.
3. Interest Received/Paid on the Long LIBOR Floating Rate Note for Local and Quanto.
4. Interest Paid/Received on the Swap Agreements are attached to the Long LIBOR floating rate note for Local and Quanto
5. Open of a Swap Agreement for Local and Quanto using Long Synthetic Futures Trading functionality.
6. Increase/decrease the notional amount on the Swap Agreement for Local and Quanto using Long Synthetic Futures Trading functionality.
7. Sale of a Long position in a Long LIBOR Floating Rate Note for Local and Quanto.
8. Record the gain/loss on the sale of the Long LIBOR Floating Rate Note for Local and Quanto.
9. Close of a Swap Agreement for Local and Quanto utilizing Long Synthetic Futures Trading functionality.
10. Record the gain/loss on the close of the Swap Agreement for Local and Quanto utilizing Long Synthetic Futures Trading functionality.
11. Linking all the above transactions for an International Equity Swap position for Local and Quanto.



12. Valuating the International Equity Swap position for Local and Quanto using client supplied prices.

International Equity Swap position transactions should be entered in a single integrated transaction process. Transaction define fields would be used to enter the transactions. User define fields would not be used to enter the transactions.

3c. Synthetic Equity Derivatives, consisting of the following:

1. Open of Long Future contracts position.
2. Record the commission paid on the purchase of the Long Future contracts position.
3. The daily mark to market of the Long Future contracts.
4. Open additional contracts or close a portion of Long Future contracts before they mature.
5. Purchase of a Short Term security.
6. Price the Short Term Security.
7. Close of the Long Future Contract position.
8. Linking all the above transactions for a Synthetic Equity Derivative position.
9. Valuating the Synthetic Equity Derivative position using client supplied prices.

Synthetic Equity Derivative transactions to be entered in a single integrated transaction process. Transaction define fields would be used to enter the transactions. User define fields would not be used to enter the transactions.

3d. Synthetic Cash Derivative - contain one “Short“ Futures position, a matching equity portfolio, and cash. The Future position is designated as a Hedge against an equity portfolio. The accounting for a Synthetic Equity Derivative will consist of the following transactions:

1. Open of a “Short” Future Contract position.
2. Purchase of a matching Equity portfolio.
3. Transfer of Cash.
4. Record the commission paid on the purchase of the Short Future contracts position.
5. The daily mark to market of the Short Future contracts.
6. Open additional contracts or close a portion of Short Future contracts before they mature.
7. Close of the Short Future Contract position.
8. Equity portfolio are transferred to portfolio corresponding to the investment strategy.



9. Transfers generate realized gain or loss.
10. Linking all the above transactions for a Synthetic Equity Derivative position.
11. Valuating the Synthetic Cash Derivative position-using client supplied prices.

Synthetic Cash Derivative transactions to be entered in a single integrated transaction process. Transaction define fields would be used to enter the transactions. User define fields would not be used to enter the transactions

- 3e. Limited Partnership Customization Requirements - Two distinct types of transactions are required to account for limited partnership investments on the equity basis of accounting. These are transactions with cash offset and non-cash transactions.

These transaction types may consist of multiple debits or credits. Development of customized self-balancing screens or screens to facilitate the data collection and input, processing and reporting functions are needed. In addition, management, legal or consulting fees are paid to most limited partnerships. The establishment of unique transaction types would facilitate reporting for these activities.

A. Cash Adjustments for limited partnerships consist of the following transactions:

1. The receipt of cash on all transactions.
2. An increase to shares and cost/book value through capital contributions.
3. A decrease of shares and cost/book value along with a realized gain/loss from a stock distribution.
4. A decrease of shares and cost/book value through a return of capital.
5. A decrease of shares and cost/book value through a return of capital along with income and/or realized gain.
6. A decrease of shares and cost/book value through a return of capital along with negative income and/or realized gain.
7. A decrease of shares and cost/book value through a return of capital along with negative income and/or realized loss.
8. A decrease of shares and cost/book value through a return of capital along with income and/or realized loss.
9. A return of income and/or realized gain without a decrease of shares and cost/book value.
10. A return of income and/or realized loss without a decrease of shares and cost/book value.
11. A return of realized gain with negative income without a decrease to shares and cost/book value.
12. A return of realized gain only without an increase to shares and cost/book value.
13. A return of income only without an increase to shares and cost/book value.



B. Non-cash basis adjustments for limited partnerships consist of the following transactions:

1. An increase to shares and cost/book value offset by income and/or realized gain.
2. An increase to shares and cost/book value offset by income and realized loss.
3. An increase to shares and cost/book value offset by negative income and realized gain.
4. A decrease to shares and cost/book value offset by negative income and/or realized loss.
5. A decrease to shares and cost/book value offset by negative income and realized gain.
6. A decrease to shares and cost/book value offset by income and realized loss.

C. Management fee transactions for limited partnerships consist of the following transactions:

1. Reduction in cash to record the management fee expense.
2. A decrease of shares and cost/book value through return of capital along with management fee expense.
3. A return of income and/or realized gain without a decrease of shares and cost/book value but with management fee expense.
4. A decrease of shares and cost/book value through a return of capital and/or positive or negative income with or without realized gain or loss and management fee expense.
5. An adjustment to reduce the management fee expense and repost the correct amount.
6. An increase in cash through an adjustment to the management fee expense.

4. Acquire and Stage System Platform

QED will assume the responsibility for procurement, configuration, and bench testing of the IMS-2000 hardware platform. This series of tasks includes installation and configuration of the Unix operating system for the client’s specific operational environment as specified in the completed technology study. Additionally, the operating system and application system security masks will be established and software license keys will be staged in accordance with the terms of the client’s IMS-2000 License and Maintenance Agreements. All IMS-2000 applications will be staged on the client’s server platform and configuration of the application for use within the client’s operating environment will be performed.



These configuration tasks will be performed at QED’s facility in conjunction with, and with adherence to, the Bureau of Investments applicable computer and data processing requirements. QED will:

- Partition drives, install operating system, setup user accounts, configure printer resources, peripherals, licenses, etc.
- Define the Service Access Facility, port monitors, and service tags for operation with daily pricing data feeds, financial services, custodians, Internet, and an electronic link allowing QED to perform remote system administration and assistance.
- System testing and acceptance can be initiated at either the Bureau of Investments site or at the QED home facility.
- Configure network utilities, daemons, remote hosts, memory sharing and remote mounting of logical disk partitions.
- Prepare user environments for IMS-2000 (includes paths, shell variables, resource files, login shell, X and motif resource files, and menu defaults).
- Build daily, weekly, and monthly automatic procedures (pricing, factors, sweep, archiving) chronology (cron) files, nightly backup routines.
- Establish Unix-to-Unix Communication Protocol (uucp) databases, including: poll, config, devices, dialcodes, grades, limits, permissions, systems and devconfig.
- Bench test IMS-2000, configured with investment data, definitions, and integrated custom applications and modules.
- Install uninterruptible power supply (UPS) and automatic shutdown software.

5. IMS-2000 Configuration and Historical Data Conversion

QED will configure IMS-2000 definition tables to the Bureau of Investments’ specifications and convert and reconcile historical account and transaction data from the existing investment accounting system (as provided to QED by the Bureau of Investments in electronic format) to the IMS-2000 platform. This task requires consolidation of data originating from multiple repositories, construction of numerous crossover tables and development of programs to restructure and validate the data. Once the data is resident within IMS-2000, its reporting engines will be used to reconcile the account histories against source information to ensure that a complete and accurate port was achieved.

6. Installations, Integration and Implementation

QED will perform all installation and integration tasks for the IMS-2000 platform within the Bureau of Investments systems environment. During this phase of the project operator and administrator training will be performed at the Bureau of Investments facility using historical investment accounting data. Integration of IMS-2000 within the existing Bureau of Investments investment systems environment will require development of multiple data conduits to stream account creation and trade information to the transaction capture module. Some of these interfaces will be short lived as they are only required for the implementation phase. Permanent interfaces will be configured



using the most robust and reliable protocols. Specific drivers must be built to perform data translation between the various host operating systems. QED will engineer, setup and maintain required external electronic communications interfaces for each stage of the project and for ongoing operation of the system in a production environment.

All production applications, including client statements, accounting reports, position analysis, and inter-process reconciliation's will be provided during the initial implementation stage of the project. New requirements identified during the later or post-production stage of the project will be provided at no additional cost under the terms of the IMS-2000 maintenance agreement.

7. Production Status

Upon the conclusion of training and subsequent data conversions as required, IMS-2000 will be placed in a production status. This is set to begin on January 1, 2002. In the first quarter of 2002, QED staff will work on-site with Licensee's staff to review and update existing operational procedures within the Bureau of Investments business.

C. PROJECT CONTROL AND REPORTS

1. Project Control - The Contractor will carry out this project under the direction and control of the Department of Treasury Office of Investment Bureau. Although there will be continuous liaison with the Contractor team, the client agency's project director will discuss weekly at a minimum, with the Contractor's project manager for the purpose of reviewing progress and providing necessary guidance to the Contractor in solving problems which arise.

The Contractor will submit brief written biweekly summaries of progress which outline the work accomplished during the reporting period; work to be accomplished during the subsequent reporting period; problems, real or anticipated, which should be brought to the attention of the client agency's project director; and notification of any significant deviation from previously agreed-upon work plans. A copy of this report will be forwarded to the named buyer in the Office of Purchasing.

Within five (5) working days of the award of the Contract, the Contractor will submit to the Department of Treasury office of Investments project director for final approval a work plan. This final implementation plan must be in agreement with section IV-C subsection 2 as proposed by the bidder and accepted by the State for this Contract, and must include the following:

1. The Contractor's project organizational structure.
2. The Contractor's staffing table with names and title of personnel assigned to the project. This must be in agreement with staffing of accepted proposal. Necessary substitutions due to change of employment status and other unforeseen circumstances may only be made with prior approval of the State.



3. The project breakdown showing sub-projects, activities and tasks, and resources required and allocated to each.
 4. The time-phased plan in the form of a graphic display, showing each event, task, and decision point in your work plan.
- 2. Reporting** - All reporting will be discussed between the Project Manager between of Licensee and Company as the to the detail and format.



SECTION 3: TERMS, PRICE PROPOSAL, AND SCHEDULE OF PAYMENTS

1. Licensee and Company agree that payments will be made from Licensee to Company as per the consolidated payment chart below, and the definition of phases/payment dates:
 - a. The License Fee for the Software is \$575,000, payable according to the following schedule.
 - b. The Annual Maintenance Fee for the initial term of this Agreement is \$110,000, payable according to the following schedule.
 - c. There is a one-time Implementation and Conversion Fee of \$242,500, payable according to the following schedule.
 - d. The Hardware Fee for the hardware in Section 4 is \$75,473, payable according to the following schedule.

QED Information Systems
 Michigan Department of Treasury, Bureau of Investments
 Consolidated Payment Schedule

				SOFTWARE INSTALLATION AND MAINTENANCE AGREEMENT			
				LICENSE AGREEMENT			
Total Consolidated Payment Due from License Agreement and from Software Installation and Maintenance Agreement	PHASES - Payment Dates	Percent	Implementation and Conversion				
			License	Hardware	Maintenance	and Conversion	
\$150,446	1	0.15	\$86,250	\$11,321	\$16,500	\$36,375	
\$150,446	2	0.15	\$86,250	\$11,321	\$16,500	\$36,375	
\$200,595	3	0.20	\$115,000	\$15,095	\$22,000	\$48,500	
\$200,595	4	0.20	\$115,000	\$15,095	\$22,000	\$48,500	
\$100,297	5	0.10	\$57,500	\$7,547	\$11,000	\$24,250	
\$100,297	6	0.10	\$57,500	\$7,547	\$11,000	\$24,250	
\$100,297	7	0.10	\$57,500	\$7,547	\$11,000	\$24,250	
\$1,002,973		1.00	\$575,000	\$75,473	\$110,000	\$242,500	

Definition of Phases for payment dates:



Phase 1 – Upon delivery of the Work plan from Company to Licensee, due within 5 days of the Effective Date.

Phase 2 – Upon completion of the data structuring (system definition tables), estimated to be 35 days after the Effective Date.

Phase 3 – Upon completion by Company and successful system test and verification by Licensee of the defined functionality and interfaces, estimated to be 80 days after the Effective Date, excluding that for derivatives as specified in Section 2 of the Software Installation and Maintenance Agreement, Part B – Statement of Work, Items 3A, 3B, 3C, 3D, and 3E inclusively.

Phase 4 – Upon completion of data conversion, estimated to be 90 days after the Effective Date, excluding that for derivatives as specified in Section 2 of the Software Installation and Maintenance Agreement, Part B – Statement of Work, Items 3A, 3B, 3C, 3D, and 3E inclusively.

Phase 5 - Upon completion by Company and successful system test and verification by Licensee of all defined functionality and interfaces, estimated to be 105 days after the Effective Date.

Phase 6 – Upon completion of complete data conversion to parallel operations, estimated to be 115 days after the Effective Date.

Phase 7 – Upon PARE completion, estimated to be within 165 days after the Effective Date.

c. Licensee and Company agree that Company’s receipt of payments is predicated on meeting the requirements of each Phase, and further agree that the failure of Licensee or Licensee’s designees and business partners to provide timely delivery of data, business specifications and layouts, and other information as requested in a normal and timely manner by Company to Licensee for the completion of said Phase, will not constitute a failure by Company to meet the requirement of that Phase.

2. For each successive twelve (12) month period, including and following the first year of this Maintenance Agreement, the amount/payment of the annual maintenance fee shall be:

Year 1 \$110,000

Year 2 \$118,000

Year 3 \$127,000

Year 4 \$137,000

Year 5 \$147,000

The amount/payment of the annual maintenance for optional years 6 through 10 shall be:

Year 6 \$158,000

Year 7 \$170,000

Year 8 \$183,000

Year 9 \$197,000

Year 10 \$212,000



3. This Agreement is limited to a maximum of 75 seats. Licensee may elect to purchase authorization for an additional block of 25 seats during the first five years of this Agreement (Seats 76-100 in total) for f \$25,000, and may purchase additional seats at any time for a cost of \$8,500 per seat, or at the discounted purchase rate of \$30,000 per block of 5 seats (not cumulative). The total annual amount will be subject to an increase in maintenance charges and yearly increases, as specified in this Section, and as specified in the contract addendum that must be executed to purchase the additional seats.
4. The base maintenance fees shall be different if any additional seats have been purchased and addendums attached to this Maintenance Agreement have indicated any such change, or if the base annual maintenance fee has been changed in any way. The annual maintenance fees will increase by an amount equal to 20% of any and all additional License Fees, after the first 75 Seat Licenses. This amount will be due immediately and will be prorated to the next Anniversary Date. This increase will be added to the base maintenance fees for that year and will constitute the new effective base maintenance fee. This fee will be subject to the same percentage increase between successive periods as reflected in the maintenance fee schedule.
5. All amounts due to Company not paid by the date such payments are due shall bear interest at the rate of three quarters of one percent per month, and Licensee shall be liable for all reasonable costs, including legal fees, incurred by Company in the collection of these amounts.
6. The following services will be provided at no additional charge during the life of this Maintenance Agreement and for Implementation and Conversion Services:

SPECIFIC ITEMS TO BE IDENTIFIED INCLUDE:

- One time conversion of Licensee's historical investment position as of June 30, 2001, and configuration of all definition tables. Company will attempt, on a best efforts basis, conversion of data currently resident within Licensee's existing investment accounting system database, as provided to Company by Licensee in a format and on an electronic medium in accordance with Company's specifications.
- One time-preliminary planning and organization meeting ("kick-off meeting"), on sites.
- One time, on-site initial Product installation, set-up, and configuration.
- On-site operator and administrator initial training.
- On-site continuation operator and administrator training within three months of the date of system installation Development and installation of IMS-2000 electronic communication interfaces to custodian bank.
- On-site project management and implementation services as requested by Licensee.
- Configuration of all IMS-2000 designated desktop computer workstations.

DEVELOPMENTAL REQUIREMENTS

- Development as required for the implementation of external and internal electronic communications, interfaces, system functionality, and reporting applications.



- Development of general ledger interfaces with the Michigan Administrative Information Network (MAIN).
- Development of an interface to the Macgregor, Indata, or Flextrade trading systems, as specified by Licensee. Licensee and Company agree that additional interfaces with other trading systems, if required by Licensee, will not be a development deliverable within the time constraints of this Agreement.
- Licensee and Company agree that additional interfaces with other systems, such as a Cash Management System, additional investment data vendors or service providers, etc. if required by Licensee and outside of the scope of this agreement, will not be a development deliverable within the time constraints of this Agreement and will be covered by the development provisions identified in Section 3, #8 and section AE.
- Development of position and transaction reconciliation interfaces to State Street Bank.
- Support Depository Trust & Clearing Corporation (DTCC) interface.

OTHER REQUIREMENTS

- Unlimited hours of telephone assistance related to system operation and administration, and normal and routine technical and business support during the hours of 7:00 am to 6:00 pm EST Monday through Friday.
 - Two (2) days per year, after the first year following the contract effective date, of on-site user training and consulting, not including travel and related expenses.
7. Customer and Licensee agree that the first 20 person trips by Company personnel to Licensee’s site shall be included in the Implementation and Conversion charges. All trips by Company shall be pre-authorized by Licensee, in conformity with Section AF of this Agreement. Each person trip shall be defined as one person visiting Licensee’s site for a period of contiguous days. Starting from the Effective Date, person trips over 20 in number shall be reimbursed by Licensee to Company. Expenses shall be normal and reasonable in accordance with the State of Michigan’s Travel Policies.
 8. In accordance with the Software Maintenance Agreement, Company will invoice Licensee for all time expended in providing additional services at the hourly rates identified in this Schedule. Such invoices shall be due upon presentation by Company to Licensee. Company shall periodically prepare and make available to Licensee, upon Licensee’s reasonable request, an accounting of the time used by Licensee under this section of the Maintenance Agreement, which accounting shall include a detailed itemization of all work performed and the amount of time consumed.

The Company may adjust these hourly rates periodically.

Custom Programming and Services Rate Schedule

Programming/Analyst	\$200.00/per hour
Consultant	\$175.00/per hour
Administrative	\$150.00/per hour



SECTION 4: SCHEDULE OF HARDWARE AND THIRD PARTY SOFTWARE CONFIGURATION

ITEM PART NUMBER	DESCRIPTION	QUANTITY	EXT. LIST PRICE	LIST PRICE
1 A25-UMF2-2GGB1	Ultra Enterprise 450 BaseSrvr in deskside tower DVD, 1.44 floppy, 10/100 Ethernet, 2 Power Supplies, Solaris Server License, 2 - 480MHz UltraSPARC CPU w/8MB cache 2 GB Main Memory, 2-36.4 USCSI HDD***	1	\$31,195.00	\$31,195.00
2 X5242A	36.4 10000-rpm disk Ultra SCSI disk drive	4	\$6,280.00	\$1,570.00
3 X6602A	8-bay RAID internal storage expansion kit	2	\$5,390.00	\$2,695.00
	PCI UltraSCSI HARDWARE RAID Cntrl ****			
4 SG-XAUTODLT8D-L9	L9 Autoload 1 DLT 8000 Dr 9 slots 360GB Cap	1*	\$8,460.00	\$8,460.00
5 X6541A	Dual Diff UltraSCSI Controller	1	\$1,440.00	\$1,440.00
6 X3768A	PGX64 24 bit Color Frame Buffer	1	\$295.00	\$295.00
7 X7143A	17" Color Monitor	1	\$325.00	\$325.00
8 PC004-06	DB25M/M Straight-Thru (Modems)	2	\$17.98	\$8.99
9 X3508A	Type 6 country kit for US (Kybd, mouse)	1	\$0.00	\$0.00
10 X985A	Serial Port Splitter Cable	1	\$50.00	\$50.00
11 X1033A	10/100 BaseT Pci NIC - Spare	1	\$695.00	\$695.00
12 X9682A	560W Power Supply - Share	1	\$1,135.00	\$1,135.00
13 X311L	North American Power cord	1	\$0.00	\$0.00
14 EXMP1550010M0700P	Exceed Multiplatform 7.0 - 25 Users **		\$11,040.00	\$11,040.00
15 MAMP1662010M700P	NFS Maestro Client 7.0 - 25 Users **		\$8,000.00	\$8,000.00
16 SOLMS-260WD999	Solaris 2.6 English Desktop Media Kit	1	\$75.00	\$75.00
17 ME9056	DLT Type IV 40 GB Tape	10	\$649.99	\$64.90
18 ME7084	DLT - Cleaning Cartridge	1	\$59.99	\$59.99
19 USR1036482	US ROBOTICS Courier Ext 56K Modem	1	\$274.99	\$274.99
20 MBUSR5689	USR 56K STANDARD MODEM EXT 56K	1	\$89.99	\$89.99
21 JESMS-110-TD99	Java 1.1 Server Eval CD 1 RTU license	1	\$0.00	\$0.00
22 SLS9S-120-W9YM	Solaris PC Netlink 1.2	1	\$0.00	\$0.00
			\$75,472.94	\$67,473.86

Hardware Notes - 450 Enterprise Server

This system is configured with two 480 MHz Ultra SPARC-II Processor, 8 MB E-Cache, 2 GB MB RAM, one 36 GB HDD for Solaris operating system, four 36.4 GB disks configured as Internal Hardware RAID5 for the IMS2000 application, 10/100 Ethernet, 2 - 560 W Power Supplies, Internal DVD and Solaris Server License. *** Solaris operating system will be Rev 2.6 *** Should the QED migration to Solaris 8 be complete before installation, Solaris 8 operating system will be used

Options - Additional 480 MHZ CPU (X2244A) \$6,995.00 ea.

- * - Supports DLT 8000 Type IV media
- ** - Combined 2 x 10 user + 5 user - Additional 50 users covered in IMS2000 License
- *** - 2nd Drive will be spare
- **** - Will split Array across dual controllers for max protection



SECTION 5: TABLE OF ACCOUNTING FUNCTIONALITY

ID	FUNCTIONALITY – ACCOUNTING BASIS			
		Vendor Software		
		Complies with Requirement	Does Not Comply	Will Comply with Modifications
	Provide the capability to account for and track securities and Other investments according to the following evaluation Methods as defined by user:			
1-1	Average cost	Yes		
1-2	Equity basis	Yes		
	Specific Lot:	Yes		
1-3	LIFO	Yes		
1-4	FIFO	Yes		
1-5	Fair Value	Yes		
1-6	High cost/low gain	Yes		

ID	FUNCTIONALITY – PORTFOLIO CASH MANAGEMENT			
		Software		
		Complies with Requirement	Does Not Comply	Will Comply with Modifications
2-1	Provide the capability to determine trade date and settlement Date cash on a real time basis.	Yes		
2-2	Provide the capability to project cash flows, including Interest and dividends, maturities, principal pay downs and Other security actions.	Yes		
2-3	Provide the capability, in conjunction with the cash Management process, to report maturing short-term Investment information into the cash position.	Yes		



ID	FUNCTIONALITY – POOLED FUNDS (UNITIZED ACCOUNTING)			
	Capability to support pooled fund accounting functions including:	Software		
		Complies with Requirement	Does Not Comply	Will Comply with Modifications
3-1	Daily Valuations	Yes		
	Daily Performance Measurement by:	Yes		
3-2	AIMR (Association for Investment Management Research) Compliant Methodologies	Yes		
3-3	Multi-Level analysis (security to pool)	Yes		
3-4	Comparisons with external universes	Yes		
	Daily Real Time Cash Management by:			
3-5	Trade Date Cash	Yes		
3-6	Settlement Date Cash	Yes		
3-7	Modeling – Capable of supporting multi-level modeling And analytics capabilities to analyze and evaluate individual Security attributes, security class attributes, investments by Analyst, investments by manager, investments by fund, or any Other recognized segment, and perform “what if” scenarios.	Yes		
3-8	Detailed Participant Accounting	Yes		
	Capability to support accounting for the State Treasurer’s Common Cash Fund including:	Yes		
3-9	Capability to generate participant Statements.	Yes		
3-10	Capability to generate Income and Expense allocations.	Yes		

ID	FUNCTIONALITY – PORTFOLIO VALUATION			
		Software		
		Complies with Requirement	Does Not Comply	Will Comply with Modifications
4-1	Capability to value securities/portfolios at user designated intervals.	Yes		
4-2	Capability to interface with industry standard pricing vendors.	Yes		



ID	FUNCTIONALITY – SYSTEM SECURITY	Software		
		Complies with Requirement	Does Not Comply	Will Comply w/Modifications
5-1	Provide for adequate audit trails with time, date, and author Stamps.	Yes		
	Provide on-line password security by users, at the following levels:			
5-2	Application	Yes		
5-3	Menu	Yes		
5-4	Module	Yes		
5-5	File	Yes		
	Record – broken down by:			
5-6	Field	Yes		
5-7	Operation (add, change, delete, inquiry)	Yes		
5-8	Protect stored reports individually from authorized user access or modification.	Yes		
5-9	Suppress passwords so that they do not appear on the screen as they are being entered.	Yes		
5-10	Log all update transactions in a secure audit trail file.	Yes		
5-11	Provide for required changes to user passwords based on a User-specified period of time.	Yes		
5-12	Provide on-line access to audit trail information including Terminal operator ID, time, date, revised amount, and before and after updated results.	Yes		
5-13	Provide the capability to define an access category relating to groups of users (e.g., members of a management or processing class).	Yes		
5-14	Report attempts of unauthorized system access or use.	Yes		
5-15	Allow for the segregation of processing duties by providing the ability to prevent a single user from processing an entire transaction from start to finish.	Yes		
5-16	Provide clear audit trails of all transactions from source data entry through summarization at higher levels or integration with other application systems.	Yes		
5-17	Audit trail information should include before and after images, the date, time and identification of the person making the entry.	Yes		



ID	FUNCTIONALITY – INVESTMENT TYPES			
	Capability to support investment accounting for the following Investment types:	Software		
		Complies with Requirement	Does Not Comply	Will Comply with Modifications
	Cash and money market securities:			
6-1	Agency Notes	Yes		
6-2	Bankers Acceptance	Yes		
6-3	Certificates of Deposit	Yes		
6-4	Prime Commercial Paper	Yes		
6-5	Repurchase Agreements	Yes		
6-6	Reverse Repos	Yes		
6-7	Time Deposits	Yes		
6-8	Treasury Bills	Yes		
6-9	Synthetic Cash (Short Future, Equity Index, and Cash)	Yes		
	Equities:			
6-10	Common Stock	Yes		
6-11	American Depository Receipts/American Depository Securities	Yes		
6-12	Preferred Stock	Yes		
	Derivatives:			
6-13	Futures	Yes		
6-14	Options	Yes		
6-15	Synthetic Equities (Long Future, Dedicated Note and Cash)	Yes		
6-16	Equity Swaps Derivative agreements are comprised of a Quanto and Local segment. Each segment includes a Synthetic future, synthetic bond and a long LIBOR Floating rate note. The components are linked, valued, Evaluated and reported as a single security. Interest on The long bond is received quarterly and interest payments Are made to the counter parties quarterly on the notional Amount of the agreement. At the maturity of the equity Swap agreement (which lasts two to three years), there Will be either a gain or loss resulting in the closing of the Synthetic future position.	Yes		
6-17	Mutual Funds	Yes		
6-18	Rights & Warrants	Yes		
	Alternative Investments:			
6-19	Venture Capital	Yes		
6-20	Limited Partnerships	Yes		
6-21	LBO Limited Partnerships	Yes		
6-22	Direct Investments	Yes		
6-23	Other	Yes		
	Fixed Income:			
6-24	Agency Bonds	Yes		
6-25	Asset-Backed Securities	Yes		
6-26	Callable and Putable Bonds	Yes		



6-27	Collateralized Mortgage Obligations	Yes		
6-28	Convertible Bonds	Yes		
6-29	Convertible Preferred	Yes		
6-30	Corporate Bonds	Yes		
6-31	Export-Import Bank	Yes		
6-32	Government Agency	Yes		
6-33	Guaranteed Investment Contacts	Yes		
6-34	Banks for Cooperatives	Yes		
6-35	Federal Farm Credit Bank	Yes		
6-36	Federal Home Loan Bank	Yes		
6-37	Federal Intermediate Credit Bank	Yes		
6-38	Federal Land Bank	Yes		
6-39	FHLMC Mortgage Backed Securities	Yes		
6-40	FNMA Mortgage Backed Securities	Yes		
6-41	FNMA Debentures	Yes		

6-42	GNMA Mortgage Backed Securities	Yes		
6-43	Miscellaneous U.S. Government Backed Securities	Yes		
6-44	Inter-America Development Bank	Yes		
6-45	Interest Only (IO) and Principal Only (PO) Securities	Yes		
6-46	Medium Term Notes	Yes		
6-47	Pay In-Kind Corporate Securities	Yes		
6-48	Private Placements Bonds	Yes		
6-49	REMIC's	Yes		
6-50	Securities with odd first or last coupons	Yes		
6-51	Securities with Sinking Funds	Yes		
6-52	Securities with Stepped Coupons	Yes		
6-53	Synthetic Guaranteed Investment Contracts	Yes		
6-54	Synthetic Fixed Income	Yes		
6-55	Treasury Bonds	Yes		
6-56	Treasury Notes	Yes		
6-57	Treasury STRIPS	Yes		
6-58	Variable Rate Securities	Yes		
6-59	Yankee Bonds	Yes		
6-60	Zero Coupon Bonds (Government & Corporate)	Yes		
	International Investments:			
	Short Term:	Yes		
6-61	Foreign Exchange - Forward Contracts	Yes		
6-62	Foreign Exchange - Spot Contracts	Yes		
6-63	Euro CD's	Yes		
	Fixed Income:			
6-64	Euro Bonds	Yes		
6-65	Foreign Bonds	Yes		
6-66	Equities	Yes		
6-67	Mutual Funds (EAFE)	Yes		

6-68	Derivatives	Yes		
6-69	Foreign Depository Receipts/Foreign Depository Receipts	Yes		
	Mortgages:			
	FHA:			
6-70	FHA Multi-Family Cash Back	Yes		
6-71	FHA Multi-Family Debentures	Yes		



6-72	HEW Hospitals	Yes		
6-73	Farmers Home Administration	Yes		
	Conventional:			
6-74	Conventional –Multi-Family	Yes		
6-75	Conventional- Commercial	Yes		
6-76	Private Mortgage Insured- Single Family Block	Yes		
6-77	Conventional- Mortgage Insurance Certificate	Yes		
	Real Estate:			
6-78	Direct Ownership	Yes		
6-79	Separate Accounts	Yes		
6-80	Real Estate	Yes		
6-81	Commingled Funds	Yes		
	Other:			
6-82	DRIPS – Dividend Reinvestment Plans	Yes		



ID	FUNCTIONALITY – TRANSACTIONS SUPPORTED	Software		
		Complies with Requirement	Does Not Comply	Will Comply with Modifications
7-1	For performance measurement purposes, provide the ability to Post investment transactions on effective date, while Recognizing accounting impact in current open accounting Period.	Yes		
7-2	For performance measurement purposes, provide the ability to Control the opening and closing of accounting periods, and the Subsequent posting of accounting transactions to the proper Accounting period, even if different from the effective date of The transaction.	Yes		
7-3	Provide the capability for accrual calculations that follow Industry standards, utilizing the appropriate calendars to Accommodate accrual calculations for all types.	Yes		
7-4	Provide the transaction, capital change, and income Processing for individual securities and portfolios.	Yes		
7-5	Provide the capability to electronically recognize and record Stock dividend receivable, stock splits, spin-off, and cash Dividend receivable from data accessible through primary Industry vendor services.	Yes		
7-6	Provide the real-time capability to enter transactions, as they Occur, updating both portfolio holdings and cash balances, And generating appropriate accounting entries.	Yes		
7-7	Provide the capability to generate summary accounting Transactions that summarize daily purchases, sales, and Income.	Yes		
7-8	Provide the capability to generate accounting transactions That summarize unrealized gains/losses daily, weekly and Monthly.	Yes		
7-9	Provide the capability to generate accounting transactions That summarizes accrued interest.	Yes		
7-10	Provide the capability to track investment maturity/call Dates and amounts.	Yes		
7-11	Provide the capability to calculate and track interest accruals.	Yes		
7-12	Provide the capability to adjust investment transactions and Accurately reflect the effect of the transaction on calculations Inquires and reports. (E.g. to adjust mortgage or Mortgage-backed securities principal and interest calculations.)	Yes		



7-13	Maintain a comprehensive real-time database of all settled And pending investment positions and associated detailed Transactions.	Yes		
7-14	Record other miscellaneous investment fees, management fees, Commitments etc. attributable to a specific holding, portfolio Or manager.	Yes		
	Capability of generating transactions necessary to support Synthetic Cash strategies, including:			
7-15	Capability to process margin payments.	Yes		
7-16	Capability to link, measure, and report all components of a Single strategy.	Yes		
7-17	Capability to automatically generate the transfer of the Underlying equities to an equity Portfolio, and automatically Determine the new basis of those equities using original cost Adjusted by the market weighted cumulative futures margin.	Yes		
	Capability of generating transactions necessary to support Synthetic Equity strategies, including:			
7-18	Capability to process margin payments.	Yes		
7-19	Capability to automatically link all components of each strategy.	Yes		
	Capability of generating transactions necessary to support Equity Swap strategies, including:			
7-20	Capability to link and recognize trade transactions for equity Swap components including: synthetic futures, synthetic bonds, And the real bonds.	Yes		
7-21	Capability to post interest to the counter party on the synthetic Bonds.	Yes		
7-22	Capability to post interest on the actual bonds.	Yes		
7-23	Capability to link, measure and report all components of Each strategy.	Yes		
7-24	Capability to accurately value equity swaps strategies.	Yes		
7-25	Capability to process stock dividends.	Yes		
7-26	Capability to process stock distributions.	Yes		



II. LICENSE AGREEMENT

This is a Software License Agreement (“Agreement”) between QED Information Systems, Inc., a corporation of the State of New Jersey, located at 7 Eves Drive, Marlton, New Jersey 08053 (hereinafter referred to as “Company”, “Contractor”, or “QED”), and the State of Michigan, Department of Management and Budget, Office of Purchasing (“DMB”) for the State of Michigan, Department of Treasury, Bureau of Investments (“BOI”), Stephen T. Mason Building, 530 W. Allegan St., Lansing, MI 48933 (hereinafter referred to as “Licensee”, or “State”).

WHEREAS Licensee desires to license, install, and operate Company's Global Portfolio Management and Investment Accounting computer software system known as IMS-2000 (the “Software”), and

WHEREAS Licensee desires to license, install, and operate Company's Global Portfolio Management and Investment Accounting computer software system known as VisualQED® (the “Software”), and

WHEREAS Licensee may elect to enter into a separate agreement with Company for the installation, maintenance, training and support of the Software.

NOW THEREFORE, in consideration of the mutual promises and covenants contained herein the parties agree as follows:

CONTRACTUAL SERVICES TERMS AND CONDITIONS

A: PURPOSE

This is an irrevocable Software license for the State of Michigan, Department of Treasury, Bureau of Investments.

B. LICENSE AND TERM

1. Company hereby grants to Licensee a non-exclusive, perpetual license to use and operate the computer programs, documentation, manuals and applications, which collectively constitute the “Software.” This license is limited to the installation of the Software on the hardware specified in Section 4 of the Software Installation and Maintenance Agreement, and to a maximum of user workstations (“seats”) as specified in Section 3 of the Software Installation and Maintenance Agreement.
2. Company warrants that it has the authority to grant the rights granted hereunder, and that the grant of such rights is not in violation of any law, or in breach of any agreement or covenant to which it is a party or otherwise bound.
3. During the life of this Agreement, Licensee may elect to purchase authorization for additional seats from Company at a cost specified in Section 3 of the Software Installation and Maintenance Agreement.



4. The license herein granted to the Licensee shall be effective from the effective date of this agreement and shall remain in force until terminated by Licensee upon sixty (60) days advance written notice, or until terminated by the Company in accordance with Section T of the Software Installation and Maintenance Agreement.
5. This Agreement, and all of its terms and conditions specifically including Sections A, B1, and B4, requires that the Software Maintenance Agreement between Licensee and Company remains in force and valid for a period of one year.

C: ISSUING OFFICE

This Contract is issued by the State of Michigan, Department of Management and Budget (DMB), Office of Purchasing, hereafter known as the Office of Purchasing, for the State of Michigan, Department of Treasury, Bureau of Investments, hereafter known as the Bureau of Investments (BOI). Where actions are a combination of those of the Office of Purchasing and Bureau of Investments, the authority will be known as the State.

The Office of Purchasing is the sole point of contact in the State with regard to all contractual matters relating to the services described herein. The Office of Purchasing is the only office authorized to change, modify, amend, alter, clarify, etc., the prices, specifications, terms, and conditions of this Contract. The Office of Purchasing will remain the sole point of contact throughout the contractual process, until such time as the Director of Purchasing shall direct otherwise in writing. See Paragraph II-C below. All communications concerning this contract must be addressed to:

Greg Faremouth, Buyer
Technology and Professional Services Division
DMB, Office of Purchasing
2nd Floor, Mason Building
P.O. Box 30026
Lansing, MI 48909
Faremouthg@state.mi.us
(517) 241-1646

D: COST LIABILITY

The State of Michigan assumes no responsibility or liability for costs incurred by the Contractor prior to the signing of any Contract resulting from this Request. Total liability of the State is limited to the terms and conditions of any resulting Contract.

E: NEWS RELEASES

News releases pertaining to this document or the services, study, data, or project to which it relates will not be made without prior written State approval, and then only in accordance with the explicit written instructions from the State. No results of the program are to be released without prior approval of the State and then only to persons designated.



F: DISCLOSURE

All information in a bidder’s proposal and any Contract resulting from this ITB is subject to the provisions of the Freedom of Information Act, 1976 Public Act No. 442, as amended, MCL 15.231, *et seq.*

G: ACCOUNTING RECORDS

The Contractor will be required to maintain all pertinent financial and accounting records and evidence pertaining to the Contract in accordance with generally accepted principles of accounting and other procedures specified by the State of Michigan. Financial and accounting records shall be made available, upon request, to the State of Michigan, its designees, or the Michigan Department of Auditor General at any time during the Contract period and any extension thereof, and for three (3) years from the expiration date and final payment on the Contract or extension thereof.

H: INDEMNIFICATION

A. General Indemnification

Upon receipt of written notice, as required herein, the contractor shall indemnify, defend and hold harmless the State, its departments, divisions, agencies, sections, commissions, officers, employees and agents from and against all losses, liabilities, penalties, fines, damages and claims (including taxes), and all related costs and expenses (including reasonable attorneys’ fees and disbursements and costs of investigation, litigation, settlement, judgments, interest and penalties), arising from or in connection with any of the following:

- (1) any claim, demand, action, citation or legal proceeding against the State, its departments, divisions, agencies, sections, commissions, officers, employees and agents for any negligence or wrongful acts arising out of or resulting from (1) the services and products provided or (2) performance of the work, duties, responsibilities, actions or omissions of the contractor or any of its subcontractors under this contract;
- (2) any claim, demand, action, citation or legal proceeding against the State, its departments, divisions, agencies, sections, commissions, officers, employees and agents arising out of or resulting from a material breach by the contractor of any representation or warranty made by the contractor in the contract;
- (3) any claim, demand, action, citation or legal proceeding against the State, its departments, divisions, agencies, sections, commissions, officers, employees and agents arising out of or related to occurrences that the contractor is required to insure against as provided for in this contract;
- (4) any claim, demand, action, citation or legal proceeding against the State, its departments divisions, agencies, sections, commissions, officers, employees and agents arising out of or resulting from the death or bodily injury of any person, or the damage, loss or destruction of any real or tangible personal property, in connection with the performance of services by the contractor, by any of its subcontractors, by anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable; provided, however, that this



indemnification obligation shall not apply to the extent, if any, that such death, bodily injury or property damage is caused by the negligence or reckless or intentional wrongful conduct of the State;

- (5) any claim, demand, action, citation or legal proceeding against the State, its departments, divisions, agencies, sections, commissions, officers, employees and agents which results from an act or omission of the contractor or any of its subcontractors in its or their capacity as an employer of a person.

B. Patent/Copyright Infringement Indemnification

The contractor shall indemnify, defend and hold harmless the State, its departments, divisions, agencies, sections, commissions, officers, employees and agents from and against all losses, liabilities, penalties, fines, damages (including taxes), and all related costs and expenses (including reasonable attorneys' fees and disbursements and costs of investigation, litigation, settlement, judgments, interest and penalties) incurred in connection with any action or proceeding threatened or brought against the State by a third party to the extent that such action or proceeding is based on a claim that any piece of equipment, software, commodity or service supplied by the contractor or its subcontractors, or the operation of such equipment, software, commodity or service, infringes any United States or foreign patent, copyright, trade secret or other proprietary right of any person or entity, which right is enforceable under the laws of the United States. In addition, should the equipment, software, commodity, or service, or the operation thereof, become or in the Contractor's opinion be likely to become the subject of a claim of infringement, the contractor shall at the Contractor's sole expense (i) procure for the State the right to continue using the equipment, software, commodity or service or, if such option is not reasonably available to the contractor, (ii) replace or modify the same with equipment, software, commodity or service of equivalent function and performance so that it becomes non-infringing, or, if such option is not reasonably available to contractor, (iii) accept its return by the State with appropriate credits to the State against the Contractor's charges and reimburse the State for any losses or costs incurred as a consequence of the State ceasing its use and returning it.

C. Indemnification Obligation Not Limited

In any and all claims against the State of Michigan, its departments, divisions, agencies, sections, commissions, officers, employees and agents, by any employee of the contractor or any of its subcontractors, the indemnification obligation under the contract shall not be limited in any way by the amount or type of damages, compensation or benefits payable by or for the contractor or any of its subcontractors under worker's disability compensation acts, disability benefit acts or other employee benefit acts. This indemnification clause is intended to be comprehensive. Any overlap in subclauses, or the fact that greater specificity is provided as to some categories of risk, is not intended to limit the scope of indemnification under any other subclauses.



D. Continuation of Indemnification Obligation

The duty to indemnify will continue in full force and effect notwithstanding the expiration or early termination of the contract with respect to any claims based on facts or conditions, which occurred prior to termination.

I: NON INFRINGEMENT/COMPLIANCE WITH LAWS

The Contractor warrants that in performing the services called for by this Contract it will not violate any applicable law, rule, or regulation, any contracts with third parties, or any intellectual rights of any third party, including but not limited to, any United States patent, trademark, copyright, or trade secret.

J: WARRANTIES AND REPRESENTATIONS

The Contract will contain customary representations and warranties by the Contractor, including, without limitation, the following:

- The Contractor will perform all services in accordance with high professional standards in the industry;
- The Contractor will use adequate numbers of qualified individuals with suitable training, education, experience and skill to perform the services;
- The Contractor will use its best efforts to use efficiently any resources or services necessary to provide the services that are separately chargeable to the State;
- The Contractor will use its best efforts to perform the services in the most cost effective manner consistent with the required level of quality and performance;
- The Contractor will perform the services in a manner that does not infringe the proprietary rights of any third party;
- The Contractor will perform the services in a manner that complies with all applicable laws and regulations;
- The Contractor has duly authorized the execution, delivery and performance of the Contract;
- The Contractor has not provided any gifts, payments or other inducements to any officer, employee or agent of the State;
- The Contractor will maintain all equipment and software for which it has maintenance responsibilities in good operating condition and will undertake all repairs and preventive maintenance in accordance with applicable manufacturer's recommendations;
- The Contractor will use its best efforts to ensure that no viruses or similar items are coded or introduced into the systems used to provide the services;
- The Contractor will not insert or activate any disabling code into the systems used to provide the services without the State's prior written approval notwithstanding license validation;
- A ninety (90) day warranty on all purchased and developed software, data conversion programs, and data and customization to the product performed by the contractor.



K: WORK PRODUCT AND OWNERSHIP

1. Work Products shall be defined as the information derived from the Software. This information shall belong exclusively to the State and its designees, unless specifically provided otherwise by mutual agreement of the Contractor and the State. If by operation of law any of the Work Product, including all related intellectual property rights, is not owned in its entirety by the State automatically upon creation thereof, the Contractor agrees to assign, and hereby assigns to the State and its designees the ownership of such Work Product, including all related intellectual property rights. The Contractor agrees to provide, at no additional charge, any assistance and to execute any action reasonably required for the State to perfect its intellectual property rights with respect to the aforementioned Work Product.

2. Notwithstanding any provision of this Contract to the contrary, any preexisting work or materials including, but not limited to, any routines, libraries, tools, methodologies, processes or technologies (collectively, the “Development Tools”) created, adapted or used by the Contractor in its business generally, including any all associated intellectual property rights, shall be and remain the sole property of the Contractor, and the State shall have no interest in or claim to such preexisting work, materials or Development Tools, except as necessary to exercise its rights in the Work Product. Such rights belonging to the State shall include, but not be limited to, the right to use, execute, reproduce, display, perform and distribute copies of and prepare derivative works based upon the Work Product, and the right to authorize others to do any of the foregoing, irrespective of the existence therein of preexisting work, materials and Development Tools, except as specifically limited herein.

3. The Contractor and its subcontractors shall be free to use and employ their general skills, knowledge and expertise, and to use, disclose, and employ any generalized ideas, concepts, knowledge, methods, techniques or skills gained or learned during the course of performing the services under this Contract, so long as the Contractor or its subcontractors acquire and apply such information without disclosure of any confidential or proprietary information of the State, and without any unauthorized use or disclosure of any Work Product resulting from this Contract.

4. During the life of this Agreement, Company may provide the Licensee with new versions of the Software. Such new versions may include improvements; enhancements and new features added to the Software and may also include changes or additions to the manuals and documentation provided. Any additional programs, functionality or documentation provided to Licensee under this Agreement shall automatically be added as part of Software licensed to Licensee, and shall thereafter be subject to all of the terms and conditions set forth under this Agreement.

L: CONFIDENTIALITY OF DATA AND INFORMATION

1. All financial, statistical, personnel, technical and other data and information relating to the State’s operation which are designated confidential by the State and made available to the Contractor in order to carry out this Contract, or which become available to the Contractor in carrying out this Contract, shall be protected by the



Contractor from unauthorized use and disclosure through the observance of the same or more effective procedural requirements as are applicable to the State. The identification of all such confidential data and information as well as the State's procedural requirements for protection of such data and information from unauthorized use and disclosure shall be provided by the State in writing to the Contractor. If the methods and procedures employed by the Contractor for the protection of the Contractor's data and information are deemed by the State to be adequate for the protection of the State's confidential information, such methods and procedures may be used, with the written consent of the State, to carry out the intent of this section.

2. The Contractor shall not be required under the provisions of this section to keep confidential, (1) information generally available to the public, (2) information released by the State generally, or to the Contractor without restriction, (3) information independently developed or acquired by the Contractor or its personnel without reliance in any way on otherwise protected information of the State. Notwithstanding the foregoing restrictions, the Contractor and its personnel may use and disclose any information which it is otherwise required by law to disclose, but in each case only after the State has been so notified, and has had the opportunity, if possible, to obtain reasonable protection for such information in connection with such disclosure.
3. Licensee shall take all steps reasonably necessary to insure that the Software or components thereof will not be made available by Licensee, except as required by law, to any agent, employee, servant, independent contractor, or officer of Licensee, or to any other person, firm, governmental entity or corporation without prior written consent from Company. Licensee shall make every reasonable effort to insure that those persons having access to the Software shall observe and perform said non-disclosure covenants and that it will establish procedures for this purpose.
4. Licensee shall not disclose to any third party any terms of this Agreement, except where Licensee is required to make disclosure by decree, court order, law, or applicable regulation, or where Licensee reasonably deems such disclosure necessary to its auditors, accountants, bankers, attorneys, financial intermediary, or regulatory agencies.

M: REMEDIES FOR BREACH OF CONFIDENTIALITY

The Contractor acknowledges that a breach of its confidentiality obligations as set forth in section I-Q of this Contract shall be considered a material breach of the Contract. Furthermore the Contractor acknowledges that in the event of such a breach the State shall be irreparably harmed. Accordingly, if a court should find that the Contractor has breached or attempted to breach any such obligations, the Contractor will not oppose the entry of an appropriate order restraining it from any further breaches or attempted or threatened breaches. This remedy shall be in addition to and not in limitation of any other remedy or damages provided by law.



N: NOTICE AND RIGHT TO CURE

In the event of a curable breach by the Contractor, the State shall provide the Contractor written notice of the breach and a time period to cure said breach described in the notice. This section requiring notice and an opportunity to cure shall not be applicable in the event of successive or repeated breaches of the same nature or if the State determines in its sole discretion that the breach poses a serious and imminent threat to the health or safety of any person or the imminent loss, damage or destruction of any real or tangible personal property.

O: RIGHTS AND OBLIGATIONS UPON CANCELLATION

1. If the Contract is canceled by the State for any reason, the Contractor shall, (a) stop all work as specified in the notice of cancellation, (b) take any action that may be necessary, or that the State may direct, for preservation and protection of Work Product or other property derived or resulting from the Contract that may be in the Contractor's possession, (c) return all materials and property provided directly or indirectly to the Contractor by any entity, agent or employee of the State, (d) transfer title and deliver to the State, unless otherwise directed by the Contract Administrator or his or her designee, all Work Product resulting from the Contract, and (e) take any action to mitigate and limit any potential damages, or requests for Contractor adjustment or cancellation settlement costs, to the maximum practical extent, including, but not limited to, canceling or limiting as otherwise applicable, those subcontracts, and outstanding orders for material and supplies resulting from the canceled Contract.
2. In the event the State cancels this Contract prior to its expiration for its own convenience, the State shall pay the Contractor for all charges due for services provided prior to the date of cancellation and if applicable as a separate item of payment pursuant to the Contract, for partially completed Work Product, on a percentage of completion basis. In the event of a cancellation for cause, or any other reason under the Contract, the State will pay, if applicable, as a separate item of payment pursuant to the Contract, for all partially completed Work Products, to the extent that the State requires the Contractor to submit to the State any such deliverables, and for all charges due under the Contract for any cancelled services provided by the Contractor prior to the cancellation date. All completed or partially completed Work Product prepared by the Contractor pursuant to this Contract shall, at the option of the State, become the State's property, and the Contractor shall be entitled to receive just and fair compensation for such Work Product. Regardless of the basis for the cancellation, the State shall not be obligated to pay, or otherwise compensate, the Contractor for any lost expected future profits, costs or expenses incurred with respect to Services not actually performed for the State.
3. If any such cancellation by the State is for cause, the State shall have the right to set-off against any amounts due the Contractor, the amount of any damages for which the Contractor is liable to the State under this Contract or pursuant to law and equity.
4. Upon a good faith cancellation, the State shall have the right to assume, at its option, any and all subcontracts and agreements for services and materials provided under this Contract, and may further pursue completion of the Work Product under this



Contract by replacement contract or otherwise as the State may in its sole judgment deem expedient.

5. Upon termination of this Agreement, Licensee agrees to return all equipment, manuals, documentation, notes and any other materials provided to Licensee by Company exclusive of the hardware and software as specified in Section 4 of the Software Implementation and Maintenance Agreement. Licensee further agrees that upon termination, Licensee shall immediately destroy and/or render inaccessible all copies of delivered Software, related files and data structures that are in Licensee's possession whether in physical or electronic form.

P: EXCUSABLE FAILURE

1. Neither party shall be liable for any default or delay in the performance of its obligations under the Contract if and to the extent such default or delay is caused, directly or indirectly, by: fire, flood, earthquake, elements of nature or acts of God; riots, civil disorders, rebellions or revolutions in any country; the failure of the other party to perform its material responsibilities under the Contract (either itself or through another contractor); injunctions (provided the injunction was not issued as a result of any fault or negligence of the party seeking to have its default or delay excused); or any other cause beyond the reasonable control of such party; provided the non-performing party and its subcontractors are without fault in causing such default or delay, and such default or delay could not have been prevented by reasonable precautions and cannot reasonably be circumvented by the non-performing party through the use of alternate sources, workaround plans or other means, including disaster recovery plans. In such event, the non-performing party will be excused from any further performance or observance of the obligation(s) so affected for as long as such circumstances prevail and such party continues to use its best efforts to recommence performance or observance whenever and to whatever extent possible without delay provided such party promptly notifies the other party in writing of the inception of the excusable failure occurrence, and also of its abatement or cessation.
2. If any of the above enumerated circumstances substantially prevent, hinder, or delay performance of the services necessary for the performance of the State's functions for more than 14 consecutive days, and the State determines that performance is not likely to be resumed within a period of time that is satisfactory to the State in its reasonable discretion, then at the State's option: (a) the State may procure the affected services from an alternate source, and the State shall not be liable for payments for the unperformed services under the Contract for so long as the delay in performance shall continue; (b) the State may cancel any portions of the Contract so affected and the charges payable thereunder shall be equitably adjusted to reflect those services canceled; or (c) the Contract will be canceled without liability of the State to the Contractor as of the date specified by the State in a written notice of cancellation to the Contractor. The Contractor will not have the right to any additional payments from the State as a result of any excusable failure occurrence or to payments for services not rendered as a result of the excusable failure condition. Defaults or delays in performance by the Contractor which are caused by acts or omissions of its subcontractors will not relieve the Contractor of its obligations under



the Contract except to the extent that a subcontractor is itself subject to any excusable failure condition described above and the Contractor cannot reasonably circumvent the effect of the subcontractor's default or delay in performance through the use of alternate sources, workaround plans or other means.

Q: ASSIGNMENT

Each party shall not have the right to assign this Contract or to assign or delegate any of its rights, title, interest, duties or obligations under this Contract to any other party (whether by operation of law or otherwise), without the prior written consent of the other Party. Any purported assignment in violation of this section shall be null and void. Further, the Contractor may not assign the right to receive money due under the Contract without the prior written consent of the State Purchasing Director.

R: DELEGATION

The Contractor shall not delegate any duties or obligations under this Contract to a subcontractor other than a subcontractor named in the bid unless the State Purchasing Director has given written consent to the delegation.

S: NON-DISCRIMINATION CLAUSE

In the performance of any Contract or purchase order resulting herefrom, the bidder agrees not to discriminate against any employee or applicant for employment, with respect to their hire, tenure, terms, conditions or privileges of employment, or any matter directly or indirectly related to employment, because of race, color, religion, national origin, ancestry, age, sex, height, weight, marital status, physical or mental disability unrelated to the individual's ability to perform the duties of the particular job or position. The bidder further agrees that every subcontract entered into for the performance of any Contract or purchase order resulting herefrom will contain a provision requiring non-discrimination in employment, as herein specified, binding upon each subcontractor. This covenant is required pursuant to the Elliot Larsen Civil Rights Act, 1976 Public Act 453, as amended, MCL 37.2101, *et seq*, and the Persons with Disabilities Civil Rights Act, 1976 Public Act 220, as amended, MCL 37.1101, *et seq*, and any breach thereof may be regarded as a material breach of the Contract or purchase order.

T: MODIFICATION OF SERVICE

The Director of Purchasing reserves the right to modify this service during the course of this Contract. Such modification may include adding or deleting tasks that this service shall encompass and/or any other modifications deemed necessary.

Any Contract resulting from this RFP may not be revised, modified, amended, extended, or augmented, except by a writing executed by the parties hereto, and any breach or default by a party shall not be waived or released other than in writing signed by the other party.

The State reserves the right to request from time to time, any changes to the requirements and specifications of the Contract and the work to be performed by the Contractor under the Contract. The Contractor shall provide a change order process and all requisite forms. The State reserves the right to negotiate the process during contract negotiation. At a minimum, the State would like the Contractor to provide a detailed outline of all



work to be done, including tasks necessary to accomplish the deliverables, timeframes, listing of key personnel assigned, estimated hours for each individual per task, and a complete and detailed cost justification.

1. Within five (5) business days of receipt of a request by the State for any such change, or such other period of time as to which the parties may agree mutually in writing, the Contractor shall submit to the State a proposal describing any changes in products, services, timing of delivery, assignment of personnel, and the like, and any associated price adjustment. The price adjustment shall be based on a good faith determination and calculation by the Contractor of the additional cost to the Contractor in implementing the change request less any savings realized by the Contractor as a result of implementing the change request. The Contractor's proposal shall describe in reasonable detail the basis for the Contractor's proposed price adjustment, including the estimated number of hours by task by labor category required to implement the change request.
2. If the State accepts the Contractor's proposal, it will issue a change notice and the Contractor will implement the change request described therein. The Contractor will not implement any change request until a change notice has been issued validly. The Contractor shall not be entitled to any compensation for implementing any change request or change notice except as provided explicitly in an approved change notice.
3. If the State does not accept the Contractor's proposal, the State may:
 - a) withdraw its change request; or
 - b) Modify its change request, in which case the procedures set forth above will apply to the modified change request.

If the State requests or directs the Contractor to perform any activities that are outside the scope of the Contractor's responsibilities under the Contract ("New Work"), the Contractor must notify the State promptly, and before commencing performance of the requested activities, that it believes the requested activities are New Work. If the Contractor fails to so notify the State prior to commencing performance of the requested activities, any such activities performed before the Contractor gives notice shall be conclusively considered to be In-scope Services, not New Work.

If the State requests or directs the Contractor to perform any services or functions that are consistent with and similar to the services being provided by the Contractor under the Contract, but which the Contractor reasonably and in good faith believes are not included within the scope of the Contractor's responsibilities and charges as set forth in the Contract, then prior to performing such services or function, the Contractor shall promptly notify the State in writing that it considers the services or function to be an "Additional Service" for which the Contractor should receive additional compensation. If the Contractor does not so notify the State, the Contractor shall have no right to claim thereafter that it is entitled to additional compensation for performing such services or functions. If the Contractor does so notify the State, then such a service or function shall be governed by the change request procedure set forth in the preceding paragraph.



IN THE EVENT PRICES ARE NOT ACCEPTABLE TO THE STATE, THE CONTRACT SHALL BE SUBJECT TO COMPETITIVE BIDDING BASED UPON THE NEW SPECIFICATIONS.

U: NOTICES

Any notice given to a party under this Contract must be written and shall be deemed effective, if addressed to such party as addressed below upon (i) delivery, if hand delivered; (ii) receipt of a confirmed transmission by facsimile if a copy of the notice is sent by another means specified in this section; (iii) the third (3rd) Business Day after being sent by U.S. mail, postage pre-paid, return receipt requested; or (iv) the next Business Day after being sent by a nationally recognized overnight express courier with a reliable tracking system.

For the Contractor: QED Information Systems, 7 Eves Drive, Marlton, NJ 08053

For the State: The State of Michigan, Department of Management and Budget, Office of Purchasing (“DMB”) for the State of Michigan, Department of Treasury, Bureau of Investments (“BOI”), Stephen T. Mason Building, 530 W. Allegan St., Lansing, MI 48933.

Either party may change its address where notices are to be sent giving written notice in accordance with this section.

V: ENTIRE AGREEMENT

This Contract, representing the License Agreement, shall represent the entire agreement between the parties and supersedes all proposals or other prior agreements, oral or written, and all other communications between the parties relating to this subject.

W: NO WAIVER OF DEFAULT

The failure of a party to insist upon strict adherence to any term of a Contract resulting from this RFP shall not be considered a waiver or deprive the party of the right thereafter to insist upon strict adherence to that term, or any other term, of the Contract.

X: SEVERABILITY

Each provision of the Contract shall be deemed to be severable from all other provisions of the Contract and, if one or more of the provisions of the Contract shall be declared invalid, the remaining provisions of the Contract shall remain in full force and effect.

Y: HEADINGS

Captions and headings used in the Contract are for information and organization purposes. Captions and headings, including inaccurate references, do not, in any way, define or limit the requirements or terms and conditions of this Contract.

Z: RELATIONSHIP OF THE PARTIES

The relationship between the State and the Contractor is that of client and independent Contractor. No agent, employee, or servant of the Contractor or any of its subcontractors shall be or shall be deemed to be an employee, agent, or servant of the State for any reason. The Contractor will be solely and entirely responsible for its acts and the acts of



its agents, employees, servants and subcontractors during the performance of this Contract.

AA: UNFAIR LABOR PRACTICES

Pursuant to 1980 Public Act 278, as amended, MCL 423.231, et seq, the State shall not award a Contract or subcontract to an employer whose name appears in the current register of employers failing to correct an unfair labor practice compiled pursuant to section 2 of the Act. This information is compiled by the United States National Labor Relations Board.

A Contractor of the State, in relation to the Contract, shall not enter into a Contract with a subcontractor, manufacturer, or supplier whose name appears in this register. Pursuant to section 4 of 1980 Public Act 278, MCL 423.324, the State may void any Contract if, subsequent to award of the Contract, the name of the Contractor as an employer, or the name of the subcontractor, manufacturer or supplier of the Contractor appears in the register.

AB: SURVIVOR

Any provisions of the Contract that impose continuing obligations on the parties including, but not limited to the Contractor's indemnity and other obligations shall survive the expiration or cancellation of this Contract for any reason.

AC: GOVERNING LAW

This Contract shall in all respects be governed by, and construed in accordance with, the laws of the State of Michigan. Any dispute arising herein shall be resolved in the State of Michigan.

AD: YEAR 2000 SOFTWARE COMPLIANCE

The vendor warrants that all software for which the vendor either sells or licenses to the State of Michigan and used by the State prior to, during or after the calendar year 2000, includes or shall include, at no added cost to the State, design and performance so the State shall not experience software abnormality and/or the generation of incorrect results from the software, due to date oriented processing, in the operation of the business of the State of Michigan.

The software design, to insure year 2000 compatibility, shall include, but is not limited to: data structures (databases, data files, etc.) that provide 4-digit century recognition; stored data that contain date century recognition, including, but not limited to, data stored in databases and hardware device internal system dates; calculations and program logic (e.g., sort algorithms, calendar generation, event recognition, and all processing actions that use or produce date values) that accommodates same century and multi-century formulas and date values; interfaces that supply data to and receive data from other systems or organizations that prevent non-compliant dates and data from entering any State system; user interfaces (i.e., screens, reports, etc.) that accurately indicate 4 digit years; and assurance that the year 2000 shall be correctly treated as a leap year within all calculation and calendar logic.



AE: CONTRACT DISTRIBUTION

The Office of Purchasing shall retain the sole right of Contract distribution to all State agencies and local units of government unless other arrangements are authorized by the Office of Purchasing.

AF: STATEWIDE CONTRACTS

If the contract is for the use of more than one agency and if the goods or services provided under the contract do not meet the form, function and utility required by an agency, that agency may, subject to state purchasing policies, procure the goods or services from another source.

AG: DISCLOSURE OF LITIGATION

1. The Contractor shall notify the State in its bid proposal, if it, or any of its subcontractors, or their officers, directors, or key personnel under this Contract, have ever been convicted of a felony, or any crime involving moral turpitude, including, but not limited to fraud, misappropriation or deception. Contractor shall promptly notify the State of any criminal litigation, investigations or proceeding which may have arisen or may arise involving the Contractor or any of the Contractor's subcontractor, or any of the foregoing entities' then current officers or directors during the term of this Contract and three years thereafter.
2. The Contractor shall notify the State in its bid proposal, and promptly thereafter as otherwise applicable, of any civil litigation, arbitration, proceeding, or judgments that may have arisen against it or its subcontractors during the five years proceeding its bid proposal, or which may occur during the term of this Contract or three years thereafter, which involve (1) products or services similar to those provided to the State under this Contract and which either involve a claim in excess of \$250,000 or which otherwise may affect the viability or financial stability of the Contractor , or (2) a claim or written allegation of fraud by the Contractor or any subcontractor hereunder, arising out of their business activities, or (3) a claim or written allegation that the Contractor or any subcontractor hereunder violated any federal, state or local statute, regulation or ordinance. Multiple lawsuits and or judgments against the Contractor or subcontractor, in any an amount less than \$250,000 shall be disclosed to the State to the extent they affect the financial solvency and integrity of the Contractor or subcontractor.
3. All notices under subsection 1 and 2 herein shall be provided in writing to the State within fifteen business days after the Contractor learns about any such criminal or civil investigations and within fifteen days after the commencement of any proceeding, litigation, or arbitration, as otherwise applicable. Details of settlements which are prevented from disclosure by the terms of the settlement shall be annotated as such. Semi-annually, during the term of the Contract, and thereafter for three years, Contractor shall certify that it is in compliance with this Section. Contractor may rely on similar good faith certifications of its subcontractors, which certifications shall be available for inspection at the option of the State.



4. Assurances - In the event that such investigation, litigation, arbitration or other proceedings disclosed to the State pursuant to this Section, or of which the State otherwise becomes aware, during the term of this Contract, causes the State to be reasonably concerned about:
 - a) the ability of the Contractor or its subcontractor to continue to perform this Contract in accordance with its terms and conditions, or
 - b) whether the Contractor or its subcontractor in performing services is engaged in conduct which is similar in nature to conduct alleged in such investigation, litigation, arbitration or other proceedings, which conduct would constitute a breach of this Contract or violation of Michigan or Federal law, regulation or public policy, then

the Contractor shall be required to provide the State all reasonable assurances requested by the State to demonstrate that: (a) the Contractor or its subcontractors hereunder will be able to continue to perform this Contract in accordance with its terms and conditions, (b) the Contractor or its subcontractors will not engage in conduct in performing services under this Contract which is similar in nature to the conduct alleged in any such litigation, arbitration or other proceedings.
5. The Contractor's failure to fully and timely comply with the terms of this section, including providing reasonable assurances satisfactory to the State, may constitute a material breach of this Contract.

AH. LOCATION OF OPERATION

1. The Software may be used only for, by and on the behalf of the Licensee and only at the facility location specified above and herein. Any change of location shall require prior written consent of Company, which shall not be unduly withheld.

AI. TITLE

1. Licensee's right to use the Software is limited to the license granted and may not be assigned, sub-licensed or otherwise transferred without the prior written consent of the Company. These restrictions shall survive the termination of this Agreement. Company hereby reserves all rights to all programs, documentation, manuals and applications related to the Software.
2. Title and full ownership rights to the Software licensed under this Agreement and all copies and versions thereof shall at all times remain with Company. Company expressly retains sole ownership of all source code, and no license granted under this Agreement shall be construed to include source code as part of the licensed Software. Licensee understands and agrees that the Software is proprietary information and a trade secret of Company whether or not any portion thereof is or may be validly copyrighted or patented.
3. Licensee acknowledges that the Company has exclusive rights, title and interest in and to the Software and holds the sole and exclusive copyright on Software and any other ownership rights that may exist therein. Licensee agrees that it will not at any time do or cause to be done any act or thing impairing or tending to impair any part of such rights, title and interest. Licensee agrees that its use of the Software shall not



create in Licensee's favor any right, title or interest in Software beyond that of licensee.

4. Licensee shall become owner of all equipment and licensee of third party software specified in Section 4 of the Software Installation and Maintenance Agreement upon the date of installation of said items at Licensee's location subject to Company's receipt of the payment specified in Section 2 of the Software Installation and Maintenance Agreement.
5. In the event that Company discontinues operations, Licensee shall be entitled to secure for its own use the then current product source code listings and related documentation free of charge, provided that a valid and continuous Software Installation and Maintenance Agreement is in force. This source code shall be for Licensee's sole use, and may not be distributed, made commercially available in any manner, or reconstructed so as to constitute an issue, sale, or distribution of the software to any other Party.

AJ. RISK OF LOSS

On delivery and acceptance of equipment, all risk shall transfer to Licensee.

AK. DISCLAIMER OF WARRANTY

COMPANY HEREBY EXPRESSLY DISCLAIMS ALL EXPRESS AND IMPLIED WARRANTIES, INCLUDING BUT NOT LIMITED TO, ALL EXPRESS WARRANTIES, ALL IMPLIED WARRANTIES OF FITNESS FOR A PARTICULAR PURPOSE AND ALL WARRANTIES OF MERCHANTABILITY. COMPANY HAS AUTHORIZED NO WARRANTY WITH RESPECT TO THE SOFTWARE AND SERVICES AND LICENSEE HAS NOT RELIED ON ANY OTHER WARRANTY IN ITS DECISION TO EXECUTE THIS LICENSE.

AL. LIMITATION OF LIABILITY OF COMPANY

COMPANY SHALL NOT, IN ANY CIRCUMSTANCES, BE LIABLE WHETHER IN CONTRACT, TORT OR OTHERWISE, FOR ANY INDIRECT, SPECIAL, INCIDENTAL OR CONSEQUENTIAL LOSS OR DAMAGE HOWSOEVER ARISING AND OF WHATSOEVER NATURE SUFFERED OR INCURRED BY LICENSEE, INCLUDING (WITHOUT LIMITATION) LOSS OF PROFITS, LOSS OF CONTRACTS, LOSS OF DATA, LOSS OF OPERATION TIME, OR LOSS OF THE USE OF ANY EQUIPMENT OR PROCESS SUFFERED DIRECTLY OR INDIRECTLY BY LICENSEE, OR LOSS OF ANTICIPATED SAVINGS, WHETHER OR NOT ADVISED OF THE POSSIBILITY OF SUCH LOSS AND WITHOUT REGARD TO ANY DETERMINATION THAT A REMEDY SPECIFIED HEREUNDER FAILS ITS ESSENTIAL PURPOSE.

AM. SUPPLEMENTAL TERMS

Taxes - The payments made to Company by Licensee under this Agreement are exclusive of any applicable sales, use or similar taxes, payable with respect to the Software or other services provided by Company to Licensee under this Agreement, other than taxes levied or imposed upon Company's income ("Income Tax"). Licensee agrees to pay to



Company any such taxes and (where appropriate) an amount in request thereof shall be added by Company to Licensee’s invoices as they are incurred. The State of Michigan is not a taxable entity and no state taxes will be due under this Contract at the time of execution.

IN WITNESS WHEREOF, the parties hereto, referred to herein as Company and Licensee, have executed this Addendum as of the _____ day of _____, in the year 2001 (the “Effective Date”).

Accepted By:

Accepted By:

Licensee (Organization Name)

QED Information Systems, Inc.
Company

Signature

Signature

Name:

Name: *Joseph Potesta*

Title:

Title: *President and CEO*

Date:

Date:



III. CONFIDENTIALITY AND NON-DISCLOSURE AGREEMENT

This Confidentiality and Non-Disclosure Agreement (Agreement) is made between QED Information Systems, Inc. (Company), located at 7 Eves Drive, Marlton, NJ 08053, and the State of Michigan, Department of Management and Budget, Office of Purchasing (“DMB”) for the State of Michigan, Department of Treasury, Bureau of Investments (“BOI”), Stephen T. Mason Building, 530 W. Allegan St., Lansing, MI 48933 (hereinafter referred to as “Licensee”, “User”, or “State”).

Company and Licensee anticipate the need to discuss information, project planning, services, and other business details. Company’s business involves the development and use of sophisticated software applications, the need to maintain confidentiality with respect to its business operations, and the need to protect its intellectual property that includes both software and employees.

Therefore, in consideration of the above, Company and the Licensee agree as follows:

1. DEFINITIONS

- 1.1 Inventions – all inventions, improvements, modifications, enhancements, whether or not patentable.
- 1.2 Work Product – all documentation, software, creative works, know-how, and information created in whole or in part by Company and the Licensee.
- 1.3 Confidential Information – all business information, whether proprietary or not and whether constituting a Trade Secret or not, and including any oral and written proprietary information, configurations, services which currently exist or which may not have been announced or are planned, all source documents, lists of customers, providers, and suppliers, any specifications, designs, plans, hardware, software, data, prototypes, or other business and technical information. For purposes of this Agreement, confidential information shall include any discussions, summaries, analyses, studies, or other documents or oral discussions relating to business information.
- 1.4 Trade Secrets – all documentation, software, know-how, and information relating to the past, present, or future business of Company and the Licensee.
- 1.5 Parties – Company and the Licensee.



2. CONFIDENTIAL INFORMATION

- 2.1 All confidential information shall remain the property of the parties furnishing such information.
- 2.2 The parties each agree, to treat confidentially and to not disclose, and Confidential Information, Work Products, Trade Secrets, and Inventions.
- 2.3 The parties acknowledge that Trade Secrets, Work Products, Inventions, and Confidential Information are the exclusive property of the respective Parties.

3. RESPONSIBILITIES AND LIMITATIONS ON THE LICENSEE

- 3.1 Licensee shall not use the Confidential Information, Trade Secrets, Inventions, and Work Product in any way detrimental to Company, or in any way other than in contemplating the relationship between Company and the Licensee, and will not disclose any such Confidential Information except on a “Need to Know Basis” to such Licensee Representatives.
- 3.2 Licensee shall take all reasonable measures to prevent prohibited or unauthorized disclosure or use of confidential information.
- 3.3 Licensee is responsible for any breach of this Agreement by any of its Representatives, employees and Representatives of its subsidiaries, and at its sole expense, shall take all reasonable measures to prevent prohibited or unauthorized disclosure or use of confidential information.
- 3.4 Licensee will not tamper with, compromise, or attempt to circumvent any physical or electronic security or audit measures employed by Company.
- 3.5 Confidential Information furnished in written, pictorial, diskette, magnetic disk, optical disk, and any other tangible form shall not be duplicated by the Licensee without the prior written consent of Company, nor may any portion of it be transmitted directly or indirectly to any country outside of the United States.
- 3.6 Licensee shall take the same care to maintain the confidentiality of such Confidential Information as it does with respect to its own confidential information.
- 3.7 Nothing in this Agreement shall prohibit Licensee from complying with any applicable law or court action.

4. TERMINATION

Either Party may elect at any time to terminate further access by the other Party to its Confidential Information, and as soon as practically possible after



this Termination, the Company and Licensee shall return any information and materials furnished by the other Parties, relating to the Confidential Information, whether furnished on, before, or after the date of the Agreement, and certify in writing that it has complied with this clause.

5. GOVERNING LAW

This validity, construction, and performance of the terms of this Agreement shall be governed by and interpreted in accordance with the laws of the State of Michigan.

6. ASSIGNMENT

Neither party may assign its rights or duties under this Agreement without the prior written consent of Company or Licensee. Any modifications or amendments shall be valid only if they are in writing and signed by both parties.

7. ENTIRE AGREEMENT

7.1 This Agreement, and any amendments if any, shall constitute the entire agreement between the Parties, and supersedes all prior and contemporaneous agreements and understandings. Any representations that may have been made by either Party to this Agreement are null and void.

7.2 This Agreement shall not be construed as granting or conferring license to the Licensee of Company's Confidential Information, Work Product, Inventions, or Trade Secrets.

8. REMEDIES

8.1 Company and Licensee acknowledge that compliance with the provisions of the Agreement is necessary to protect the business and good will of the Company, and that a breach of those provision will irreparably and continually damage Company, for which money damages may not be adequate. Without prejudice to the rights and remedies otherwise available, Company shall be entitled to (a) preliminary or permanently enjoining Licensee from violating this Agreement in order to prevent the continuation of such harm, and (b) money damages insofar as they can be determined.

8.2 Nothing in this Agreement shall be construed to limit or prohibit Company from contesting the facts, make any legal argument relating the existence of any breach or threatened breach of this Agreement, or pursuing any other remedy at law or in equity.



9. OTHER PROVISIONS OF THIS AGREEMENT

- 9.1 Company and Licensee agree not to disclose or announce to any party any information regarding discussions or the nature of any discussions regarding any project or planned cooperation without prior written approval of the other Party.
- 9.2 Company and Licensee agree to be bound by the obligations and statements set forth in this Agreement. This Agreement does not in any way bind Company or Licensee to proceed with the (or any) project or to enter into any business relationship or partnership.
- 9.3 Company and Licensee understand and agree that all information provided by Company is without representation or warranty, express or implied, as to the accuracy or completeness of such information. Company, nor its Representatives, shall have no liability to Licensee which may result from the use of the Confidential Information by Licensee.

This Agreement shall become effective when accepted in writing by Company and the Licensee.

The undersigned has read and understood the Agreement.

IN WITNESS WHEREOF, the parties hereto, referred to herein as Company and Licensee, have executed this Addendum as of the _____ day of _____, in the year 2001 (the "Effective Date").

Accepted By:

Accepted By:

Licensee (Organization Name)

QED Information Systems, Inc.
Company

Signature

Signature

Name:

Name: *Joseph Potesta*

Title:

Title: *President and CEO*

Date:

Date: