

Execution Copy

SVRS AGREEMENT
BETWEEN
STATE OF INDIANA
AND
QUEST INFORMATION SYSTEMS, INC.

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SVRS AGREEMENT

THIS AGREEMENT between STATE OF INDIANA, acting through the Office of the Secretary of State and the Indiana Election Division (“**State**”) and QUEST INFORMATION SYSTEMS, INC. (“**Quest**”) and is effective when it has been executed by Quest and all the representatives of State as required under law to enter into this Agreement (the “**Effective Date**”).

RECITALS

1. The purpose of this Agreement is for Quest to design, develop, implement, maintain, support and host a statewide voter registration management system (a “**SVRS**”) to meet the requirements of the Help America Vote Act of 2002, Public Law 107-252, 42 U.S.C. 15301-15545 (“**HAVA**”), as described in this Agreement. Section 303(a)(i) of HAVA requires states to create, for use in federal elections, a single uniform, centralized and interactive computerized statewide voter registration list, containing registration information as required by law and a unique identifier for every registered voter. This list must be linked to all agencies required under HAVA in order to ensure that registered voters will appear on the voter registration list.
2. To that end, this Agreement will establish and Quest will: (i) provide services for the design, development and implementation of a statewide voter registration and election management system for State (the “**System**,” as defined below), and (ii) provide services for developing, hosting, maintaining and supporting the System as specified in Attachment A (Statement of Work and Acceptance Criteria), Attachment B (Managed Services Statement of Work and Service Level Agreement), Attachment C (Managed Services Hardware and Software) and Attachment D (Training) (collectively, the “**Services**”).
3. The Attachments set forth the fees payable for the provision of the Services under this Agreement and the timelines for the completion of the Services.
4. Unless otherwise expressly stated in this Agreement, capitalized terms used in this Agreement shall have the definitions contained in IC 3-5-2.

AGREEMENT

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

Article 1. DEFINITIONS

Section 1.1 “**Accept**” or “**Acceptance**” means that either: (i) State has confirmed in writing that a Deliverable or a Service has met the requirements of the Specifications or that a task has been completed; or (ii) the Acceptance Period has passed without the delivery of a Rejection Notice by State to Quest.

Section 1.2 “**Acceptance Period**” means the period provided for in Article 10 of Attachment A with respect to the Deliverables listed thereon.

Section 1.3 “**Blackout Periods**” means the periods of fifteen (15) days preceding, and the ten (10) days following any primary or general election.

Section 1.4 “**Change**” means as defined in Section 8.1.

Section 1.5 “**Change Assessment**” means as defined in Section 8.3.

Section 1.6 “**Change Order Proposal**” means as defined in Section 8.2.

Section 1.7 “**Client Quality Management Assessment Program**” means Quest’s standard client satisfaction and project quality review process.

Section 1.8 “**Components**” means the functional units, programs, subprograms or modules of the Licensed Software Program which are identified on Attachment A together with the related Milestones.

Section 1.9 “**Confidential Information**” means information provided by State to Quest, whether in written, oral, electronic or other form, that is identified as confidential by State, or information to which Quest obtains access by virtue of its performance under this Agreement, and all such information, regardless of whether marked confidential or proprietary, that, given its nature or the manner of its disclosure, ought to be reasonably understood to be confidential information. State Data is deemed Confidential Information.

Section 1.10 “**Correction Period**” means as defined in Section 10.1.

Section 1.11 “**Counties**” means the 92 counties within the State of Indiana, acting through their respective County Representatives.

Section 1.12 “**County Representative**” means the individual identified by State to be the authorized County Representative for purposes of the project contemplated by this Agreement. State will deliver a list of County Representatives within ten (10) days after execution of this Agreement. State may designate individuals as substitute or replacement County Representatives from time to time in its sole discretion.

Section 1.13 “**Creative Works**” means works made for hire by Quest, as ordered and commissioned by State, which may incorporate existing copyrights, trademarks or other intellectual property of State. Creative Works includes, but is not limited to, text material, printed or sketched artwork, layouts and designs, trademarks, logos, slogans, designs, patents, digital or electronic text or artwork, files and materials, audio and video materials and any other original work produced for State pursuant to this Agreement which involved creative expression in any media. Creative Works do not include the Licensed Software Program, Proprietary Items or Documentation relating to use of, or training with, the Licensed Software Program.

Section 1.14 “**Deliverables**” means all concepts, works, inventions (whether or not patentable or reduced to practice), information, data, specifications, designs, configurations, algorithms, analytics, software (both in source code and object code form), HTML and XML files and programming CGI and Perl scripts, Java Script code, test scripts, domain names, artwork, slogans, logos, processes, methods and other ideas, materials and Deliverables developed, conceived, provided, or acquired by Quest or any of its representatives or agents for State pursuant to this Agreement. Deliverables include, but are not limited to, the Components and the Licensed Software Program.

Section 1.15 “**Documentation**” means any written and descriptive materials identified on Attachment A and all other user guides, operating manuals, release notes, specifications, system operation materials and other similar documents, whether in print or machine-readable media, provided by Quest to State.

Section 1.16 “**Failover Testing**” means simulating failures of redundant system components, including but not limited to, application and database servers, and verifying that the backup or spare unit takes over for the primary unit as designed.

Section 1.17 “**Final Acceptance Test**” means the testing of the System (including network connectivity with all Counties) specified in Attachment A.

Section 1.18 “**Go Live Date**” means the date in which Quest commences the provision of Managed Services, as specified in Attachment B or as otherwise mutually agreed in writing.

Section 1.19 “**Hardware**” means the User Hardware and the hardware and related equipment for the State Hosting Site described in Attachment B.

Section 1.20 “**HAVA**” means the Help America Vote Act of 2002, Public Law 107-252, 42 U.S.C. 15301-15545.

Section 1.21 “**Help Desk**” means the telephone support services that shall provide telephone service to address questions State Authorized Users may have regarding the operation of the System and to report System problems.

Section 1.22 “**Initial Deliverables**” are identified on Attachment A.

Section 1.23 “**Integration Testing**” means testing the System to assure the System integrates with the systems of each Interfacing Agency in the manner specified in the Specifications.

Section 1.24 “**Interfacing Agency**” means any government entity with whose data the System must interact. This interaction could take a number of forms: a real-time interface, a batch interface, or a manual exchange of data through diskette, CD-ROM, or other means.

Section 1.25 “**Key Management Positions**” means as defined in Section 6.3.

Section 1.26 “**License**” means the license granted by Section 7.1 to State with regard to the Licensed Software Program.

Section 1.27 “**Licensed Software Program Acceptance Test**” means the test of the Licensed Software Program to assure that it conforms to the Specifications.

Section 1.28 “**Licensed Software Program**” means Quest owned proprietary application software known as First Tuesday™ with the modifications and enhancements described on Attachment A and any future modifications or enhancements to that software agreed to by Quest and State.

Section 1.29 “**Managed Services**” means the application maintenance, support, network and hosting Services, as specified in Attachment B.

Section 1.30 “**Milestone**” means the date by which a Component is required to be delivered, a Service completed or other action to be taken. Certain Milestones are designated as “**Major Milestones**” in Article 1 of Attachment A.

Section 1.31 “**Monitoring Tools and Procedures**” means those tools and procedures used by Quest to measure and monitor performance against the applicable Service Levels during the performance of the Managed Services.

Section 1.32 “**Non-Public Personal Information**” or “**NPI**” means as set forth in Section 13.2.

Section 1.33 “**Parties**” means Quest and State.

Section 1.34 “**Performance Testing**” means testing of the System under a simulated full user load to verify response times against the Acceptance Criteria set forth in Attachment A and the Service Levels set forth in Attachment B.

Section 1.35 “**Project**” means Proprietary Items, Work Product, System and Services provided by Quest, pursuant to the terms of this Agreement.

Section 1.36 “**Project Plan**” means as set forth in Section 3.6.

Section 1.37 “**Proprietary Items**” means hardware, Third Party Software, materials, documentation, tools and methodologies that are proprietary to Quest or third parties but does not include the Licensed Software Program (even though it is proprietary to Quest).

Section 1.38 “**Quest Project Manager**” means a person identified by Quest who has the authority to make relevant day-to-day decisions in regard to the Project for Quest.

Section 1.39 “**Rejection Notice**” means written notice given by State to Quest stating that a Deliverable or a Service has not met the Specifications or that a task has not been completed.

Section 1.40 “**Reusable Deliverables**” are identified in Article 10 of Attachment A.

Section 1.41 “**Security Requirements**” means those security measures in this Agreement, including Attachment B.

Section 1.42 “**Security Testing**” means testing to confirm that security was implemented to minimize risks identified in the Security Requirements. Security Testing ascertains that the System components perform as expected and that the Security Requirements are met throughout the System.

Section 1.43 “**Service Credit**” means a credit against the amount that would otherwise be due Quest for Managed Services and which is intended by the Parties as their estimate of the actual damages that will be suffered by Agency as a failure to meet a Service Level and is intended as a substitute for actual damages because of the difficulty of calculating actual damages. The amount of a Service Credit for failure to meet a Service Level commitment is calculated as provided on Attachment B.

Section 1.44 “**Service Levels**” means as defined in Attachment B.

Section 1.45 “**Services**” means all of the services to be provided by Quest under this Agreement, to include the modifications and enhancements described in Attachment A, the Managed Services, specified in Attachments B and the training described in Attachment D.

Section 1.46 “**Specifications**” means written functional and technical specifications, including the format, content, and test parameters if any, applicable to the Licensed Software Program, the Managed Services and the Work Product contained on Attachments A, B, C and D or as otherwise mutually agreed to by the Parties during the term of this Agreement.

Section 1.47 “**State Authorized Users**” means employees, agents, and contractors of the State of Indiana, the Counties and other political subdivisions of the State of Indiana.

Section 1.48 “**State Contractors**” means as defined in Section 2.7.

Section 1.49 “**State Data**” means data and information gathered, maintained and provided to Quest by or on behalf of the State or State Authorized Users in connection with the System and Services delivered pursuant to this Agreement, however State Data shall not mean Work Product, Proprietary Items, or the Licensed Software Program.

Section 1.50 “**State Project Manager**” means the person identified by State who has the authority to make relevant day-to-day decisions in regard to the Project for State.

Section 1.51 “**State Hosting Site**” means the integrated network of Hardware, Licensed Software Program, third party software and telecommunications connections which is hosted by Quest and serves as the centralized data depository for the System.

Section 1.52 “**SVRS**” means as set forth in the Recitals.

Section 1.53 “**SVRS Steering Committee**” means as set forth in Section 20.1.

Section 1.54 “**System**” means the entire statewide voter registration and election management system to be designed, developed and implemented by Quest as specified in this Agreement which is intended to be the implementation of the computerized list called for pursuant to IC 3-7-26.3-2. The System includes the Licensed Software Program, the State Hosting Site, the telecommunications connections from the State Hosting Site to the Counties and the User Hardware and any Third Party Software utilized by State and the Counties.

Section 1.55 “**System Acceptance Criteria**” is defined in Article 9 of Attachment A.

Section 1.56 “**System Availability**” means the time during which the System is available to State Authorized Users to access the System and perform mutually agreed to voter registration operations.

Section 1.57 “**System Software**” means the Third Party Software which is specified on Attachment C.

Section 1.58 “**Third Party Software**” means all third party software and related documentation provided by Quest for use by State Authorized Users relating to the System, as described in Attachment C.

Section 1.59 “**Training**” means the Services described on Attachment D.

Section 1.60 “**User Acceptance Testing**” means testing of the System to confirm that the System Acceptance Criteria have been met.

Section 1.61 “**User Hardware**” means all hardware and related documentation procured by Quest for use by the VR Users relating to the System, as described in Attachment C.

Section 1.62 “**VR Users**” means the State and County personnel who use the System to perform voter registration services.

Section 1.63 “**Work Product**” means reports, documents, templates, studies, strategies, operating models, technical architectures, designware, software objects, software programs, source code, object code, specifications, documentation, abstracts and summaries thereof, and other work product and materials which are originated and prepared by Quest for the State (either independently or in concert with the State or third parties) during the course of Quest’s performance under this Agreement but does not include the Licensed Software Program.

Article 2. RESPONSIBILITIES OF QUEST

Section 2.1 **Independent Contractor**. Any services that Quest, its employees, representatives or agents perform for State, and Quest’s relationship to State in all matters relating to this Agreement, is that of an independent contractor, and Quest has and shall have no right to, and will not, bind, assume or obligate State for anything in any manner nor make any commitments whatsoever for, nor representations in respect to, State other than representations furnished to Quest by State.

Section 2.2 **Services**. The Services of Quest include the following responsibilities, as further specified in Attachments A, B, C and D:

(a) Deliver and implement the System in accordance with the schedules contained in Attachment A, B and C.

(b) Convert the county data as described on Attachment A.

(c) Take primary responsibility for the implementation of the System, including coordination of the activities of the Counties.

(d) Provide Training in accordance with the schedule in Attachment D, including training manuals (one per trainee).

(e) Provide State with copies of each pertinent training manual as specified in Attachment D.

(f) Appoint a Project Manager and key management positions dedicated to this Project, as described in this Agreement and Attachments A and B.

(g) Perform all other obligations described in this Agreement.

(h) Test the System before each election in sufficient time, as determined by State and Quest, to permit the timely repair of the System before each election, as set forth in Attachment B.

(i) Work with the State to design and develop a System that, at a minimum, satisfies the requirements of Subtitle A of Title III of HAVA and the requirements of IC 3-7-26.3, in each case, as in force on the date of this Agreement, in accordance with the Specifications as set forth in Attachment A.

Section 2.3 General Performance Obligations. Quest agrees to devote its best efforts to further State's interests and to endeavor in every proper way to cause the Services rendered to deliver successful results for State. To that end, Quest will, when applicable use its best efforts to:

(a) Familiarize itself with the Indiana election laws, regulations, procedures and practices and with the State's objectives.

(b) Develop and submit to State all Deliverables identified on the Attachments.

(c) Competently and efficiently perform the Services and complete the Services in accordance with the timelines in the Attachments.

(d) Perform the Services in an efficient and economical basis.

(e) Upon request, prepare all Deliverables in a digital format compatible with State's data systems.

(f) Participate in planning meetings with State, as scheduled to review progress towards existing goals, timetables and specifications, establish new/revised goals, review process improvements, review project outlook, and review long range goals and plans (including technology plans).

(g) Take all reasonable precautions to guard against any loss to State through failure of Quest's suppliers and/or permitted subcontractors to properly execute their commitments.

(h) Make Services available at the times reasonably requested by State during the term of this Agreement.

(i) Ensure its conduct and that of its employees, agents, representatives and permitted subcontractors complies with all applicable federal, state and other applicable statutes, regulations, ordinances and orders, and with State's rules and regulations and is respectful and acceptable in State's places of operation.

(j) Schedule its activities under this Agreement so that minimal action or response is required from State or the Counties during the Blackout Periods and so that the action required by the staff of the Indiana Election Division and County Personnel can reasonably be performed in the time specified in the Project Plan.

Section 2.4 Third-Party Property. Where applicable, Quest will obtain all necessary releases, licenses, permits and other authorization to use names, likenesses, photographs, copyrighted materials, artwork or any other property, equipment or rights belonging to third parties which Quest furnishes to State for use in providing Services to State.

Section 2.5 **Implied Services.** If any services, functions or responsibilities not specifically described in this Agreement are reasonably and fairly required for the proper performance and provision of and are inherent in the Services, they shall be deemed to be implied by and included within the scope of the Services to the same extent and in the same manner as if specifically described in this Agreement. Except as otherwise expressly provided in this Agreement, Quest shall be responsible for providing the facilities, personnel and other resources as necessary to provide the Services.

Section 2.6 **Time of Essence.** The Parties agree that time is of the essence. It is Quest's responsibility to cause timely provision of the Services and Deliverables and State's responsibility to timely respond within a reasonable period of time to requests for information from Quest.

Section 2.7 **Cooperation.** Quest shall cooperate with State and any other third-party contractor employed by State ("**State Contractors**") in the integration, where reasonably required, of Quest's work under this Agreement with any other work, materials and equipment supplied by State or any State Contractor. Quest shall promptly notify State if Quest determines that an act or omission of an State Contractor will delay or otherwise impair the provision of Services. State shall be responsible for managing and supervising State Contractors and for any failure of State Contractors to comply with State's applicable obligations under this Agreement.

Section 2.8 **Quest Judgment.** Nothing in this Agreement shall be deemed to require that Quest undertake or do any act or perform any service which, in its judgment, would be misleading, false, libelous, unlawful or otherwise prejudicial to State's interests.

Section 2.9 **State and County Location Policies.** When working at any State or County facilities, Quest personnel will comply with State's or County's standard workplace security, administrative, safety and other policies and procedures applicable to State's or County's own employees, if any. State personnel shall provide Quest with a copy of each such policy and procedure promptly upon request and shall notify Quest of any subsequent modifications or amendments thereto. State shall request the County Representatives to provide Quest with a copy of each such County policy or procedure and to notify the State and Quest of any modification or amendment to the policy or procedure.

Article 3. RESPONSIBILITIES OF STATE

Section 3.1 **State Project Manager.** State shall appoint a State Project Manager who shall be responsible for review, analysis and quality assurance monitoring of the Acceptance process of Work Products, System and Services. The State Project Manager shall oversee the performance of Quest during the implementation of the System and during the provision of the Services, including design and development of the System, installation of the System, the maintenance, hosting and support relating to the Managed Services. The State Project Manager shall advise Quest of any System failures, additional requirements or Changes needed to the System pursuant to Article 8.

Section 3.2 **Access.** State shall provide access to the State's staff as needed and facilitate access to State Authorized Users, as necessary.

Section 3.3 **No Bailment.** No bailment shall be created and no interest or obligation shall be conferred upon Quest regarding State's property or the property of State's employees, agents or other contractors beyond the limited right to use such property in furtherance of this Agreement. All such property, regardless of its physical location or use, shall be deemed to be in the care, custody and control of State. This Section survives termination of this Agreement.

Section 3.4 **Tasks.** In connection with Quest's provision of the Services, State shall perform the tasks and fulfill the responsibilities specified in each Attachment as State responsibilities.

Section 3.5 **Conflict.** If the work performed by any State Contractor affects the Services being performed by Quest under this Agreement or if a State Contractor otherwise uses resources furnished by Quest, State shall use commercially reasonable efforts to ensure that the State Contractor:

- (a) Cooperates with Quest;
- (b) Follows reasonable Quest standards, methodologies and procedures (including confidentiality and security procedures);
- (c) Complies with the license and confidentiality requirements of vendors of the software on which such State Contractor is performing work; and
- (d) Executes, delivers and complies with any customary confidentiality and nondisclosure agreements reasonably required by Quest or the software vendors.

If a State Contractor notifies State that it does not in good faith believe that Quest standards, methodologies or procedures are reasonable in the industry or appropriate in the particular situation, then State shall so notify Quest and the Parties shall seek to establish mutually acceptable alternative arrangements.

Section 3.6 **Responsiveness.** State acknowledges that it is important that Quest receive timely responses to any inquiries or request for information. Quest acknowledges that the project plan prepared by Quest in accordance with the provisions of Attachment A ("**Project Plan**") should indicate the time within which State will be expected to provide information or make decisions relating either to the State or to the Counties. In those instances where the Project Plan does not specify the time within which State should provide the requested information or decision, State shall respond to requests for decisions or information within a reasonable time after Quest's request. The request by Quest to State shall be in writing and shall specify a date by which a response is reasonably requested from State. If:

- (a) State fails: (i) to provide Quest information or make a decision as to matters specified in the Project Plan within the time specified in the Project Plan; or (ii) as to matters not specified in the Project Plan, to respond to Quest's request within a reasonable time after the request; and

(b) Quest provides written notice to State advising it of its failure to respond and expressly referring to this Section 3.6,

then the applicable Major Milestones will be equitably adjusted to reflect the State's failure to respond to the request either as provided in the Project Plan or within a reasonable time after Quest's request.

Article 4. PAYMENT

Section 4.1 **Fees.** State agrees to pay Quest for the Services as set forth in the Attachments. The total payment to Quest under this Agreement shall not exceed Nine Million Five Hundred Twenty Six Thousand Two Hundred Forty Five Dollars (\$9,526,245) except as the Parties otherwise agree in writing.

Section 4.2 **Invoices.** Each invoice will be issued after Acceptance of the relevant Deliverable and will separately identify the payment associated with Services provided under each Attachment. State shall pay the amounts payable to Quest hereunder within thirty-five (35) days of receipt of invoices submitted by Quest. Fees are payable in accordance with terms of this Agreement, including the Attachments. Invoices will be submitted to State in a form consistent with applicable regulations and practices of the State of Indiana and will contain sufficient detail to enable State to confirm that amounts set forth on each invoice accurately reflect the amounts due and payable. In the event State overpays Quest, Quest will promptly credit to State such overpayments. Each Party will provide the other with timely notice of the nature of any error or inaccuracy as soon as the Party becomes aware of the error or inaccuracy.

Section 4.3 **Disputed Charges.** State may withhold payment of particular charges that State reasonably and in good faith disputes or if the invoice is not in the appropriate form. Any amounts (or portions thereof) not so disputed or not in the appropriate form will be paid by the applicable payment due date. State shall notify Quest in writing on or before the payment due date of any disputed charges for which State is withholding payment and describe, in reasonable detail, the reason for such withholding. State and Quest shall diligently pursue an expedited resolution of such dispute. In the event of any good faith dispute with regard to a portion of an invoice, the undisputed portion shall be paid as provided herein. Upon resolution of the disputed portion, any amounts owed to Quest shall be paid with the penalty provided in IC 5-17-5 to the extent applicable.

Section 4.4 **Retainage.** State shall withhold 10% of each invoice with respect to the Deliverables and all Services other than the Managed Services. Upon Acceptance of the System, the State will release the retainage to Quest.

Article 5. TERM

Section 5.1 **Term of Agreement.** This Agreement is for a term commencing on the Effective Date and ending on June 30, 2009. This Agreement may be extended and amended by agreement of both Parties in writing and subject to the required approvals. There is no right or expectation of renewal and any renewal will be determined at the discretion of the State and written agreement of Quest. The license agreements, warranty

agreements or extended warranty agreements entered into and authorized by this Agreement may extend beyond the end of the term of this Agreement.

Article 6. QUALIFICATION, RETENTION AND REPLACEMENT OF QUEST PERSONNEL

Section 6.1 **Qualification.** Quest shall assign an adequate number of qualified personnel to perform the Services.

Section 6.2 **Quest Project Manager.** During the period through the Go Live Date, Quest will designate an individual who will be primarily dedicated to State's account (the "**Quest Project Manager**"). Quest Project Manager (i) will be the primary contact for State in dealing with Quest under this Agreement; (ii) will have overall responsibility for managing and coordinating the delivery of the Project; (iii) will meet regularly with the State Project Manager; and (iv) will have the authority to make decisions with respect to actions to be taken by Quest in the ordinary course of day-to-day management of Quest's account in accordance with this Agreement.

Section 6.3 **Key Management Positions.** In an effort to develop an environment in which the Services may be provided in an effective manner, the Parties have jointly designated certain key Quest account management positions, including the Quest Project Manager ("**Key Management Positions**"), as set forth in Attachments A and B. With respect to the appointment of any replacement Quest personnel to Key Management Positions, the Parties will cooperate with each other to fill the Key Management Positions with individuals who are acceptable to State. Before assigning an individual to a Key Management Position, Quest will: (i) notify State of the proposed assignment; (ii) introduce the individual to appropriate State representatives; and (iii) subject to applicable law and Quest's standard personnel practices, provide State with a resume, and any other information about the individual, and, if requested by State, shall propose to State the assignment of another individual of suitable ability and qualifications, within a mutually agreed upon timeframe.

Section 6.4 **Notice.** Except in the event of resignation, death, disability or termination, Quest shall notify State in writing at least twenty (20) days prior to replacing any Quest personnel serving in a Key Management Position. In the event of any replacement of Quest personnel serving in Key Management Positions, Quest shall provide for an appropriate transition (overlap) period for the new individual and use commercially reasonable efforts to minimize any disruption the replacement may cause in the performance of Quest's obligations under this Agreement.

Section 6.5 **Replacement.** In the event that the State reasonably determines that the continued assignment to the State account of one of Quest Personnel under this Agreement is not in the best interests of the State, then the State shall identify an objection to Quest. After receipt of notice of such objection, Quest shall have a reasonable period of time in which to investigate the matter and discuss its findings with the State, and the Parties shall attempt in good faith to resolve any problems with such person. If the Parties fail to resolve the State's concerns following the above discussion and the State requests replacement of the person, Quest shall replace that person with another person of suitable ability and qualifications.

Section 6.6 **Continuity.** The timing for transfer, reassignment or replacement of Quest Personnel shall be closely coordinated with the requirements of ongoing projects and other elements of the Services to maintain continuity in the performance of the Services.

Section 6.7 **No Joint Employees.** Neither Party shall be deemed a joint employer of the other's employees, each Party being responsible for any and all claims by its employees. Neither Party's employees shall be deemed "leased" employees of the other for any purpose.

Article 7. GRANT OF LICENSES

Section 7.1 **Grant.** Subject to the limitations in this Agreement, Quest grants a worldwide, non-exclusive, non-cancelable, nontransferable, perpetual, paid-up right and license to use copy, modify and prepare derivative works of the Licensed Software Program and Documentation to the State of Indiana, its agencies, offices and departments (including, but not limited to, the Office of the Secretary of State and the Indiana Election Division) and all political subdivisions in the State of Indiana. This license permits them to allow State Authorized Users and other persons to have access to, and use, the Licensed Software Program and any derivative works so long as the users adhere to the obligations and restrictions contained in this Agreement subject to the restrictions set forth in this Agreement so long as the use is related to the governmental business of the State of Indiana and its political subdivisions. This license does not grant State or any other person the right to license, sublicense or distribute the Licensed Software Program to any person other than the State of Indiana and its political subdivisions.

Section 7.2 **Other Use Rights.** Use of the Licensed Software Program shall not be limited to use at a designated site, on a specific platform, or by the number of users or seats. State shall have the right to substitute or add locations without incurring additional license fees or other charges. State shall have the right to substitute or add equipment (which may be based upon the same or different platforms or operating system) without incurring additional license fees or other charges provided that the substitute or additional equipment is supported by Quest.

Section 7.3 **Modifications.** State shall have the right to modify and enhance the Licensed Software Program and Documentation and to create derivative works therefrom; *provided, however,* no warranty granted hereunder shall apply to any modifications or enhancements made to the System or Documentation by any person other than an authorized representative of Quest; and, provided further, any such derivative work shall be subject to the limitations on use set forth in Section 7.1. State may exercise this right through its own employees or through contractors or consultants.

Section 7.4 **Copies.** State shall have the right to make, retain, and use such copies of the Licensed Software Program and Documentation as are reasonably necessary to exercise its rights under this Agreement. State shall not remove or destroy any proprietary notices of Quest from the Licensed Software Program, Proprietary Items, Work Product or Documentation and shall reproduce all copyright, trademark or other proprietary markings of Quest (or other applicable third party licensor) on all copies.

Section 7.5 **Acknowledgment of Ownership.** State understands and agrees that Quest retains the sole and exclusive ownership of all right, title and interest, including copyright, in and to the Licensed Software Program and Documentation and all copies thereof.

Section 7.6 **Ownership of Work Product.** State shall have a worldwide, non-exclusive, non-cancelable, nontransferable, perpetual, paid-up right and license to use, copy, modify and prepare derivative works of the Work Product, subject to any restrictions of any third-party materials embodied in any part of the Work Product and disclosed to State. State's rights in the Work Product shall be for purposes of the internal business of the State of Indiana, its agencies, offices and departments (including, but not limited to, the Office of the Secretary of State and Indiana Elections Division) and all political subdivisions of the State of Indiana. Except for the rights granted hereunder to the State, all other rights (including all other intellectual property rights) in the Work Product will remain with Quest.

Section 7.7 **Further Assurances.** The Parties shall cooperate with each other and execute such other documents as may be reasonably deemed necessary to achieve the objectives of this Article.

Section 7.8 **Similar Work.** Nothing in this Agreement will preclude Quest from marketing, developing or using for itself or others, services or products that are the same as or similar to those provided to State by Quest pursuant to this Agreement. Furthermore, Quest will continue to be free to use its general knowledge, skills and experience and any ideas, concepts, know-how and techniques that are acquired or used in the course of providing the Services.

Section 7.9 **Residuals.** Nothing in this Agreement shall be interpreted as precluding State Authorized Users from disclosing or using, in connection with performing other projects on behalf of State, information that is mentally retained in non-tangible form by the employee, agent or contractor of State who have had rightful access to the materials provided by Quest under this Agreement, including without limitation, any ideas, concepts, know-how, techniques and methods of doing business that may be retained in the memory of those individuals.

Article 8. CHANGE ORDER PROCESS

Section 8.1 **Changes.** Quest or State may propose changes to the scope of the Services described herein or to the Specifications (each, a "**Change**"). A Change includes modifications to the Major Milestone Deliverables for the Licensed Software Program requirements for elections management, voter registration, precincting or system administration after the Major Milestone Acceptance of the requirements unless the modification is necessary to meet the State's business and technical requirements as defined in the Request for Proposal 4-43.

Section 8.2 **Proposal.** To propose a Change, the Party's Project Manager will deliver a written proposal (the "**Change Order Proposal**") to the Project Manager of the other Party specifying the proposed Change specifically identifying the change in circumstances giving rise to a change order, and

- (a) The objective or purpose of such Change;
- (b) The requirements and specifications of the deliverables to be delivered pursuant to such Change;
- (c) The requested prioritization and schedule for such Change;
- (d) If the Change Order Proposal is initiated by Quest, the information required in a Change Assessment.

Section 8.3 **Assessment.** State and Quest will cooperate with each other in good faith in discussing the scope and nature of the Change Order Proposal, the availability of Quest personnel, expertise and resources to provide such Change and the time period in which such change will be implemented. Within ten (10) days following receipt of a Change Order proposed from State, Quest will prepare a written assessment of the proposal (the “**Change Assessment**”):

- (a) Describing any changes in products, services, assignment of personnel and other resources that Quest believes will be required;
- (b) Estimating the increase or decrease in Quest charges that would be required due to such Change;
- (c) Specifying how the proposed Change would be implemented;
- (d) Describing the effect, if any, such Change would have on this Agreement, including, but not limited to, time for performance;
- (e) Estimating all resources required to implement such Change;
- (f) Describing the delivery risks and associated risk mitigation plans; and
- (g) Providing such other information as may be relevant to the proposed Change.

Section 8.4 **Complex Changes.** To the extent that a Change proposed by State is of such magnitude or complexity that it is not feasible for Quest to produce a detailed Change Assessment within the Assessment Period, Quest shall prepare (i) a summary detailed Change Assessment within the Assessment Period, outlining such details regarding the prospective Change as Quest can ascertain within the Assessment Period, and (ii) the additional cost to State, if any, for preparation of the Change Assessment. The Parties shall thereafter agree upon a schedule for the production of a more detailed Change Assessment.

Section 8.5 **Time for Approval.** State will review the Change Assessment and respond within ten (10) days (or a mutually agreeable period for changes described in Section 8.4), indicating whether State desires Quest to implement the Change pursuant to the Change Assessment and, if so, the Parties will execute a change order based upon the Change Assessment. Quest shall not be required to perform any work associated with a Change unless and until it receives a change order executed by State

Section 8.6 **Operational Changes.** Notwithstanding any provision in the Agreement to the contrary, Quest may make operational changes any time during the performance of the Services and without State approval, to the extent such operational

changes are necessary, in Quest's good faith judgment: (i) to maintain the continuity of the Services; or (ii) to correct an event or occurrence that would substantially prevent, hinder or delay the operation of State's critical governmental functions. Quest shall promptly notify State of all such operational changes.

Article 9. ACCEPTANCE

Section 9.1 **Acceptance of Deliverables.** Quest acknowledges that the Deliverables, including the Components, the Licensed Software Program and the System are subject to State's Acceptance. State shall have the Acceptance Period for each Deliverable to Accept or reject the Deliverable. State may conduct testing to verify that the Deliverable is in compliance with the Specifications. Quest will provide State with all assistance and access to Quest computing environment reasonably necessary to enable State to determine whether each item is in compliance with the Specifications.

Section 9.2 **Correction.** If during testing of a Deliverable, State determines that a Deliverable is not in compliance with the Specifications, State will notify Quest and Quest will promptly, after notice from State, perform all services necessary to modify the Deliverable to be in compliance with the Specifications.

Section 9.3 **Retest.** Upon each redelivery, the entire Acceptance Period without diminution for the period of prior testing, shall be available for testing for the item. State will be entitled to re-test the Deliverable and the process described above will be repeated until the Deliverable is Accepted.

Section 9.4 **Acceptance with Reservations.** State may, at its option, indicate in writing its willingness to proceed with a succeeding step in the deployment, installation and testing of a Component or the Licensed Software Program, and/or pay any amount required upon the acceptance of any Component or the Licensed Software Program (even if Quest has not completely performed all of its obligations with respect thereto), without waiving any of Quest's obligations or State's rights or remedies with respect thereto. State's acceptance of any Component under the circumstances contemplated by this Section will not be deemed to be a waiver of Quest's obligation to correct any non-compliances thereof pursuant to its obligations in this Agreement, even if State is aware of such non-compliances at the time of its acceptance.

Article 10. SYSTEM ACCEPTANCE

Section 10.1 **System Testing.** State shall perform Failover Testing, Integration Testing, Performance Testing and Security Testing for the System following the completion of the Licensed Software Program Acceptance Test. This testing shall be performed in the manner specified in Attachments A and B. If State determines that the System does not successfully conform to the relevant test requirements, State will notify Quest and Quest will promptly, after notice from State (or such longer period as the Parties may agree upon in writing) (each, a "**Correction Period**"), perform all services necessary to modify the System to be in compliance with the Specifications and to perform the relevant test. State will be entitled to re-test the System for each of the

foregoing tests, and the process described above will be repeated until Acceptance of the System with respect to each of the tests, whereupon State will commence the Final Test.

Section 10.2 **Final Acceptance Test.** State shall perform the Final Acceptance Test in the manner specified in Attachment A. If State determines that the System does not successfully conform to the Specifications, State will notify Quest and Quest will promptly, but in no event later than the end of the applicable Correction Period, perform all services necessary to modify the System, including network connectivity, to be in compliance with the Specifications and to perform the relevant test. State will be entitled to retest the System and the process described above will be repeated until Acceptance of the System with respect to the Final Acceptance Test whereupon State will provide Quest written notice of State's acceptance of the System.

Article 11. MANAGED SERVICES PERFORMANCE

Section 11.1 **Hosting Services.** Quest will, either directly or through its permitted subcontractors, provide the Managed Services in accordance with this Agreement, along with any services, functions or responsibilities not specifically described herein or in the Specifications that are an inherent, necessary or customary, part of, or otherwise required, for the proper performance or provision of, the Managed Services. The State Hosting Site will be hosted by Quest on servers maintained by Quest, at its cost and expense, and located on Quest's or its permitted subcontractor's premises. Quest will be and is responsible for all hardware and third-party licenses required to host the State Hosting Site and the reasonable routine business and administrative expenses incurred by Quest or its permitted subcontractors in providing the Managed Services.

Section 11.2 **Equipment.** Quest will acquire, maintain and use sufficient equipment and software to provide the Managed Services so that the State Hosting Site operates substantially in accordance with the Specifications and such that the Managed Services are consistent with the provision of first-class hosting services, including, but not limited to: (i) using sufficient quantities of servers and equipment to facilitate proper load balancing; (ii) equipping such servers with appropriate speed processors, sufficient quantity of processors, sufficient memory (RAM) and sufficient drive storage; (iii) maintaining servers, equipment and other components in good operating condition; (iv) undertaking repairs and preventive maintenance on servers, equipment and other components in accordance with the applicable equipment manufacturer's recommendations; and (v) performing software maintenance and configuration in accordance with the applicable software documentation and recommendations.

Section 11.3 **Data Segregation.** Quest will maintain and implement procedures to physically and logically segregate State Data from Quest's data and data belonging to Quest's other customers on the production systems and logically segregate the data of State and any other customers from each other. Without limiting the generality of the foregoing, no media on which the data of State is stored may be re-used to deliver data to a third party, including another Quest customer.

Section 11.4 **Data Security.** Quest will establish and maintain environmental, safety and facility procedures, data security procedures and other safeguards against the destruction, corruption, loss or alteration of State Data, the State Hosting Site and the

Managed Services, and to prevent access, intrusion, alteration or other interference by any unauthorized third parties of the same, that are: (i) no less rigorous than those maintained by Quest for its own information or the information of its customers of a similar nature; and (ii) no less rigorous than the accepted practices in the industry. Without limiting the generality of the foregoing, Quest will: (a) house all equipment in environmental conditions at least equivalent to those recommended by the manufacturers; (b) house all equipment in physically secure premises protected at least by fire and flood protection and access controlled doors; and (c) utilize state-of-the-art virus and intrusion checking software and firewalls. Quest will develop a draft security plan and will provide such security plan to State for its review, comment and approval (which approval will not be unreasonably withheld). The security plan will include, among other things: (1) the levels of security and control required; (2) the procedures for maintaining the application software and data content; and (3) any other control requirements. The security plan will be attached and incorporated into this Agreement.

Section 11.5 Data Backup and Recovery. Quest will be responsible for developing and maintaining procedures for the reconstruction of destroyed, corrupted, lost or altered data and providing appropriate backup and recovery procedures in support of its obligations under this Agreement. Quest will develop a draft disaster recovery plan and will provide such plan to State for its review, comment and approval (which approval will not be unreasonably withheld). The disaster recovery plan will include, among other things: (i) procedures for periodic backup of data; (ii) annual or other periodic testing procedures, including requirements to provide State with reports regarding test results and (iii) procedures for declaration of a disaster, notification procedures for Quest and State and procedures for recovery of processing functions following a disaster.

Section 11.6 File Access. Quest will provide State Authorized Users with unlimited and complete access (via physical and remote access) to the State Hosting Site and related Managed Services for unlimited modification of, review of, and access to the State Data, which access will be through the applicable administrator user interface of the State Hosting Site or, if such interface is not available, through such other appropriate means to enable State to have such access. State is responsible for any misuse of data or damage to the System caused by the State Authorized Users. Quest will not deny State complete access thereto for any reason whatsoever and will provide to State all logins, passwords and other information necessary for State to gain such access. Quest will not, and will ensure that Quest personnel do not, break, bypass or circumvent, or attempt to break, bypass or circumvent, any security system of the State Hosting Site or State or obtain, or attempt to obtain, access to any Confidential Information, except as expressly permitted hereunder.

Section 11.7 Performance Measures. Each calendar year during the term of this Agreement, Quest shall perform the Services to meet the minimum Service Level Requirements set forth in Attachment B.

Article 12. SECURITY OF THE SITE

Section 12.1 **Security.** Quest shall ensure appropriate levels of security to prevent malicious or unauthorized access to the State Hosting Site, including but not limited to the security described in Section 12.2 through Section 12.6.

Section 12.2 **Encryption.** Quest shall provide encrypted communications as requested by State for communications at the State Hosting Site, between provider and State as otherwise agreed upon by the Parties.

Section 12.3 **Internal Controls.** Quest shall maintain all work on its internal network (“**Internal Network**”) behind an appropriate protection barrier (“**firewall**”) and within logically secure areas (“**production libraries**”) to ensure that source code, data, graphics and other media are protected from malicious or unauthorized access. Quest agrees to maintain appropriate levels of internal controls for granting access to source code, data, graphics, audio/visual materials and the like use in the process of developing the work, including the use of two factor identification systems to allow limited and controlled access to provider’s internal network maintained for the State Hosting Site.

Section 12.4 **Access to External Networks.** Quest agrees that no access from external networks, including the Internet (the “**external networks**”), will be permitted unless strong authentication and encryption is used on the State Hosting Site. Quest shall maintain an access control list for all access to the Internal Network from an external network and Quest agrees that any of its servers exposed to the internet that contain State information will run on a hardened operating system.

Section 12.5 **State’s Right to Review Security Controls.** State, at its option, shall have the right to review the security controls at anytime to determine if they are adequate to protect State’s Data and may, at its discretion, direct improvements of those security controls to prevent malicious or inappropriate access to source code, data, graphics or audio/visual material. State shall have the right to review any audit logs kept for all transactions allowed through the firewall.

Section 12.6 **Action to Minimize Viruses and Corrupted Data.** Quest agrees to use all reasonable efforts to scan any material intended for electronic transmission in any format (*i.e.*, e-mail, file transfer, diskette tape, *etc.*) to State for viruses and/or other malicious computer programs prior to its transfer to State. Quest further agrees that Intranet services that download live code (such as Java, Postscript) will employ code signing to minimize the spread of corrupted executables.

Article 13. CONFIDENTIALITY

Section 13.1 **Non-disclosure.** Quest: (i) will use Confidential Information only as necessary for Quest’s performance of its obligations to State under and to the extent expressly permitted by this Agreement; (ii) will keep Confidential Information in strict confidence as a fiduciary of State and, in any event, will protect Confidential Information with, at a minimum, the same degree of care Quest uses to protect its most sensitive confidential information, but in no event less than reasonable care; and (iii) will not disclose, commercially exploit, sell, assign, lease, display, sublicense, store or otherwise reveal or distribute any Confidential Information (except for disclosure to those Quest

employees or representatives who have a need to know such Confidential Information in connection with the performance of Quest's obligations under this Agreement, and then only to the extent such employees or representatives need to know such information). Quest will not duplicate or incorporate any personally identifiable information or Confidential Information related to any State Authorized Users or State into its own records or databases. Quest will be responsible and liable for any unauthorized disclosure, publication or dissemination of Confidential Information by or through any Quest employees, representatives or authorized subcontractors.

Section 13.2 Exceptions. Except with respect to any non-public personally identifiable information ("NPI"), this Article does not apply to any information that Quest can demonstrate (i) was possessed by Quest without any obligation of confidentiality prior to Quest's engagement by State; (ii) Quest developed independently without use of or access to the Confidential Information; (iii) Quest rightfully received from a third party without any obligation of confidentiality to such third party; or (iv) is or becomes publicly available other than as a result of any act or omission of Quest or any Quest employees or representatives.

Section 13.3 Disclosure Required by Law or Financial Reporting Requirement. Quest may disclose Confidential Information to the extent required by law, financial reporting requirement, legal process or by order of a court or governmental agency; provided, however, that Quest will give State prompt written notice of such requirement, and will use its best efforts to cooperate with State if State wishes to obtain a protective order or otherwise protect the confidentiality of such Confidential Information. State reserves the right to obtain a protective order or otherwise protect the confidentiality of such Confidential Information.

Section 13.4 Return of Confidential Information. Quest will promptly retrieve and deliver to State a copy of all State Data and Confidential Information (or such portions as specified by State) in the format and on the media reasonably prescribed by State (i) at State's reasonable request from time to time, (ii) upon the expiration or earlier termination of the this Agreement, (iii) at the completion of any requested transition assistance services, or (iv) with respect to particular State Data, at such earlier date that such data is no longer required by Quest to perform the Managed Services. Thereafter, if requested by State, Quest will destroy or securely erase the original and all copies of the State Data, NPI, Proprietary Information and Confidential Information in Quest's possession or under Quest's control.

Section 13.5 No Rights in Confidential Information. Except for the use permitted by this Agreement, Quest will not acquire any ownership or other rights in Confidential Information or NPI.

Section 13.6 Loss of Confidential Information. In the event of any loss or unauthorized disclosure of Confidential Information, Quest will notify State immediately.

Section 13.7 Access to State Systems. If Quest is given access, whether on-site or through remote facilities, to any of State's computer or electronic data storage systems in order for Quest to accomplish the work called for in this Agreement, Quest will limit such access and use solely to perform work within the scope of this Agreement and will not attempt to access any computer system, electronic file, software or other electronic

services other than those specifically required to accomplish the work required under this Agreement. Quest will limit such access to those of its employees or representatives with an express requirement to have such access in connection with this Agreement, will advise State in writing of the name of each such employee and representatives who will be granted such access, and will strictly follow all State security rules and procedures for use of State electronic resources. All user identification numbers and passwords disclosed to Quest and any information obtained by Quest as a result of Quest's access to, and use of, State's computer and electronic storage systems will be deemed to be, and will be treated as, Confidential Information.

Section 13.8 State Information. Quest will not use or disclose NPI if prohibited by any U.S. or other nation's federal, state or provincial law, regulation, ordinance, court order or other legal requirement (including, without limitation, Title V of the Gramm-Leach-Bliley Act (15 U.S.C. § 6801 *et seq.*)) or any applicable implementing regulations issued by regulatory authorities having jurisdiction (collectively, "**Privacy Laws**"). Quest will develop, implement, maintain and use appropriate and effective administrative, technical and physical safeguards, in compliance with all requirements of Privacy Laws to preserve the integrity, confidentiality and availability of, and to prevent unauthorized or prohibited use of, NPI. Quest will keep such security measures current and will document such security measures in written policies, procedures and/or guidelines, which Quest will provide to State on State's request.

Article 14. INTELLECTUAL PROPERTY

Section 14.1 Quest Warranty. Quest warrants that any Creative Work which Quest prepares directly or through agents and permitted subcontractors and furnishes to or for State will be original works of authorship by Quest unless explicitly provided to the contrary in the Attachments and except to the extent any Creative Works include property of State.

Section 14.2 Creative Works Made for Hire. Unless explicitly provided to the contrary in the Attachments, all rights, including copyrights, in any Creative Work vests in State, including the right to sue for past infringement. The Parties expressly acknowledge that all Creative Works are specifically ordered and commissioned by State, and further agree that each is and shall be considered a work made for hire within the meaning of the copyright laws of the United States and that State is entitled, as author, to the copyright and all other rights therein throughout the world, including, but not limited to, the right to make changes and uses of any Creative Works as State may determine.

Section 14.3 Other Creative Works. If for any reason whatsoever, a Creative Work is not considered a work made for hire under the applicable copyright law, then Quest shall obtain all rights, title and interest to the Creative Work and hereby grants and assigns to State, its successors and assigns, all of its rights, title and interest in and to the Creative Work, including, but not limited to, the copyright therein throughout the world (and any renewal, extension or reversion of copyright now or hereafter provided) and all other rights therein of any nature whatsoever, whether now known or hereafter devised, including, but not limited to, the right to make changes and uses of any Creative Work as State may determine.

Section 14.4 **Ownership.** State owns and shall own as author, and be entitled to immediate possession of each Creative Work for which State paid, regardless of whether that Creative Work was published, displayed, distributed, broadcast or otherwise presented or used by State prior to the termination of this Agreement. State has and shall have the right to require Quest to provide master copies of each Creative Work for State's use.

Section 14.5 **License.** To the extent that there is any exception to State's unrestricted rights in a Creative Work, Quest agrees to grant and hereby does grant State a royalty-free, perpetual, non-exclusive license under any other copyrights owned or licensed by Quest to use, reproduce, prepare derivative works from, distribute, perform, and display any Creative Work. If State does not intend to use a Creative Work and Quest desires to obtain the rights to it, Quest may request in writing, and State may, in its discretion, give Quest ownership of such Creative Work or license its use.

Section 14.6 **Further Assurances.** Quest agrees to execute at any time any paper or document as may be necessary to protect, assign, or otherwise effectuate the transfer of rights of copyright in any Creative Works to State.

Section 14.7 **Survival of Obligations.** Quest's obligations under this Article continue and shall continue beyond the termination, cancellation or expiration of this Agreement with respect to intellectual property, whether patentable or copyrightable or trademarkable, or not, which was conceived or made during the term of this Agreement.

Section 14.8 **Subcontractor Agreements.** Subject to Section 22.3, Quest shall enter into written agreements with its subcontractors, agents and employees as are necessary to provide for the reasonable protection of any intellectual property of State.

Article 15. PROPRIETARY RIGHTS

Section 15.1 **Proprietary Items.** In the course of performing under this Agreement, Quest may use Proprietary Items. Proprietary Items will be deemed confidential information of Quest.

Section 15.2 **Use of Proprietary Items By Others.** State Authorized Users may use Proprietary Items for the sole and exclusive purpose of assisting the State and the Counties in the design, development, implementation, maintenance, migration and operation of the System, subject to the State's:

- (a) First binding those parties to confidentiality agreements based on terms and conditions substantially similar to those set forth herein in protection of the Confidential Information;
- (b) Promptly enforcing any license or confidentiality breach of this Agreement of which the State becomes aware, at the State's expense; and
- (c) Promptly notifying Quest in writing of each such breach.

Section 15.3 **State Data.** State owns and will continue to own State Data. Quest shall utilize the State Data solely for purposes of this Agreement and shall not sell, assign, lease or otherwise commercially exploit the State Data. Quest is hereby

authorized to have access to and to make use of the State Data to the extent reasonably necessary or appropriate for the performance by Quest of its obligations hereunder.

Section 15.4 **Source Code Access.** State shall restrict access to the source code to the Licensed Software Program to employees of the State of Indiana or its political subdivisions and third party contractors of the State of Indiana or its political subdivisions. State shall cause any third party contractors who are permitted access to the source code for the Licensed Software System to enter into a confidentiality agreement in the form attached hereto as Schedule 1.

Article 16. INTELLECTUAL PROPERTY INDEMNIFICATION

Section 16.1 **Warranty.** Quest represents and warrants to State that Quest owns the Licensed Software Program, including all associated intellectual property rights, or otherwise has the right to grant State the right and license provided in this Agreement, and that, to the best of Quest's information, neither the Licensed Software Program, nor the System nor the Documentation infringe any valid patents, copyrights, trademarks, or other proprietary rights of any third parties. This warranty shall survive termination of this Agreement. This warranty does not extend to any items of intellectual property supplied by State to Quest for inclusion in the Licensed Software Program.

Section 16.2 **Indemnification.** Quest shall protect, defend, indemnify, and hold harmless State, its employees, the State Authorized Users and other user from and against any claim, loss, damage, or expense (including court costs and attorney's fees) arising out of, or relating to, use of the Licensed Software Program or the System in compliance with the terms of this Agreement or any claim that the Licensed Software Program or the Documentation infringes any patent, copyright, trademark or other proprietary right of any third person. State agrees to notify Quest at such time as it is apprised of any third-party claim and agrees to cooperate in a reasonable manner with Quest with respect to the defense and disposition of such claim. Quest will pay all costs, damages and reasonable attorneys' fees finally awarded against State in such an infringement action.

Section 16.3 **Permitted Actions.** Provided that State incurs no liability or expense thereby, Quest may, at its option, obtain for State the right to continue using the Licensed Software Program or the System or may replace or modify the Licensed Software Program or the System with functionally equivalent, compatible software so the Licensed Software Program or the System becomes noninfringing.

Section 16.4 **Defense.** Quest shall defend any such matter unless State, at its election and expense, elects to defend the matter, whether brought against State or Quest. Quest shall keep State fully advised of the progress of such matter and permit State at any time to join in Quest's defense or defend itself in such matter. Quest shall bear all costs associated with any defense conducted by Quest, including, without limitation, attorneys' fees and costs. If State chooses to conduct a defense separate from Quest, State agrees to pay all costs it incurs for such separate defense.

Article 17. TITLE AND RISK OF LOSS

Section 17.1 **Shipment.** Quest or its affiliate shall ship all Hardware purchased and Third Party Software licensed pursuant to this Agreement, and as specified in the Attachments, freight prepaid, FOB the State's destination. The method of shipment shall be consistent with the nature of the Hardware and Third Party Software and hazards of transportation. Regardless of FOB point, Quest agrees to bear all risks of loss, damage, or destruction of the Hardware and Third Party Software, in whole or in part, ordered hereunder which occurs prior to delivery to the State's destination, except loss or damage attributable to the State's (including those using the Hardware or Third Party Software on the State's behalf) acts.

Section 17.2 **Risk of Loss.** After delivery, the risk of loss or damage for the Hardware shall be borne by the State.

Section 17.3 **Title.** Title to the delivered User Hardware shall pass to the State upon full payment for the User Hardware and subject to the terms of the applicable title agreements. The State hereby grants and Quest (and its affiliates) reserves a security interest in the User Hardware until Quest receives full payment. The State agrees to be bound by and/or execute the Third Party Software license agreements, if any, as required.

Article 18. WARRANTIES AND DISCLAIMERS

Section 18.1 **Right to Grant License.** Quest represents and warrants that it has the right to grant a license to the Licensed Software Program free and clear of any liens and encumbrances.

Section 18.2 **Warranty.** Quest represents and warrants that (i) each identified good or material in a Deliverable, are of good and merchantable quality, free from defects in design, workmanship and material, conform to the Specifications, drawings, samples and descriptions given, and are fit for the use intended; (ii) the Services shall be performed to the sole satisfaction of State; (iii) all employees, representatives and authorized subcontractors utilized by Quest pursuant to this Agreement will be fully trained, equipped and competent and will perform their duties in a safe and courteous manner; (iv) the Licensed Software Program will not contain any virus, worm, time bomb, trap door, disabling device, automatic restraint, Trojan horse, or other code designed to: (a) discontinue State's effective use of the same; (b) to erase, destroy, corrupt or modify any data of State without the express written consent of State; or (c) to bypass any internal or external software security measure to obtain access to any hardware or software of State without the express written consent of State; (v) all of the Services and the System will at all times comply and be performed and, to the extent operated by Quest or its subcontractors, operated in compliance with all applicable national, federal, state, provincial or local laws, rules, regulations and orders (including the Gramm-Leach Bliley Act, Regulation S-P of the Securities and Exchange Commission (17 C.F.R. Part 248), and the Health Insurance Portability and Accountability Act (**HIPAA**) 1996, and the Children's Online Privacy Protection Act (**COPPA**) 15 U.S.C. 6501 *et seq.*); (vi) for as long as State continues to purchase Services from Quest, the Services and the System (including performance capabilities, accuracy, completeness, characteristics, specifications, configurations, standards,

functions and requirements) will conform to, and perform in substantial accordance with, the Specifications, and will otherwise be free from any material defects.

Section 18.3 **Compliance with Standards and Laws.** Quest represents and warrants that the Licensed Software Program will at all times during the term of this Agreement comply with any applicable industry standards and applicable federal, state and local laws and regulations, including but not limited to Subtitle A of Title III of HAVA and the requirements of IC 3-7-26.3, in each case, as in force on the date of this Agreement.

Section 18.4 **Workmanlike.** Quest represents and warrants that all Services shall be performed by qualified personnel in good and workmanlike fashion.

Section 18.5 **Documentation.** Quest represents and warrants that the Documentation is and shall at all times during the term of this Agreement remain complete and current with the version of the Licensed Software Program then in use by State.

Section 18.6 **Platform.** Quest represents and warrants that the Licensed Software Program shall operate on or with the Hardware.

Section 18.7 **Third Party Products.** Quest will pass through all third party warranties to the extent possible, unless State and Quest previously agree otherwise in writing. At State's option and request, Quest or its affiliate shall at no cost assign in full to State or its designee any assignable subcontractor agreements and/or third party software license agreements used to provide the Services on the termination date, unless State and Quest previously agree otherwise in writing. It is the Parties' intent that nothing in this section shall diminish or otherwise limit the warranties provided by Quest in this Agreement relating to Services provided by Quest, directly or through its subcontractors.

Section 18.8 **Managed Services Warranty.** Quest warrants that it shall use commercially reasonable efforts to maintain the Services Levels set forth in Attachment B and Quest shall re-perform, at no charge to State, the Managed Services related to the Service Levels that do not meet this warranty which are brought to its attention in writing during the term of the Agreement. This warranty does not limit State's right to assess Service Level Credits as set forth in Attachment C.

Section 18.9 **Disclaimer of Other Warranties.** QUEST MAKES NO REPRESENTATION OR WARRANTY OTHER THAN THOSE SET FORTH IN THIS AGREEMENT. THE WARRANTIES STATED IN THIS AGREEMENT ARE IN LIEU OF ALL OTHER WARRANTIES AND CONDITIONS EXPRESSED OR IMPLIED INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.

Article 19. LIMITATION OF LIABILITY

Section 19.1 **Limitation of Liability.** Except for the specific remedies expressly identified as such in this Agreement, Quest's sole liability (whether in contract, tort, negligence, strict liability in tort or by statute or otherwise) for any claim in any manner related to this Agreement, shall be the payment of direct damages and such damages shall in no event in the aggregate exceed the fees already paid to Quest by the State.

Section 19.2 **No Liability**. In no event shall either party be liable for any consequential, incidental, indirect, special or punitive damage, loss or expenses (including but not limited to business interruption, lost business, lost profits, or lost savings) even if it has been advised of their possible existence.

Section 19.3 **Service Level Nonconformity**. Subject to State's right to terminate this Agreement for cause pursuant to Section 21.4, the provision of Service Level Credits set forth in Attachment B will constitute State's sole and exclusive remedy for the corresponding Service Level Nonconformity.

Article 20. RELATIONSHIP MANAGEMENT

Section 20.1 **Progress Reports**. Quest shall make written progress reports as reasonably requested by State. Any such reports or any other documents prepared by Quest relating to the Services is, and shall be, the property of State.

Section 20.2 **Role of SVRS Steering Committee**. State shall appoint a quality assurance executive from Quest to serve on an existing advisory committee (the "**SVRS Steering Committee**"), together with representatives of the State and Counties and a quality assurance executive from the State's consultant. The SVRS Steering Committee shall meet, from time to time, and at such time as its members or the Parties deem appropriate to:

- (a) Review and analyze the monthly performance reports for the preceding period and Quest's overall performance under this Agreement;
- (b) Review progress on the resolution of issues;
- (c) Provide a strategic outlook for State's information technology requirements with respect to the System; and
- (d) Attempt to resolve, or designate individuals to attempt to resolve, any disputes or disagreements under this Agreement.

Either Party may change its other representatives from time to time upon written notice to the other. In addition, the State may determine to increase or decrease the size, purpose or composition of the SVRS Steering Committee in an effort for Quest to better provide, and for State to better utilize, the Services. The SVRS Steering Committee is an advisory committee and it is not authorized to act for State or Quest.

Section 20.3 **Periodic Reports**. The Parties shall establish an appropriate set of periodic reports regarding the provision of the Services by Quest to be delivered by Quest to State from time to time under this Agreement. Quest shall provide the following reports in a form mutually established by the Parties:

- (a) A monthly status report that (i) separately addresses Quest's data center and computer operations, telecommunications operations, and application development and maintenance activities, (ii) assesses, for each area, the degree to which Quest has attained or failed to attain the mutually established objectives in that area, including measurements with respect to the Service Levels, (iii) summarizes the status of application development projects, problem resolution

efforts and other initiatives, and (iv) explains deviations from the Service Levels and includes a plan for corrective action where appropriate; and

(b) A quarterly Changes report that describes (i) since the date of the last report, all Changes that have been made by Quest and (ii) any ongoing or planned Changes during the upcoming quarter.

Section 20.4 Meetings and Conference Calls. The Parties shall determine an appropriate set of periodic meetings or telephone conference calls to be held between representatives of State and Quest. The Parties contemplate that such meetings will include the following during the period through the Go Live Date:

(a) Weekly meetings among a representative of State's consultant, Quest Project Manager and Quest's team leaders to monitor software development, architecture planning, implementation activities, the overall execution of the Project and to periodically prepare reports to the SVRS Steering Committee.

(b) A monthly meeting among Quest Project Manager and any other appropriate operational personnel to discuss daily performance and planned or anticipated activities that may adversely affect performance or any Changes;

(c) Periodic meetings of the SVRS Steering Committee; and

(d) An annual senior management meeting to review relevant performance and other issues.

Section 20.5 Agenda. At either Party's request, the other Party shall identify the subjects it wishes to discuss sufficiently in advance of the meeting to allow participants a reasonable opportunity to prepare. All face to face meetings will be held in such location as mutually agreed by the Parties.

Section 20.6 Cooperation. It is the Parties' intent that the relationship between them be a cooperative one and if the representatives attending any regularly scheduled meetings cannot agree on a solution to an issue raised, both Parties agree to elevate the issue within their respective organizations until a mutually agreeable solution is reached. To the extent Quest recommends a process improvement on the part of State, State will, within a reasonable time, inform Quest whether it intends to adopt the proposed process improvement. Quest will work with other departments and functions within State to constantly improve processes that contribute to financial performance and State satisfaction.

Article 21. CERTAIN REMEDIES AND TERMINATION

Section 21.1 Initial Deliverables not Satisfactory. If the Initial Deliverables are not satisfactory to the State in its sole and absolute discretion, then the State may terminate this Agreement, in whole but not in part, upon written notice to Quest and given within fifteen (15) days of the receipt of the Initial Deliverables. Upon such termination, State shall have no further obligation to Quest except to pay the amount due Quest for the delivery of the Initial Deliverables pursuant to Attachment A, return all Components of the Licensed Software Program and any other Deliverables delivered to

State other than the Initial Deliverables. Upon termination pursuant to this Section 21.1 the License shall terminate.

Section 21.2 Remedies for Failure to Meet Major Milestones. If Quest fails to deliver a Deliverable, complete a Service or otherwise take required action so that Acceptance of a Major Milestone occurs by the date specified for that Major Milestone in Attachment A, State may, at its option, while the Major Milestone remains not Accepted (A) extend the date for Acceptance (while retaining State's right to exercise the rights provided in clauses (B) or (C) below), or (B) obtain from Quest a refund of all amounts paid by State under this Agreement except for the amount paid for the Reusable Deliverables which have been Accepted, or (C) retain all Deliverables, including any Components of the Licensed Software Program (in both object and source code) delivered to State by Quest, retain the License, and terminate this Agreement for cause without having any further liability or obligation to Quest for payment beyond amounts due and payable prior to the failure.

Section 21.3 Other Failures. In the event that Deliverables or Services, not provided for in Section 21.2 do not so conform to the warranty in Section 18.2 and have not been Accepted, Quest will render all services necessary to make the same so conform as soon as possible, but in no event later than ten (10) days following notice to Quest. State may withhold payment for the Deliverable or Service until it is Accepted. If Quest fails to remedy such nonconformance, State may, at its option: (A) extend the foregoing correction period (while retaining State's right to exercise the rights provided in clause (B) below), or (B) correct the failure at Quest's expense.

Section 21.4 Termination for Cause By Either Party. In those instances other than those provided for in Section 21.2, if either Party believes that the other Party has failed to perform an obligation a Party is obliged to perform under this Agreement that is so fundamental that the failure to perform the obligation defeats the essential purpose of the Agreement, then, except as provided in Section 21.8 as to certain failures by State, that Party may provide written notice directed to the breaching Party's Project Manager describing the alleged breach in reasonable detail. If the breaching Party does not, within twenty (20) days after receiving such written notice, either (1) cure the breach or (2) if the breach is not one that can reasonably be cured within twenty (20) days, develop a plan as mutually agreed to by both Parties and subject to other deadlines provided in this Agreement, to cure the breach and diligently proceed according to the plan until the breach has been cured, then the non-breaching Party may terminate the Agreement, in whole but not in part, for cause by written notice to the Project Manager of the breaching Party. Prior to termination of the Agreement for cause, the Party receiving the initial notice under the preceding sentence will be afforded an opportunity to meet with a senior management representative of the non-breaching Party to explain its position.

Section 21.5 Payment. Upon termination of this Agreement pursuant to Section 21.4 the following shall apply:

- (a) Upon State termination for cause, all undisputed amounts due Quest for Services rendered up to the date of termination, or undisputed damages caused to State, are due and payable, and each Party will promptly deliver to the other Party, or upon request, certify the status of, all data, materials and programs of the

other Parties (except as expressly provided herein) in connection with this Agreement. Payment to Quest shall include payment for all Services rendered up to the last day Services are provided, including transition services (if any).

(b) Upon Quest's termination for cause pursuant to Section 21.4, all undisputed amounts due Quest for Services rendered up to the date of termination, or undisputed damages caused to State, are due and payable, and each Party will promptly deliver to the other Party, or upon request, certify the status of, all data, materials and programs of the other Parties (except as expressly provided herein) in connection with this Agreement. Payment to Quest shall include payment for all Services rendered up to the last day Services are provided, including transition services (if any). In addition, State will also pay Quest for out-of-pocket Demobilization Costs, if any, and for any hardware and operating system software ordered by the State for State Authorized Users and for which expenditures have been made by Quest or its affiliate prior to the date of termination.

Section 21.6 Software. Except as otherwise expressly provided in this Agreement, after termination of this Agreement, for any reason, the State shall have the right to continue to use the Licensed Software Program subject to the State's full conformance to the terms and conditions of Article 7 and Article 15 (which shall survive termination of this Agreement).

Section 21.7 Return. Upon the expiration of the term of this Agreement, except for the right to continue using the Licensed Software Program and Documentation, State will return to Quest all Quest Confidential Information, Proprietary Items and any unpaid Work Products within its control.

Section 21.8 State's Failure. State's failure to perform any of its non-monetary obligations set forth in this Agreement shall not be deemed to be grounds for termination of this Agreement by Quest. Quest shall be excused in its performance of its obligations for any period and to the extent that it is prevented from performing such obligations by State's failure to perform its obligations under this Agreement, provided that Quest uses commercially reasonable efforts to perform its obligations notwithstanding State's or its agents' or subcontractors' failure to perform. Quest shall notify State in writing of any such failure to perform within a reasonable period of time after Quest has become aware of such failure. If Quest uses commercially reasonable efforts to perform notwithstanding State's failure to perform, State shall reimburse Quest for its incremental costs and expenses incurred in such effort to perform. Such reimbursement shall be on a "pass-through" basis if such wrongful action, delay or failure to perform is a one-time or non-recurring event. However, if such failure to perform occurs on a recurring basis, Quest's performance of such State obligations shall be deemed to constitute additional services and subject to the operation of Article 8. Notwithstanding any provision of this Agreement to the contrary, under no circumstances will Quest be deemed to be in breach of this Agreement for any failure or delay by the State in performing any of its responsibilities set forth in this Agreement.

Article 22. INDIANA REQUIRED PROVISIONS

Section 22.1 **Performance Bond.** Quest agrees to furnish the Indiana Department of Administration with a Performance Bond in the amount of One Million Dollars (\$1,000,000.00) within ten (10) days after receipt of a signed contract. The Performance Bond shall be delivered to:

Ms. Shelley Harris
Procurement Division
Indiana Department of Administration
402 West Washington Street, W468
Indianapolis, Indiana 46204

The Performance Bond may be in the form of a letter of credit, cashier's check, a certified check or a surety bond. The Performance Bond shall bind the surety to all of the terms and conditions of this Agreement, whether or not Quest or subcontractor performs the term or condition. The Performance Bond shall be procured at the expense of Quest and shall be made payable to the State of Indiana Department of Administration and shall be effective throughout the entire life of this Agreement. If a surety bond is executed, the Surety Company must be authorized to do business in the State of Indiana and approved by the Insurance Department of the State of Indiana. If a letter of credit is used, the form of the letter of credit shall be satisfactory to State.

Any change in work, extension of time, renewal, or termination for default of this Agreement, pursuant to any provision of this Agreement, shall in no way release Quest or any of its sureties from any of their obligations under this provision. The Performance Bond shall contain a waiver of notice of any amendments to this Agreement.

The Performance Bond shall provide that the State of Indiana shall be entitled to recover its losses, expenses, and damages, including amounts required to be refunded pursuant to Section 21.1, Section 21.2 and **Error! Reference source not found.** (up to the penal sum of the bond), subject to all other conditions and limitations stated elsewhere in this Agreement, incurred as a result of termination of the Contract for the default of Quest (or in the case of Section 21.1, at State's election) before expiration of its term.

Section 22.2 **Access to Records.** Quest and its subcontractors, if any, shall maintain all books, documents, papers, accounting records, and other evidence pertaining to all costs incurred under this Agreement. They shall make such materials available at their respective offices at all reasonable times during this Agreement term, and for three (3) years from the date of final payment under this Agreement, for inspection by the State or by any other authorized representative of state government. Copies thereof shall be furnished at no cost to the State if requested.

Section 22.3 **Assignment.** Quest shall not assign or subcontract the whole or any part of this Agreement without the State's prior written consent. Quest may assign its right to receive payments to such third parties as Quest may desire without the prior written consent of the State, provided that Quest gives written notice (including evidence of such assignment) to the State thirty (30) days in advance of any payment so assigned.

The assignment shall cover all unpaid amounts under this Agreement and shall not be made to more than one party.

Section 22.4 **Audits.** Quest acknowledges that it may be required to submit to an audit of funds paid through this Agreement. Any such audit shall be conducted in accordance with IC 5-11-1, and audit guidelines specified by the State. Notwithstanding the foregoing, no consent shall be required for (A) assignment of this Agreement to another entity under common control with Quest, provided that Quest continues as an obligor hereunder, or (B) any subcontract involving consideration less than Fifteen Thousand Dollars (\$15,000).

Section 22.5 **Authority to Bind Quest.** Notwithstanding anything in this Agreement to the contrary, the signatory for Quest represents that he/she has been duly authorized to execute contracts on behalf of Quest and has obtained all necessary or applicable approvals from the home office of Quest to make this Agreement fully binding upon Quest when his/her signature is affixed, and this Agreement is not subject to further acceptance by Quest when accepted by the State of Indiana.

Section 22.6 **Compliance with Laws.** Quest shall comply with all applicable federal, state and local laws, rules, regulations and ordinances, the provisions of which are incorporated by reference. The enactment or amendment of any applicable state or federal statute or the promulgation of any rules or regulations thereunder after execution of this Agreement shall be reviewed by the State and Quest to determine whether the provisions of this Agreement require formal modification.

Section 22.7 **Condition of Payment.** All Deliverables provided by Quest under this Agreement must be performed to the State's reasonable satisfaction, as determined at the discretion of the undersigned State representative and in accordance with all applicable federal, state, local laws, ordinances, rules and regulations. Quest will not receive payment for work found by the State to be unsatisfactory or performed in violation of federal, state, or local law.

Section 22.8 **Confidentiality of State Information.** Quest understands and agrees that data, materials, and information disclosed to Quest may contain confidential and protected data. Therefore, Quest promises and assures that data, material, and information gathered, based upon or disclosed to Quest for the purpose of this Agreement, will not be disclosed to others or discussed with third parties without the prior written consent of the State.

Section 22.9 **Conflict of Interest.** As used in this section:

(i) **"Immediate family"** means the spouse and the unemancipated children of an individual.

(ii) **"Interested party,"** means:

(1) The individual executing this Agreement;

(2) An individual who has an interest of three percent (3%) or more of Quest, if Quest is not an individual; or

(3) Any member of the immediate family of an individual specified under subdivision (1) or (2).

(iii) “**Department**” means the Indiana Department of Administration.

(iv) “**Commission**” means the State Ethics Commission.

(b) The Department may cancel this Agreement without recourse by Quest if any interested party is an employee of the State of Indiana.

(c) The Department will not exercise its right of cancellation under section B above if Quest gives the Department an opinion by the Commission indicating that the existence of this Agreement and the employment by the State of Indiana of the interested party does not violate any statute or rule relating to ethical conduct of state employees. The Department may take action, including cancellation of this Agreement consistent with an opinion of the Commission obtained under this section.

(d) Quest has an affirmative obligation under this Agreement to disclose to the Department when an interested party is or becomes an employee of the State of Indiana. The obligation under this Section extends only to those facts that Quest knows or reasonably could know.

Section 22.10 **Continuity of Services.**

(a) Quest recognizes that the service(s) to be performed under this Agreement are vital to the State and must be continued without interruption and that, upon Agreement expiration, a successor, either the State or another contractor, may continue them. Quest agrees to:

(v) Furnish phase-in training, and

(vi) Exercise its best efforts and cooperation to effect an orderly and efficient transition to a successor.

(b) Quest shall, upon the State’s written notice:

(vii) Furnish phase-in, phase-out services for up to sixty (60) days after this Agreement expires, and

(viii) Negotiate in good faith a plan with a successor to determine the nature and extent of phase-in, phase-out services required.

The plan shall specify a training program and a date for transferring responsibilities for each division of work described in the plan, and shall be subject to the State’s approval. Quest shall provide sufficient experienced personnel during the phase-in, phase-out period to ensure that the services called for by this Agreement are maintained at the required level of proficiency.

Quest shall be reimbursed for all reasonable phase-in, phase-out charges and costs (*i.e.*, costs incurred within the agreed period after contract expiration that result from phase-in, phase-out operations).

Section 22.11 **Debarment and Suspension.** Quest certifies, by entering into this Agreement, that neither it nor its principals are presently debarred, suspended, proposed

for debarment, declared ineligible, or voluntarily excluded from entering into this Agreement by any federal agency or by any department, agency or political subdivision of the State of Indiana. The term “principal” for purposes of this Agreement means an officer, director, owner, partner, key employee, or other person with primary management or supervisory responsibilities, or a person who has a critical influence on or substantive control over the operations of Quest. Quest also further certifies that it has verified the suspension and debarment status for all sub-contractors receiving funds under this Agreement and is solely responsible for any paybacks and or penalties that might arise from non-compliance.

Section 22.12 Termination for Convenience. This Agreement may be terminated, in whole or in part, by the State whenever, for any reason, the State determines that such termination is in the best interest of the State. Termination of services shall be effected by delivery to the Contractor of a Termination Notice at least thirty (30) days prior to the termination effective date, specifying the extent to which performance of services under such termination becomes effective. The Contractor shall be compensated for services properly rendered prior to the effective date of termination. The State will not be liable for services performed after the effective date of termination. The Contractor shall be compensated for services herein provided but in no case shall total payment made to the Contractor exceed the original contract price or shall any price increase be allowed on individual line items if canceled only in part prior to the original termination date.

Section 22.13 Default by State. If the State, sixty (60) days after receipt of written notice, fails to correct or cure any material breach of this Agreement, then Quest may cancel and terminate this Agreement and collect all monies due up to and including the date of termination.

Section 22.14 Disputes.

(a) Should any disputes arise with respect to this Agreement, Quest and the State agree to act immediately to resolve such disputes. Time is of the essence in the resolution of disputes.

(b) Quest agrees that, the existence of a dispute notwithstanding, it will continue without delay to carry out all its responsibilities under this Agreement that are not affected by the dispute. Should Quest fail to continue to perform its responsibilities regarding all non-disputed work, without delay, any additional costs incurred by the State or Quest as a result of such failure to proceed shall be borne by Quest, and Quest shall make no claim against the State for such costs. If the State and Quest cannot resolve a dispute within ten (10) business days following notification in writing by either party of the existence of a dispute, then the following procedure shall apply:

(ix) The Parties agree to resolve such matters through submission of their dispute to the Commissioner of the Indiana Department of Administration. The Commissioner shall reduce a decision to writing and mail or otherwise furnish a copy thereof to Quest and the State within ten (10) business days after presentation of such dispute for action. The Commissioner’s decision shall be final and conclusive unless either party

mails or otherwise furnishes to the Commissioner, within ten (10) business days after receipt of the Commissioner's decision, a written appeal. Within ten (10) business days of receipt by the Commissioner of a written request for appeal, the decision may be reconsidered. If no reconsideration is provided within ten (10) business days, the Parties may mutually agree to submit the dispute to arbitration for a determination, or otherwise the dispute may be submitted to an Indiana court of competent jurisdiction.

The State may withhold payments on disputed items pending resolution of the dispute. The unintentional nonpayment by the State to Quest of one or more invoices not in dispute in accordance with the terms of this Agreement will not be cause for Quest to terminate this Agreement, and Quest may bring suit to collect these amounts without following the disputes procedure contained herein.

Section 22.15 Drug-Free Workplace Certification. Quest hereby covenants and agrees to make a good faith effort to provide and maintain a drug-free workplace. Quest will give written notice to the State within ten (10) days after receiving actual notice that Quest or an employee of Quest has been convicted of a criminal drug violation occurring in the contractor's workplace.

False certification or violation of the certification may result in sanctions including, but not limited to, suspension of contract payments, termination of this Agreement and/or debarment of contracting opportunities with the State of Indiana for up to three (3) years.

In addition to the provisions of the above paragraphs, if the total contract amount set forth in this Agreement is in excess of \$25,000.00, Quest hereby further agrees that this agreement is expressly subject to the terms, conditions, and representations of the following certification:

This certification is required by Executive Order No. 90-5, April 12, 1990, issued by the Governor of Indiana. Pursuant to its delegated authority, the Indiana Department of Administration is requiring the inclusion of this certification in all contracts and grants from the State of Indiana in excess of \$25,000. No award of a contract shall be made, and no contract, purchase order or agreement, the total amount of which exceeds \$25,000, shall be valid, unless and until this certification has been fully executed by Quest and made a part of the contract or agreement as part of the contract documents.

Quest certifies and agrees that it will provide a drug-free workplace by:

(a) Publishing and providing to all of its employees a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance is prohibited in Quest's workplace, and specifying the actions that will be taken against employees for violations of such prohibition;

(b) Establishing a drug-free awareness program to inform its employees of (1) the dangers of drug abuse in the workplace; (2) Quest's policy of maintaining a drug-free workplace; (3) any available drug counseling, rehabilitation, and employee assistance programs; and (4) the penalties that may be imposed upon an employee for drug abuse violations occurring in the workplace;

(c) Notifying all employees in the statement required by subparagraph (A) above that as a condition of continued employment, the employee will (1) abide by the terms of the statement; and (2) notify Quest of any criminal drug statute conviction for a violation occurring in the workplace no later than five (5) days after such conviction;

(d) Notifying in writing the State within ten (10) days after receiving notice from an employee under subdivision (C)(2) above, or otherwise receiving actual notice of such conviction;

(e) Within thirty (30) days after receiving notice under subdivision (C)(2) above of a conviction, imposing the following sanctions or remedial measures on any employee who is convicted of drug abuse violations occurring in the workplace: (1) taking appropriate personnel action against the employee, up to and including termination; or (2) requiring such employee to satisfactorily participate in a drug abuse assistance or rehabilitation program approved for such purposes by a federal, state or local health, law enforcement, or other appropriate agency; and

(f) Making a good faith effort to maintain a drug-free workplace through the implementation of subparagraphs (A) through (E) above.

Section 22.16 Force Majeure. In the event that either Party is unable to perform any of its obligations under this Agreement or to enjoy any of its benefits because of acts of war, terrorism (but not cybervandalism), natural disaster or decrees of governmental bodies not the fault of the affected Party (hereinafter referred to as a “**Force Majeure Event**”), the Party who has been so affected shall immediately give notice to the other Party and shall do everything possible to resume performance. Upon receipt of such notice, all obligations under this Agreement shall be immediately suspended. If the period of nonperformance exceeds thirty (30) days from the receipt of notice of the Force Majeure Event, the Party whose ability to perform has not been so affected may, by giving written notice, terminate this Agreement. As used herein, “cybervandalism” refers to interference with the operation of the System by virus, key lock, back door, trap door, clock, timer, counter or other limiting or disabling design, instruction, routine or self-replicating code that would disrupt the use of the Licensed Software Program or any hardware, software or systems to which it is interfaced or connected, or which would destroy, disable or damage data or make data inaccessible or inoperable to users of the Licensed Software Program. Cybervandalism does not include software programs or actions which disrupt or interfere with the operation of the internet or any hardware or software supporting the internet.

Section 22.17 Funding Cancellation. When the Director of the State Budget Agency makes a written determination that funds are not appropriated or otherwise available to support continuation of performance of this Agreement, this Agreement shall be canceled. A determination by the Budget Director that funds are not appropriated or otherwise available to support continuation of performance shall be final and conclusive.

Section 22.18 Governing Laws. This Agreement shall be construed in accordance with and governed by the laws of the State of Indiana and suit, if any, must be brought in the State of Indiana.

Section 22.19 **Indemnification.** Quest agrees to indemnify, defend, and hold harmless the State of Indiana and its agents, officials, and employees from all claims and suits including court costs, attorney's fees, and other expenses caused by any act or omission of Quest and/or its subcontractors, if any. The State shall not provide such indemnification to Quest.

Section 22.20 **Independent Contractor.** Both Parties hereto, in the performance of this Agreement, shall act in an individual capacity and not as agents, employees, partners, joint venturers or associates of one another. The employees or agents of one Party shall not be deemed or construed to be the employees or agents of the other Party for any purposes whatsoever. Neither Party will assume liability for any injury (including death) to any persons, or damage to any property arising out of the acts or omissions of the agents, employees or subcontractors of the other Party.

Quest shall be responsible for providing all necessary unemployment and workers' compensation insurance for Quest's employees.

Section 22.21 **Information Technology Accessibility.** All contractors supplying information technology related products and services to the State of Indiana must comply with all ITOC policies and standards. These policies and standards can be found at http://www.in.gov/itoc/html_site/architecture/poli.html and http://www.in.gov/itoc/html_site/architecture/stan.html. Any deviation from the published standards and policies must be approved by ITOC and be supported by a written waiver.

Quest acknowledges and agrees that all hardware, software and services provided to or purchased by the State must be compatible with the principles and goals contained in the electronic and information technology accessibility standards adopted by the Architectural and Transportation Barriers Compliance Board under Section 508 of the Federal Rehabilitation Act of 1973 (29 U.S.C. 749d), as amended, and adopted by the State of Indiana Information Technology Oversight Commission pursuant to IC 4-23-16-12.

Section 22.22 **Insurance.**

(a) Quest shall secure and keep in force during the term of this Agreement, the following insurance coverages, covering Quest for any and all claims of any nature which may in any manner arise out of or result from this Agreement:

(i) Commercial general liability, including contractual coverage, and products or completed operations coverage (if applicable), with minimum liability limits of \$500,000 per person and \$1,000,000 per occurrence unless additional coverage is required by the State.

(ii) Professional errors and omissions, including a one year "tail coverage endorsement," with minimum liability limits of \$1,000,000 per occurrence and in the aggregate.

(iii) Automobile liability with minimum liability limits of \$250,000 per person and \$1,000,000 per occurrence.

(iv) Workers compensation coverage meeting all statutory requirements of IC 22-3-2. In addition, an “all states endorsement” covering claims occurring outside the state of Indiana if any of the services provided under this agreement involve work outside the state of Indiana. Quest shall provide proof of such insurance coverage by tendering to the undersigned State representative, a certificate of insurance prior to the commencement of this agreement.

(b) Quest’s insurance coverage must meet the following additional requirements:

(i) Any deductible or self-insured retention amount or other similar obligation under the insurance policies shall be the sole obligation of Quest.

(ii) The State will be defended, indemnified, and held harmless to the full extent of any coverage actually secured by Quest in excess of the minimum requirements set forth above. The duty to indemnify the State under this Agreement shall not be limited by the insurance required in this agreement.

(iii) The insurance required in this Agreement, through a policy or endorsement, shall include a provision that the policy and endorsements may not be canceled or modified without thirty (30) days’ prior written notice to the undersigned State representative.

(iv) Failure to provide insurance as required in this Agreement is a material breach of contract entitling the State to immediately terminate this Agreement.

Quest shall furnish a certificate of insurance and all endorsements to the undersigned State representative prior to the commencement of this Agreement.

Section 22.23 Licensing Standards. The Parties agree that Quest and its employees and subcontractors shall comply with all applicable licensing standards, certification standards, accrediting standards and any other laws, rules or regulations governing services to be provided by Quest pursuant to this Agreement. The State shall not be required to reimburse Quest for any services performed when Quest or its employees or subcontractors are not in compliance with such applicable standards, laws, rules or regulations. If licensure, certification or accreditation expires or is revoked, Quest shall notify State immediately and the State, at its option, may immediately terminate this Agreement.

Section 22.24 Merger & Modification. This Agreement constitutes the entire agreement between the Parties. No understandings, agreements, or representations, oral or written, not specified within this Agreement will be valid provisions of this Agreement. This Agreement may not be modified, supplemented, or amended, in any manner, except by written agreement signed by all necessary parties.

Section 22.25 Minority and Women Business Enterprise Compliance. Quest agrees to comply fully with the provisions of Quest’s MBE/WBE participation plans, and

agrees to comply with all Minority and Women Business Enterprise statutory and administrative code requirements and obligations, including IC 4-13-16.5 and 25 IAC 5.

Quest further agrees to cooperate fully with the Minority and Women's Business Enterprises Division to facilitate the promotion, monitoring, and enforcement of the policies and goals of MBE/WBE program including any and all assessments, compliance reviews and audits that may be required.

Section 22.26 Nondiscrimination. Pursuant to IC 22-9-1-10 and the Civil Rights Act of 1964, Quest and its subcontractors shall not discriminate against any employee or applicant for employment in the performance of this Agreement. Quest shall not discriminate with respect to the hire, tenure, terms, conditions or privileges of employment or any matter directly or indirectly related to employment, because of race, color, religion, sex, disability, national origin or ancestry. Breach of this covenant may be regarded as a material breach of this Agreement. Quest's execution of this Agreement also signifies compliance with applicable federal laws, regulations, and executive orders prohibiting discrimination in the provision of services based on race, color, national origin, age, sex, disability or status as a veteran.

Quest understands that the State is a recipient of federal funds. Pursuant to that understanding, Quest and its subcontractor, if any, agree that if Quest employs fifty (50) or more employees and does at least \$50,000 worth of business with the State and is not exempt, Quest will comply with the affirmative action reporting requirements of 41 CFR 60-1.7. Quest shall comply with Section 202 of Executive Order 11246, as amended, 41 CFR 60-250, and 41 CFR 60-741, as amended, which are incorporated herein by specific reference. Breach of this covenant may be regarded as a material breach of this Agreement.

Section 22.27 Notice to Parties. Whenever any notice, statement or other communication is required under this Agreement, it shall be sent to the following addresses, unless otherwise specifically advised.

(a) Notices to the State shall be sent to each of the following by simultaneous e-mail or courier service:

Heather Willis
Indiana Secretary of State Todd Rokita
The Statehouse
200 West Washington Street, Room 201
Indianapolis, IN 46204

J. Bradley King
Indiana Election Division
302 West Washington Street
Room E-204
Indianapolis, IN 46204

Kristi Robertson
Indiana Election Division
302 West Washington Street

Room E-204
Indianapolis, IN 46204

(b) Notices to Quest shall be sent to:

Quest Information Systems, Inc.
8425 Keystone Crossing, Suite 240
Indianapolis, Indiana 46240-4325
Attn: William McCully

(c) Payments to Quest shall be sent to the address designated by Form W-9 on file with the auditor of state which is:

Quest Information Systems, Inc.
8425 Keystone Crossing, Suite 240
Indianapolis, Indiana 46240-4325
Attn: Controller

Section 22.28 **Order of Precedence.** Any inconsistency or ambiguity in this Agreement shall be resolved by giving precedence in the following order: (1) This Agreement with the Attachments, (2) RFP# 4-43, (3) Quest's "best and final offer" in response to RFP #4-43 and (4) Quest's response to RFP# 4-43.

Section 22.29 **Payments.** All payment obligations shall be made in arrears in accordance with Indiana law and state fiscal policies and procedures.

Section 22.30 **Penalties/Interest/Attorney's Fees.** The State will in good faith perform its required obligations hereunder and does not agree to pay any penalties, liquidated damages, interest, or attorney's fees, except as required by Indiana law, in part, IC 5-17-5, IC 34-54-8, and IC 34-13-1.

Notwithstanding the provisions contained in IC 5-17-5, the Parties stipulate and agree that any liability resulting from the State of Indiana's failure to make prompt payment shall be based solely on the amount of funding originating from the State of Indiana and shall not be based on funding from federal or other sources.

Section 22.31 **Security and Privacy of Health Information.** If any final regulation or body of regulations relating to the administrative simplification provisions of the Health Insurance Portability and Accountability Act of 1996 ("**Final HIPAA Regulations**"), or any amendment or judicial or administrative interpretation of the Final HIPAA Regulations, prohibits, restricts, limits or materially and adversely affects either party's rights or obligations hereunder, the Parties shall negotiate, in good faith, reasonable revisions to this Agreement for Services. The purpose of the negotiations shall be to revise the Agreement for Services so that the affected party can comply and/or act in accordance with such Final HIPAA Regulations, or amendment or judicial or administrative interpretation thereof and avoid or mitigate such prohibition, restriction, limitation or material and adverse effect. If the Parties fail to agree to such revisions within forty-five (45) days after written notice from the affected Party requesting negotiations under this paragraph, this Agreement for Services shall terminate. If so terminated Quest shall return all protected health information received from, created or received by Quest on behalf of the State. Quest shall retain no copies of such information in any form.

Section 22.32 **Severability.** The invalidity of any section, subsection, clause or provision of this Agreement shall not affect the validity of the remaining sections, subsections, clauses or provisions of this Agreement.

Section 22.33 **Substantial Performance.** This Agreement shall be deemed to be substantially performed only when fully performed according to its terms and conditions and any modification thereof.

Section 22.34 **Successors and Assignees.** Quest binds its successors, executors, administrators, and assignees to all covenants of this Agreement. Except as above set forth, Quest shall not assign, sublet or transfer interest in this Agreement without the prior written consent of the State of Indiana.

Section 22.35 **Taxes.** The State of Indiana is exempt from state, federal, and local taxes. The State will not be responsible for any taxes levied on Quest as a result of this Agreement.

Section 22.36 **Registration with the Secretary of State of Indiana.** Quest certifies that if it is a non-domestic entity, it is registered with the Indiana Secretary of State to do business in the State of Indiana.

Section 22.37 **Travel.** Expenditures made by Quest for travel will be reimbursed by the State at the current rate paid by the State of Indiana. Travel expenses can only be reimbursed in accordance with the State Travel Policies and Procedures as specified in the current Financial Management Circular (FMC #2003-1). Out-of-state travel requests must be reviewed by the State for availability of funds and for appropriateness per Circular guidelines.

Section 22.38 **Waiver of Rights.** No right conferred on either Party under this Agreement shall be deemed waived and no breach of this Agreement excused, unless such waiver or excuse is in writing and signed by the Party claimed to have waived such right.

Section 22.39 **Work Standards.** Quest shall execute its responsibilities by following and applying at all times the highest professional and technical guidelines and standards. If the State becomes dissatisfied with the work product of or the working relationship with those individuals assigned to work on this Agreement, the State may request in writing the replacement of any or all such individuals, and Quest shall grant such request.

Section 22.40 **Non-Collusion and Acceptance.** The officer executing this Agreement on behalf of Quest attests, subject to the penalties for perjury, that he/she is the officer of Quest, that he/she has not, nor has any other member, employee, representative, agent or officer of Quest, directly or indirectly, to the best of his/her knowledge, entered into or offered to enter into any combination, collusion or agreement to receive or pay, and that he/she has not received or paid, any sum of money or other consideration for the execution of this Agreement other than that which appears upon the face of this Agreement.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK.]

IN WITNESS WHEREOF, the Parties have executed this Agreement effective as of the date set forth above.

QUEST INFORMATION SYSTEMS, INC.

**OFFICE OF THE SECRETARY OF STATE
INDIANA ELECTION DIVISION**

By: _____
Printed Name: _____
Title: _____
Date: August _____, 2004

By: _____
Printed Name: _____
Title: _____
Date: August _____, 2004

By: _____
Printed Name: _____
Title: _____
Date: August _____, 2004

By: _____
Printed Name: _____
Title: _____
Date: August _____, 2004

DEPARTMENT OF ADMINISTRATION

**INFORMATION TECHNOLOGY OVERSIGHT
COMMISSION**

By: _____
Printed Name: _____
Title: _____
Date: August _____, 2004

By: _____
Printed Name: _____
Title: _____
Date: August _____, 2004

OFFICE OF THE ATTORNEY GENERAL

STATE BUDGET AGENCY

By: _____
Printed Name: _____
Title: _____
Date: August _____, 2004

By: _____
Printed Name: _____
Title: _____
Date: August _____, 2004

Schedule 1

[State Letterhead]

_____, 200_

[Name and Address of Vendor]

Re: Confidentiality Agreement

Gentlemen and Ladies:

You (as used herein, the term “you” shall be deemed and construed to mean and refer to _____, and all members, directors, officers, shareholders, partners, employees, agents and representatives of _____, will be presented with certain proprietary information described below in connection with work to be performed in conjunction with Indiana’s Statewide Voter Registration System (“**Project**”).

The State of Indiana, acting through the Office of the Secretary of State and the Indiana Election Division (collectively, “**State**”), or Quest Information Systems, Inc. the primary contractor on the Project (the “**Company**”), will make available to you certain oral or written information (collectively, “**Information**”) concerning products or services developed, owned or offered by the Company that the Company considers confidential and/or proprietary, solely for the purpose of your work on the Project. You agree the Information includes “trade secrets” as defined by the Uniform Trade Secrets Act, as defined by the State of Indiana, as amended (the “**Act**”). By receiving and accepting Information, you agree that, except as otherwise expressly provided herein, any Information that may be furnished to you by any official, employee, agent, accountant, attorney or other advisor (collectively, “**Representatives**”) of or for the State or the Company (i) will be kept confidential by you, (ii) will be used by you solely for the purpose of your work in respect of the Project, (iii) will not be used by you to the detriment of the Company (including, but not limited to, engaging in competition with the Company), (iv) will be provided and shown by you only to a limited number of responsible Representatives of and for you who need to know such Information (all of whom will be informed by you of the confidential nature of such Information and instructed by you to keep such Information confidential, and will agree to do so), for the sole purpose of your work on the Project, (v) will not be “misappropriated” (as

defined in the Act), and (vi) will not be made available by you to any other person for any other purpose whatsoever. You will be responsible for any breach hereof by your Representatives.

You further agree that (i) without the Company's prior written consent, you will not, and will direct your Representatives not to, disclose any Information unless, in the opinion of your counsel, such disclosure is required by law (in which case you will advise and consult with the Company and the Company's counsel prior to any disclosure you propose to make concerning the reasons for, and nature of, your proposed disclosure), and (ii) upon completion of your work on the Project, you will return all Information furnished you, and any copies thereof or extracts therefrom, will instruct your Representatives to destroy any notes or analyses which are derived from or contain such Information, and will confirm such destruction in writing to the Company.

The foregoing restrictions will not apply to any Information which you demonstrate (i) is on the date hereof, or hereafter becomes, generally available to the public other than as a result of a disclosure, directly or indirectly, by you or your Representatives, (ii) was available to you on a nonconfidential basis prior to its disclosure pursuant hereto, or (iii) becomes available to you on a nonconfidential basis from a source other than the Company or a Representative thereof or therefor, which source was not itself contractually or statutorily obligated to maintain confidentiality of the Information, and did not receive such Information, directly or indirectly, from any person so bound.

In the event that you are requested or required by deposition upon oral examination or written questions, interrogatories, requests for production of documents, subpoena, investigative demand or similar process to disclose any Information, you will provide the State and the Company prompt written notice thereof so that the provisions hereof, and cooperate in the Company's efforts to obtain an appropriate protective order or other reasonable assurance that such Information will be accorded confidential treatment. If, in the absence of a protective order or a waiver of your compliance with the provisions hereof, you are nonetheless, in the opinion of your counsel, compelled to disclose Information, or else stand liable for contempt or suffer any censure or penalty, you may disclose only such party of such Information as is required by law to be disclosed, without liability hereunder.

No failure or delay in exercising any right, power or privilege hereunder will operate as a waiver thereof, nor will any single or partial exercise thereof preclude any other or further exercise thereof or the exercise of any other right, power or privilege hereunder. This agreement will be binding on and inure to the benefit of the parties and their respective legal representatives, successors and assigns. This agreement has been entered into for the benefit of the State, the Company and their legal representatives, successors and assigns, and it is understood that the State or the Company, or their legal representatives, successors or assigns may institute appropriate proceedings against you to enforce this agreement. You agree that the Company is a beneficiary of this agreement and is entitled to enforce the agreement in its own name. You agree that money damages will not be a sufficient remedy for any violation of the terms hereof and, accordingly, either the State or the Company will be entitled to specific performance and injunctive relief as remedies for any such violation. In the event you do not prevail in any proceeding to enforce the terms of this Agreement, you agree to reimburse the prevailing party for attorneys' fees incurred by the State and the Company in respect of such proceeding. These remedies will not be exclusive remedies but will be in addition to all other remedies available at law or equity. You consent to personal jurisdiction in any action brought in any court, federal or State, within the State of Indiana having subject matter jurisdiction in the

matter. This agreement will be governed by and construed in accordance with the laws of the State of Indiana without giving effect to the principles of conflict of laws thereof. This agreement may be modified or waived only by a separate written agreement, executed by each party, expressly so modifying or waiving this Agreement.

Any notice, request, demand, or other communication required or permitted to be made under this agreement shall be in writing and shall be delivered personally or shall be sent by facsimile transmission. Any such notice shall be deemed given when so delivered personally or sent by facsimile transmission (and confirmed to have been received) to the address set forth below (or to any other address subsequently furnished in writing by any party in accordance with this paragraph): if to the State, then to:

, IN _____
Attention:
Facsimile: _____-_____-_____

if to you, then to:

, IN _____
Attention:
Facsimile: _____-_____-_____

Such notice, request, demand or other communication will be deemed to have been given as of the date so delivered personally or sent by facsimile.

If any provision of this agreement is held by a court of competent jurisdiction to be invalid, illegal or unenforceable, the remainder of the provisions of this agreement shall remain in full force and effect. The parties shall endeavor in good faith negotiations to replace any invalid, illegal or unenforceable provision with a valid, legal and enforceable provision, the effect of which comes as close as possible to that of the invalid, illegal or unenforceable provision. This Agreement may be executed in one or more counterparts, each of which shall be deemed to be an original, but all of which shall constitute the same agreement.

If the foregoing is acceptable to you, please execute this agreement in the space provided below and return one copy to the undersigned, whereupon this agreement will become a binding obligation of the parties.

Very truly yours,

[Signature Block for State]

By:_____

Execution Copy

Accepted and agreed to this ____
day of _____, 200_

By: _____
_____, _____

ATTACHMENT A
STATEMENT OF WORK AND
ACCEPTANCE CRITERIA

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STATEMENT OF WORK AND ACCEPTANCE CRITERIA

THIS ATTACHMENT A is issued under and subject to the Agreement between the STATE OF INDIANA, acting through the Office of the Secretary of State and the Indiana Election Division (“**State**”) and QUEST INFORMATION SYSTEMS, INC. (“**Quest**”) for a statewide voter registration management system (“**Agreement**”). Quest will provide to the State the design, development, and implementation Services as generally defined in the Agreement and further specified in this Attachment A. Unless otherwise provided in this Attachment, capitalized terms used in this Attachment have the meaning specified in the Agreement.

Article 1. MILESTONES

Milestones. Article 10 provides a list of all project deliverables with a payment schedule and acceptance timeframes. The following table defines the list of Major Milestones. Major Milestones represent key project checkpoints defined by the completion of a series of Milestones. Each Major Milestone is defined in this Article and consists of the listed Deliverables. The Acceptance Date is the date on which State Accepts all Deliverables contained in the Milestone.

ACCEPTANCE DATE	MAJOR MILESTONE	LIST OF CONTAINED DELIVERABLES
Effective Date plus 40 Days	Initial Deliverables	IN01, IN02, IN03
Effective Date plus 45 Days	Data Conversion Design	DC01, DC02
Effective Date plus 50 Days	Validation of Licensed Software Program Requirements for Elections Management	FT05
Effective Date plus 55 Days	Validation of Licensed Software Program Requirements for Voter Registration	FT06
Effective Date plus 60 Days	Validation of Licensed Software Program Requirements for Precincting	FT08
Effective Date plus 75 Days	Validation of Licensed Software Program Requirements for System Administration	FT07
Effective Date plus 97 Days	Technical Architecture Requirements Acceptance	TA187
Effective Date plus 110 Days	Licensed Software Program Design Acceptance (non-reporting components)	FT11, FT12, FT13, FT14
Effective Date plus 112 Days	Technical Architecture Design Acceptance	TA188
February 28, 2005	Validation of Licensed Software Program Requirements for Reports	FT09
May 31, 2005	Licensed Software Program Design Acceptance (reporting components)	FT15

ACCEPTANCE DATE	MAJOR MILESTONE	LIST OF CONTAINED DELIVERABLES
Effective Date plus 110 days	County Specific Implementation Plans (92 plans)	TA93 thru TA184
August 5, 2005	Complete Licensed Software Program Delivered	FT16, FT17, FT18, FT19, FT21
August 5, 2005	Pilot Counties Acceptance Completion	PI01
September 30, 2005	Acceptance of Licensed Software Program	FT20, FT22, FT23
November 15, 2005	Training Accepted	TR03-TR62: User Training Classes
December 15, 2005	System Accepted	All milestones scheduled through November 2005.

Milestone: “Initial Deliverables.” This milestone is considered achieved upon Acceptance of each of the Initial Deliverables: Project Charter, Project Plan and Initiation Project Management. The Project Charter and Project Plan are both “living documents” that will be updated throughout the execution of the project. The Acceptance of these Deliverables will be based on a review for reasonable completeness and accuracy.

Milestone: “Data Conversion Design.” This milestone is considered achieved upon acceptance of the Conversion Specification and the DIA Cleansing Design. Acceptance of the Conversion Specification will be based on the completeness and accuracy of the design of the required converted data for the Licensed Software Program. Acceptance of the DIA Cleansing Design will be based on the completeness and accuracy of the design of the interfaces to each of the three Direct Impact Agency system.

Milestone: “Validation of Licensed Software Program Requirements for Elections Management.” This milestone is considered achieved upon Acceptance of the detailed requirements definition of this part of the Licensed Software Program including Use Cases for each included function.

Milestone: “Validation of Licensed Software Program Requirements for Voter Registration.” This milestone is considered achieved upon Acceptance of the detailed requirements definition of this part of the Licensed Software Program including Use Cases for each included function.

Milestone: “Validation of Licensed Software Program Requirements for Precincting.” This milestone is considered achieved upon Acceptance of the detailed requirements definition of this part of the Licensed Software Program including Use Cases for each included function.

Milestone: “Validation of Licensed Software Program Requirements for System Administration.” This milestone is considered achieved upon Acceptance of the detailed requirements definition of this part of the Licensed Software Program including Use Cases for each included function.

Milestone: “Technical Architecture Requirements Acceptance.” This Milestone is considered achieved upon Acceptance of detailed requirements definition for

the technical architecture components, including but not limited to, hardware, networking components and security components of the technical architecture.

Milestone: “Licensed Software Program Design Acceptance (no reports).” This milestone is considered achieved upon Acceptance of the detailed design for all parts of the Licensed Software Program except the Reports. The detailed design will include prototypes of all screens and will detail business rules associated with each.

Milestone: “Validation of Licensed Software Program Requirements for Reports.” This milestone is considered achieved upon acceptance of the detailed requirements definition for reporting requirements included in the Licensed Software Program including Use Cases for each included function and prototype reports for each requirement.

Milestone: “Technical Architecture Design Acceptance.” This Milestone is considered achieved upon Acceptance of the design for the technical architecture, including, but not limited to, hardware, networking components and security components of the technical architecture.

Milestone: “Licensed Software Program Design Acceptance (reports).” This milestone is considered achieved upon Acceptance of the detailed design for all reports of the Licensed Software Program. The detailed design will include prototypes of all reports, and will detail business rules associated with each.

Milestone: “County Specific Implementation Plans.” This milestone is considered achieved upon Acceptance of each of the 92 county implementation plans.

Milestone: “Complete Licensed Software Program Delivered.” This milestone is considered achieved upon delivery to the User Acceptance Site of components of the Licensed Software Program.

Milestone: “Pilot County Execution Completion.” This milestone is considered achieved upon the conversion and implementation of all components within pilot Counties.

Milestone: “Acceptance of Licensed Software Program.” This milestone is considered achieved upon Acceptance of Licensed Software Program upon completion of the User Acceptance Testing activities as described in Article 8.

Milestone: “Training Accepted.” This milestone is considered achieved upon completion of all User Training classes and meeting the applicable Training Metrics.

Milestone: “System Accepted.” This milestone is considered achieved upon Acceptance of the System based on the Acceptance of all Deliverables scheduled for completion before the Go Live Date.

Article 2. LICENSED SOFTWARE PROGRAM SPECIFICATIONS

Section 2.1 **Specifications.** The Licensed Software Program Specifications shall achieve the business and technical requirements of State as initially defined in the Request for Proposal 4-43 and as documented in Article 11 of this Attachment. These requirements will be validated by State during requirement validation sessions.

Section 2.2 **Design Activities.** Quest will perform analysis activities to create specifications for the License Software Program, utilizing the FirstTuesday™ software, so that the Licensed Software Program will meet State’s business and technical requirements as reflected in Request for Proposal 4-43 and as documented in Article 11 of this Attachment. Quest will review existing State workflows and define State workflows for the Licensed Software Program.

Section 2.3 **Software Development Activities.** Quest will perform software development activities to deliver a system utilizing the FirstTuesday™ software to cause it to meet the Specifications for the Licensed Software Program for Indiana’s use.

Section 2.4 **Rates.** In the event of a change to State’s business and technical requirements that requires a Change to the Licensed Software Program or a State initiated change to an Accepted component of the Licensed Software Program the following hourly billing rates per staff level shall apply:

STAFF LEVEL	BILLING RATE
Project Manager	\$175.00
Analyst	\$125.00
Architect	\$125.00
Developer	\$100.00
Tester	\$ 75.00
Documenter	\$ 75.00

Article 3. CONVERSION ACTIVITIES

Section 3.1 **Convert Data.** Quest agrees to convert all of the data necessary to successfully operate the System from the data which currently exists at the Counties, this includes, but is not limited to: voter, associated polling, poll worker, street and jurisdiction data, GIS information, images of voter signatures and other images.

Section 3.2 **Quest Responsibility.** Quest shall provide all necessary activity and resources to the Counties to facilitate the extraction of the necessary conversion data from existing systems. Quest acknowledges that some Counties will not be able to provide data extracts and acknowledges that the risk of a County not having electronic data or not having the ability to supply the electronic data in a format that facilitates conversion is a risk undertaken by Quest and that the activity necessary for the conversion of that data would not be a Change.

Section 3.3 **County Workplan.** Quest shall develop a workplan for each County that identifies the data which is required to be converted for that County and any data gaps that must be filled to fully populate the data for the System. The workplan shall identify any appropriate contingency plans and workaround solutions when Counties do not currently contain the necessary electronic data to be converted and to fill any data gaps. The workplan shall provide for three data conversion iterations for each County with a reasonable time between each iteration to permit the County to perform the necessary data cleansing and conversion preparation activities with the third iteration being the final conversion. The workplan for the Counties shall be subject to Acceptance by State.

Section 3.4 **GIS Data.** Quest shall convert GIS/street-file information from the County GIS system into the GIS third party application utilized by the Licensed Software

Program in connection with the implementation of the System. In addition, Quest shall annually refresh that data during the term of the Agreement.

Section 3.5 **Data Accuracy.** Quest shall not be responsible for the accuracy of data supplied by the State or Counties to Quest. Quest's responsibility for data accuracy is limited to analysis and programming performed in the preparing data for the electronic conversion process. Conversion rules and processes will be submitted for approval by the State Project Manager after consultation with the appropriate County Representative.

Article 4. HARDWARE AND SOFTWARE PROCUREMENT

Section 4.1 **Procurement Facilitation.** Quest shall facilitate the procurement of the User Hardware and System Software specified on Attachment C through the current QPAs of the State of Indiana. Quest's Services include:

- Determination of the quantities and specifications for the User Hardware and the quantities, versions, maintenance/support options and other information for the System Software;
- Completion of the relevant forms with the required information;
- Coordination with the vendor of the delivery of the User Hardware and the System Software to assure that the Project remains on schedule; and
- Tagging the User Hardware with State provided asset tag.

Section 4.2 **Hardware Implementation.** Quest shall provide installation planning, site preparation, installation and setup at the State Hosting Site, review the hardware/software configuration with the State and County information system staff and install the User Hardware at the State Hosting Site and Counties and perform related system testing.

Section 4.3 **Site Survey.** At each County location and at the State Hosting Site, Quest shall:

- Verify existing network infrastructure functionality (*i.e.* existing and live cable drops) (Quest is not responsible for costs associated with acquiring or completing any missing network items, but will coordinate with appropriate resources). Quest is responsible for identifying any issues and remedies for any missing items.
- Verify existing power is functional (Quest is not responsible for costs associated with acquiring or completing any missing power items, but will coordinate with appropriate resources). Quest is responsible for identifying any issues and remedies for any missing items.
- Identify LAN infrastructure upgrades (*i.e.* hubs, switches, routers, patch panels upgrades, *etc.*) (Quest is not responsible for costs associated with acquiring or completing any missing LAN items, but will coordinate with appropriate resources). Quest is responsible for identifying any issues and remedies for any missing items.

- Identify additional cable and power drops required for the applicable User Hardware and location. Quest will work with SOS/IED and the Counties to validate that all necessary local area networking capabilities are available (wiring, hubs, routers, *etc.*) to support these workstations and printers (Quest is not responsible for costs associated with acquiring or completing any missing LAN items or for the additional cable and power drops, but will coordinate with appropriate resources).
- Verify environmental requirements (*i.e.* desk or workspace for workstation physical installation is available) (Quest is not responsible for costs associated with acquiring or completing any missing items, but will coordinate with appropriate resources).
- Complete Site Documentation of Findings.

Section 4.4 **Workstation Installation.** Quest shall install the 368 computer workstations and 241 laser printers at the Counties and perform the following tasks:

- Unpack equipment;
- Inspect for damage;
- Record asset information (*i.e.* serial number, asset tag, *etc.*);
- Physical setup and installation;
- Power On Self Test.
- Complete initial operating system and software installations and configurations;
- Complete network settings and verify network connectivity; and
- Verify application connectivity to the State Hosting Site based on Quest-supplied work instructions.
- Verify the ability to print.
- Quest shall not be required to modify the physical structure of any location to accommodate the equipment or the installation thereof.

Section 4.5 **Rates.** In the event of change to State’s business requirements that require a Change in technical requirements for the System or the Services scheduled to be provided under this Article 4, the following hourly billing rates per staff level shall apply:

<u>STAFF LEVEL</u>	<u>BILLING RATE</u>
Trainer/Installer	\$100.00
Project Manager	\$120.00
Project Consultant	\$ 60.00

Article 5. WORK TASKS

Section 5.1 **Project Management.** The Quest Project Manager or his designee will:

- Install all Hardware and technical architecture required to operate the Licensed Software Program and all other components at the State Hosting Site.
- Develop a technical architecture certification approach that will allow State to assess the technical architecture and participate in certification activities.
- Set up project reporting mechanisms including document management/version control for all deliverables and work products.
- Prepare and hold project kickoff meeting.
- Manage Quest project resources, including personnel and equipment, against the project work plan.
- Monitor quality by following Quest's guidelines which shall be provided to State and implemented by mutual agreement of Quest and State.
- Manage Quest project finances, including creating and managing the project budget, paying invoices, and preparing client billings.
- Conduct weekly project status meetings and create weekly project status summary report.
- Create detailed monthly project status summary report, including scorecard component.
- Participate in periodic project steering committee meetings.
- Create and maintain a Project Charter, which sets forth the overall plan for how the project will be performed, including schedule, staffing, assumptions, and quality assurance. The Project Charter will be a living document. This document will contain the information described in IN01 of Section 7.1.
- Create and maintain the Project Plan and County implementation plans which set out the major work processes and constituent units of work that will be used to accomplish the project. Each document will consist of a Microsoft Project document containing work tasks, task durations, task efforts, task dependencies and assigned resources.
- Create and provide Monthly Project Status Reports. This document will consist of:
 - (i) 1-2 page Executive Summary.
 - (ii) Scorecard showing project status in key areas.
 - (iii) List of key work tasks completed during the month.
 - (iv) List of key work tasks scheduled for the following month.

(v) List of work tasks that are behind schedule, with explanation and action being taken to address the schedule slippage.

(vi) Updated Risk Mitigation Plan.

(vii) Updated Project Plan.

- Create a Go Live report that includes:

(viii) List of issues encountered in each County.

(ix) List of actions taken to address issues.

(x) Documentation of go-live timing and initial transactions.

(xi) Assessment of County readiness and recommendations for further action.

(xii) Coordinate County and State resources to successful completion of activities and deliverables.

Section 5.2 Communications Activities. The Quest Project Team will:

- Work with State team to create a Communications Plan. This plan identifies and plans messages to program personnel, sponsors, and other stakeholders about the project. The Communications Plan will be a living document. This document will consist of:

(i) Introduction.

(ii) Experience and Best Practices.

(iii) Elements of Communication - Audience Groups - Timing of Communication Events - Communication and feedback channels - Communicators - Feedback and Measuring Effectiveness - Communication Event Messages.

(iv) Communications Record Template.

(v) Communications Event Schedule.

- Work with State team to migrate County activities and deliverables into a communication vehicle that is understood by County personnel.
- Assist State team with execution of Communications Plan.
- Conduct two days of high level orientation and high level demonstrations of the Licensed Software Program for Counties and other mutually agreed to stakeholders.
- Conduct a one-day orientation session for members of the legislature, as mutually agreed.
- Create Orientation/Demonstration Materials to be used during the high level orientation and high level demonstration of the System for stakeholders. This document will consist of:

(vi) Orientation session Agenda.

(vii) Microsoft PowerPoint presentation describing the project and the system at a high level.

Unless otherwise noted in the Agreement, all project reports, memos, project documents, deliverables, and other project communications will be delivered electronically in order to facilitate the timeliness of delivery. If a County or State entity cannot receive document(s) by email or download from a portal or FTP site, Quest will send the electronic documents on an appropriate portable storage medium such as CD or diskette.

Section 5.3 **Licensed Software Program Activities.** The Quest Project Team will:

- Determine the Licensed Software Program configuration through review of settings with State and County users.
- Design, build, test and implement the Licensed Software Program Software so that it meets State's business and technical requirements as reflected in Request for Proposal 4-43 and the Specifications.
- Manage the promotion of the Components and the Licensed Software Program from development to test mode and from test to production mode.
- Plan, design and conduct Performance Testing to measure system response times.
- Plan, design and support User Acceptance Testing to validate operation of the System in conformance with the Specifications. Provide initial scripts to the State for support of this process.
- Install and manage the System for the use by the State for User Acceptance Testing, Training, and Production Implementation.
- Support the System during the User Acceptance Testing period.
- Design, build, test and implement an interface with the Bureau of Motor Vehicles for verifying Drivers License numbers and the last four digits of the Social Security Number.
- Design, build, test and implement an interface with the Department of Corrections for obtaining lists of convicted felons.
- Design, build, test and implement an interface with the Department of Health for reporting of deceased voters.
- Install Licensed Software Program in test environment.
- Install Licensed Software Program in practice mode for use by Counties.
- Install Licensed Software Program in production mode for use by Counties.

- Install, manage and refresh the training environment(s) for training activities.

Section 5.4 Data Conversion Activities. The Quest Project Team will:

- Set up data conversion environment.
- Receive and analyze initial data extract from Counties.
- Convert County data extract twice to Licensed Software Program, working with Counties to resolve issues as they arise.
- Provide Counties with hard copy data verification reports.
- Support Counties when data conversion issues arise during practice mode.
- Receive and analyze final data extract from Counties.
- Convert County final data extract to Licensed Software Program, working with Counties to resolve issues as they arise.
- Support Counties when data conversion issues arise during production mode.

Section 5.5 Infrastructure Activities. The Quest Project Team will:

- Plan, design and conduct Failover Testing of State Hosting Site hardware components.
- Plan, design and conduct Security Testing to validate System operation in conformance with the System Security Requirements approved by the State.
- Determine, order, install and configure required State Hosting Site Hardware and System Software.
- Design, conduct and document end user site survey for Counties with State and State Authorized User's participation.
- Determine, order, install and configure required end user Hardware and System Software for Counties.
- Plan, design and implement the technical architecture operations management processes.
- Define and implement system security, including password management, user policies, role-based security, and other security measures, as mutually agreed between State and Quest. Security measures will be no less than the State security standards.
- Determine network bandwidth requirements for Counties.
- Determine network equipment requirements for Counties.
- Acquire and install telecommunication circuits and associated equipment for the Counties.

- Create user accounts for Counties.
- Implement network connectivity.

Section 5.6 **Other Project Activities.** The Quest Project Team will:

- Provide necessary on-site support to each County upon go-live.
- Provide Help Desk support to the State Authorized Users in Counties during Practice and Production operations.
- Provide support for Licensed Software Program problems as defined in Attachment B.
- Provide support for State Hosting Site Hardware and System Software as defined in Attachment C.
- Provide support for User Hardware and System Software acquired and deployed for use specifically under this Agreement as defined in Attachment C.
- Monitor network connectivity and troubleshoot network problems.

Section 5.7 **Imaging Activities.** The Quest Project Team will implement the imaging option 1 as described in the RFP. This option requires:

- Converting/importing of electronic images currently existing in any County system, including voter signature, registration documents, and voter form images.
- Scanning/importing of all voter signatures currently archived in paper form for all remaining Counties for all active voter registration records. An active voter registration record shall be defined as any voting record that appears in a poll book.
- Supplying each County with the ability to scan, index, store and retrieve all voter registration documents and signatures.

In delivering the backfile conversion activities, Quest will perform the following tasks:

- Receive, unbox and batch inbound documents received from Counties.
- Scan, clip signature, quality check and index each signature image.
- Prepare and load each image to the appropriate converted FirstTuesday voter record.
- Rebox and return documents to Counties.

County representatives will be responsible for the following tasks related to backfile conversion activities:

- Collecting, preparing for scanning, grouping, and packaging original documents for delivery to Quest designated location.

- “Preparing for scanning” shall include removing of staples, unfolding and/or positioning original documents in preparation for scanning.
- Shipping of original documents to Quest designated location.
- Refiling of original documents upon return from scanning.

Article 6. KEY PERSONNEL

Section 6.1 Quest Organization and Key Roles.

POSITION	NAME	RESPONSIBILITIES	% ON PROJECT
Account Manager	Bill McCully	Responsible for the business relationship between Quest and Indiana SOS/IED. Subject matter expertise.	10
Executive Sponsor	Dave Kleiman	Executive sponsor from Quest. Accountable for Quest’s overall commitment to the success of the project.	5
Project Manager	Mike Hinline	Project leadership and client relationship management. Coordinate project priorities, resources, schedule, and communication. Accountable for performance of the Project Team and for overall project success.	80
Deputy Project Manager	Tony Vollmer	Operational project management, status reporting, issue resolution, and administrative processes. Provide analytical and design leadership. Accountable for project objectives, deliverables, budget, and schedule.	100
Change Enablement Manager	Sarah Taylor	Elections subject matter expert (“SME”). Participate in analysis, understand requirements, and participate in design and development of solution, documentation, and training. Client advocate. Provide recommendations based on expertise in this area.	100 during assignment
Data Conversion Manager	Cheryl Kennard	Understand requirements, solution, current and future states. Design and manage data conversion process, including pertinent testing and user acceptance processes.	100 during assignment
Learning SME	Lou Russell	SME for the Learning aspect of Change Enablement, including development of training strategies and training quality assurance.	30 during assignment

Section 6.2 **Responsibilities and Activities.** See section 5 for a description of responsibilities and activities of key personnel.

Article 7. ACCEPTANCE CRITERIA

Section 7.1 **General Requirements.** All Deliverables will be reviewed for Acceptance by the State as the tasks associated with the Work Product are completed. At the beginning of each task, the Quest Management Team and State Management team

will confirm and revise (if necessary) the contents/acceptance criteria for each Deliverable for that task. This task will then serve as the basis for Deliverables Acceptance. All Deliverables will be presented to the State for Acceptance in concordance with Article 9 of the Agreement. All Components and the Licensed Software Program shall be delivered to State in source code and executable code format. Following is a list and description of each type of Deliverable to be provided by Quest under this Agreement. Many of these Deliverables are living documents that will be updated as the Project proceeds as mutually agreed.

Initial Deliverables (IN01 through IN03)		
IN01	Project Charter	<p>A document detailing the project approach and all major project processes and activities, including but not limited to:</p> <ul style="list-style-type: none"> • Project Schedule and Milestones • Project Resource Plan • Project Quality Action Plan • Project Objectives and Scope • Project Organization, Roles and Responsibilities • Project Assumptions • Project communications and management • Change Control • Communications • Transition • Data Conversion • Project Risk Mitigation Plan
IN02	Project Plan	<p>A detailed list of project tasks including a work breakdown structure (WBS), resource and staffing schedules including state and county personnel, comprehensive project meeting schedule, and Quest resources. The project plan as delivered will be a Baseline plan, maintained and modified throughout the project. The project plan will include, but not limited to:</p> <ul style="list-style-type: none"> • FirstTuesday Delivery Plan including: <ul style="list-style-type: none"> ○ Analysis ○ Design ○ Development ○ Testing

Initial Deliverables (IN01 through IN03)		
		<ul style="list-style-type: none"> • Data Conversion Plan • County Transition and Coordination Plan • Training Plan • Implementation Plan • Communication Plan • Technical Architecture Deployment Plan • Initial Managed Services Plan • Operations and Help Desk Plan • Security • Project Management and Reporting Plan
IN03	Initiation Project Management	Project management services to support the Initial Deliverables development activities

Data Conversion (DC01 through DC184)		
DC01	Conversion specification	Detailed specifications describing the source system data conversion requirements of the Licensed Software Program to assist the project team and the counties to identify data conversion design details and potential issues.
DC02	Direct Impact Agency Data Cleansing Design	Detailed design specifications on how each DIA's data will be used to assist in the cleansing of the System's data.
DC03 through DC94	Data Conversion Mapping Design	Data conversion design for each County mapping source data to the target data requirements, including details on how missing or incorrect data will be processed.
DC95 through DC186	Data Conversion Execution	Development and execution of the data conversion for each county.

Licensed Software Program (First Tuesday) (FT01 through FT27)		
FT01	First Tuesday Software Prototype Delivery	Delivery of the First Tuesday Software Prototype System for review and use to support the analysis and design project activities.
FT02	First Tuesday Software Prototype	Technical documentation of the database design of the First Tuesday application for review and use to support

Licensed Software Program (First Tuesday) (FT01 through FT27)		
	Database Model	the analysis and design project activities.
FT03	Implementation of Development & Test Technical Environments	Implementation of the technical hardware and software environments required to support the analysis, design, development and integration testing project activities.
FT04	User Interface Standards	Design of the Licensed Software Program user interface (look & feel) and the documentation of the standards necessary to support the design.
FT05 through FT09	Requirements Validation	Detailed definition of all business and technical requirements of the System. The requirements will be organized by the five (5) general subsystems (Voter Registration, Precincting, System Administration, Reporting and Election Management) of the Licensed Software Program. State review and approval will establish the baseline for the final design, development and configuration of the solution.
FT10	DIA Requirements	Detailed definition of all business and technical requirements of the DIA interfaces (BMV, DOC, DOH).
FT11 through FT15	Design	Detailed design of the System organized by the five (5) general subsystems (Voter Registration, Precincting, System Administration, Reporting and Election Management) of the Licensed Software Program. State review and approval will establish the design specification for the final development and configuration of the solution.
FT16 through FT19, FT21	Software Delivery	The Licensed Software Program will be delivered for User Acceptance Testing in five (5) releases (Voter Registration, Precincting, System Administration, Reporting and Election Management). Quest will provide complete technical and deployment support for the State and will provide Quest developed testing scripts and the Quest methodology for determining whether the System meets the performance requirements.
FT20, FT22, FT23	Software Acceptance	The acceptance of the Licensed Software Program after the completion of User Acceptance Testing by the State and the resolution of issues and defects by Quest. The Program will be accepted in three phases: <ul style="list-style-type: none"> • All non-reporting functions • All reporting functions

Licensed Software Program (First Tuesday) (FT01 through FT27)		
		<ul style="list-style-type: none"> • Complete

Pilot (PI01)		
PI01	Pilot	Acceptance of the System after use by at least ten counties testing all aspects of the System implementation.

Project Management (PM01 through PM22)		
PM01	Project Plan Template	Delivery of the Project Plan Template (MS Project document) to be used as the basis for the IN02 deliverable.
PM02	Project Charter Template	Delivery of the Project Charter Template to be used as the basis for the IN01 deliverable.
PM03	Project Portal Implementation	Acceptance of the Project Portal implementation used to provide communications to all project team members and to manage document version control for all project documents.
PM04	Requirements Validation Template	Delivery of the Requirements Template to be used as the basis for each Requirements deliverables.
PM05	Project Team Orientation	Project procedures and processes will be defined and presented to all applicable team members. This process will be repeated throughout the project as necessary to address changes in project team staff assignments.
PM06 through PM22	Monthly Project Management Services	Project management services will be partially invoiced each month. Services include overall Quest project management, executive QA activities, and management of analysis, design, development, data conversion, training, transition and technical activities.

Managed Services (MS01 through MS21)		
MS01, MS05, MS09, MS14, MS19	ASP Hosting Charges.	Fee for ASP hosting services invoiced monthly. Annual period is July through June.
MS02, MS06, MS10, MS15, MS20	Network Connectivity Charges	Fee for Network Connectivity invoiced monthly. Annual period is July through June.
MS03, MS07, MS11, MS16	Help Desk	Fee for Help Desk services invoiced monthly. Annual period is July through June.
MS04, MS08, MS13, MS18	Annual Software	Fee for on-going Licensed Software Program upgrades. Annual period is July through June.
MS11, MS16, MS21	Software Assurance Upgrades	Fee to provide software assurance for server operating system and SQL Server system software.

Technical Architecture (TA01 through TA190)		
TA01 through TA92	County Site Preparation and Installation	Preparation and installation of hardware and networking solution at each of the 92 county locations.
TA93 through TA184	Individual County Implementation Plans	Plans for each county covering hardware, networking, and other county specific activities.
TA185	Implementation of Prototype Technical Architecture	Implementation of the technical hardware and software environments required to support the analysis, design, development and integration testing project activities
TA186	ASP Servers	Acquisition and implementation of the servers and server software required to host the System.
TA187	Technical Architecture Requirements	Detailed definition of all technical requirements of the System. The requirements will include the System performance criteria to meet the Service Levels and to meet State's business and technical requirements.

Technical Architecture (TA01 through TA190)		
TA188	Technical Architecture Design	Detailed design of the technical architecture of the System, including servers, software, workstations and networking infrastructure
TA189	Security Requirements	Detailed definition of all security requirements of the System.
TA190	Security Design	Detailed design of the security aspects of the System.

Training (TR01 through TR67)		
TR01	User Training Requirements	Detailed definition of all training requirements of the System.
TR02	User Training Design	Detailed design of the Training Documentation of the System.
TR03	User Training Materials	Delivery and acceptance of the User Training Documentation.
TR04 through TR63	User Training Execution	Delivery of the 60 classes of User Training.
TR64 through TR67	Annual Training Refresh	Development and delivery of the annual user training refresh.

User Documentation (UD01 and UD02)		
UD01	User Documentation (no reports)	Delivery and acceptance of the user documentation for the System without the reports.
UD02	User Documentation (reports)	Delivery and acceptance of the user documentation for the System reports.

Article 8. USER ACCEPTANCE TESTING

Section 8.1 **Responsibilities.** The State is responsible for testing the Licensed Software Program for Acceptance and will be assisted by Quest. Quest will provide testing scripts developed by Quest as part of its testing activities, input and guidance in developing detailed plans for the testing activities, processes and tools to track testing progress and defect resolution activities. Quest will also provide its methodology to test the performance of the System to assure it meets the relevant Service Levels and the State’s business and technical requirements. Finally, Quest will provide an environment to support testing activities.

Section 8.2 **Prepare Test Strategy and Test Plans.** The Test Strategy will identify the high-level approach to the various testing activities and will document the roles and responsibilities for each activity. The Acceptance Test Plan drafted by Quest will describe the overall approach to acceptance testing, including the specific tests to be performed and the roles and responsibilities of project members during the testing. The plan will also document the procedures for correcting errors and testing subsequent corrections during the Acceptance Period. All business and technical requirements will be referenced by a test to ensure that the final solution meets all of these requirements. State may modify the plan as it deems appropriate.

Section 8.3 **Defect and Issue Tracking.** All test script results will be tracked, and any expected results or issues will be tracked utilizing a tracking system. Each defect or issue report will be rated according to the following scale:

1. **Priority A:** A Licensed Software Program deviation that does not have a viable detour or workaround, and results in failure to complete normal operations or data corruption.
2. **Priority B:** A deviation that causes a serious inconvenience, defined as a deviation that would be considered Priority A, but has a viable detour or workaround. A viable detour or workaround is defined as a process or procedure that allows the completion of normal operations.
3. **Priority C:** A deviation that interferes with the effective use of the Licensed Software Program and which can be easily avoided or a detour applied. The deviation has no business impact and may only be cosmetic.

Trouble reports will be reviewed and prioritized by the joint project management team. Corrected software will be installed by Quest and retesting will be coordinated as necessary.

Acceptance will be in accordance with Article 10 of the Agreement. A Component or the Licensed Software Program will meet the requirements for Acceptance if State determines there are no Priority A or B deviations and there is a plan for the prompt correction action of the Priority C deviations acceptable to State.

Section 8.4 **Test Scripts Attributes.** As part of the assistance provided by Quest to State, Quest shall develop test scripts which will include:

- Procedure for carrying out test including necessary resources.
- Test conditions.
- Expected results.
- Template for documenting results.

Section 8.5 **Test Script Inventory.** In addition to the development of scripts to test the success of the solution in meeting all business and technical requirements, test scripts will be developed to test the following aspects of the solution:

- Security
- Performance

- Failover
- Interface to the BMV
- Interface to the Department of Health
- Interface to the Department of Corrections

Section 8.6 **Test Script Documentation.** Each test script will be reported on covering:

- Actual test results for multiple test iterations as required.
- Documentation of resources required for testing.
- List of any outstanding issues.

Article 9. ACCEPTANCE CRITERIA FOR IMPLEMENTATION

Section 9.1 **Criteria.** In accordance with Article 10 and Article 11 of the Agreement, the following criteria will be used to document whether the design, development and implementation of the System have been successfully completed as specified under this Attachment A and the Agreement:

- The System meets all Specifications as confirmed through the Acceptance Test.
- The System meets all Performance Requirements as identified in the Specifications and confirmed through the Performance Test.
- The System meets all Security Requirements as identified in the Specifications and confirmed through the Security Test.
- The System meets all Failover Requirements as identified in the Specifications and confirmed in the Failover Test.
- Data has converted accurately as confirmed by State signoffs of County data validation worksheets provided by the Quest Project Team.
- End user hardware installed and operational in Counties and at the State's office as confirmed by State signoff for receipt of equipment and acceptance of connectivity test at time of deployment.
- Training delivered to County and State users as confirmed by Training Metrics.
- User manuals and other training documentation provided to County and State users as confirmed by State signoff for receipt of manuals and documentation and Acceptance.
- Help Desk operational as confirmed by State and County users being able to contact the Help Desk through a toll-free number, and State Acceptance.

- System placed into production in all Counties and at the State’s office and the State’s acceptance of the Go-Live Report.
- Ability of County and State users to log in and use the System to perform System operations as designed and implemented.

Article 10. DELIVERABLE LIST AND PAYMENT SCHEDULE

The following table is a list of all Deliverables and the estimated delivery date for each item. Dates shown at “+ *x* days” are days after the Effective Date. Each Deliverable has an Acceptance Period, a number of days allocated for the State’s review as part of the Acceptance process. Each Deliverable is marked to indicate whether it is a Reusable Deliverable. The retainage for each Deliverable is also calculated. Retainage will be paid upon Acceptance of the System (a Major Milestone in Article 1).

Deliverable Payment Schedule						
Deliverable ID	Brief Description	Acceptance Period (Business Days)	Estimated Delivery Date	Amount	Reusable Deliverable (Y/N)	Retainage
DC01	Conversion Specification (Delivery to Counties)	5	+30 days	30,000	Y	3,000
DC02	DIA Data Cleansing Design	5	+30 days	50,000	Y	5,000
DC03 to DC15	Data Conversion Mapping Design (13 counties at \$7,000 each)	10	+75 days	91,000	Y	9,100
DC112-DC126	Data Conversion Execution (15 counties)	5 each	7/5/2005	105,000	Y	10,500
DC127-DC141	Data Conversion Execution (15 counties)	5 each	8/5/2005	105,000	Y	10,500
DC142-DC156	Data Conversion Execution (15 counties)	5 each	9/5/2005	105,000	Y	10,500
DC157-DC171	Data Conversion Execution (15 counties)	5 each	10/5/2005	105,000	Y	10,500
DC16 to DC29	Data Conversion Mapping Design (14 counties at \$2,000 each)	10	+105 days	28,000	Y	2,800
DC172-DC186	Data Conversion Execution (15 counties)	5 each	11/5/2005	105,000	Y	10,500
DC30 to DC42	Data Conversion Mapping Design (13 counties at \$2,000 each)	10	1/5/2005	26,000	Y	2,600
DC43 to DC55	Data Conversion Mapping Design (13 counties at \$2,000 each)	10	2/5/2005	26,000	Y	2,600
DC56 to DC68	Data Conversion Mapping Design (13 counties at \$2,000 each)	10	3/5/2005	26,000	Y	2,600
DC69 to DC81	Data Conversion Mapping Design (13 counties at \$2,000 each)	10	4/5/2005	26,000	Y	2,600
DC82 to DC94	Data Conversion Mapping Design (13 counties at \$2,000 each)	10	5/5/2005	26,000	Y	2,600
DC95-DC111	Data Conversion Execution (17 counties)	5 each	6/5/2005	119,000	Y	11,900
FT01	First Tuesday Software Prototype Delivery	5	+0 days	400,000	N	40,000
FT02	First Tuesday Software Prototype Data Model	5	+0 days	75,000	N	7,500
FT03	Implementation of Development & Test Technical Environments	5	+0 days	150,000	N	15,000
FT04	User Interface Standards	5	+45 days	25,000	N	2,500
FT05	Election Management Requirements Validation	10	+40 days	25,000	Y	2,500
FT06	Voter Registration Requirements Validation	10	+45 days	25,000	Y	2,500
FT07	System Administration Requirements Validation	10	+65 days	25,000	Y	2,500
FT08	Precincting Requirements Validation	10	+50 days	25,000	Y	2,500
FT09	Reporting Requirements Validation	10	120 days	25,000	Y	2,500
FT10	DIA Interface Requirements	5	+60 days	25,000	Y	2,500
FT11	Election Management Design	5	+75 days	85,000	N	8,500
FT12	Voter Registration Design	5	+90 days	85,000	N	8,500
FT13	Precincting Design	5	+105 days	85,000	N	8,500
FT14	System Administration Design	5	+90 days	85,000	N	8,500
FT15	Reporting Design	5	5/31/2005	75,000	N	7,500
FT16	Election Management Software Delivery	0	12/4/2004	135,000	N	13,500

Deliverable Payment Schedule						
Deliverable ID	Brief Description	Acceptance Period (Business Days)	Estimated Delivery Date	Amount	Reusable Deliverable (Y/N)	Retainage
FT17	Voter Registration Software Delivery	0	3/5/2005	135,000	N	13,500
FT18	System Administration Software Delivery	0	3/5/2005	135,000	N	13,500
FT19	Precincting Software Delivery	0	4/5/2005	135,000	N	13,500
FT20	Software Acceptance (no reports)	25	5/5/2005	100,000	N	10,000
FT21	Reports Software Delivery	0	6/5/2005	50,000	N	5,000
FT22	Software Acceptance (reports)	15	7/5/2005	50,000	Y	5,000
FT23	First Tuesday software acceptance (complete)	30	7/5/2005	100,000	N	10,000
IN01	Project Charter	10	+30 days	171,195	Y	17,120
IN02	Project Plan	10	+30 days	50,000	Y	5,000
IN03	Initiation Project Management	10	+30 days	25,000	Y	2,500
PI01	Pilot Acceptance	30	7/5/2005	100,000	N	10,000
PM01	Baseline Project Plan Template	5	+0 days	50,000	Y	5,000
PM02	Project Charter Template	5	+0 days	50,000	Y	5,000
PM03	Project Portal Implementation	5	+0 days	75,000	Y	7,500
PM04	Requirements Validation Template	5	+0 days	50,000	Y	5,000
PM05	Project Team Orientation	10	+30 days	30,000	Y	3,000
PM06	Monthly Project Management Services	0	8/4/2004	50,000	Y	5,000
PM07	Monthly Project Management Services	0	9/4/2004	50,000	Y	5,000
PM08	Monthly Project Management Services	0	10/4/2004	50,000	Y	5,000
PM09	Monthly Project Management Services	0	11/4/2004	50,000	Y	5,000
PM10	Monthly Project Management Services	0	12/4/2004	50,000	Y	5,000
PM11	Monthly Project Management Services	0	1/5/2005	50,000	Y	5,000
PM12	Monthly Project Management Services	0	2/5/2005	50,000	Y	5,000
PM13	Monthly Project Management Services	0	3/5/2005	50,000	Y	5,000
PM14	Monthly Project Management Services	0	4/5/2005	50,000	Y	5,000
PM15	Monthly Project Management Services	0	5/5/2005	50,000	Y	5,000
PM16	Monthly Project Management Services	0	6/5/2005	50,000	Y	5,000
PM17	Monthly Project Management Services	0	7/5/2005	50,000	Y	5,000
PM18	Monthly Project Management Services	0	8/5/2005	50,000	Y	5,000
PM19	Monthly Project Management Services	0	9/5/2005	50,000	Y	5,000
PM20	Monthly Project Management Services	0	10/5/2005	50,000	Y	5,000
PM21	Monthly Project Management Services	0	11/5/2005	50,000	Y	5,000

Deliverable Payment Schedule						
Deliverable ID	Brief Description	Acceptance Period (Business Days)	Estimated Delivery Date	Amount	Reusable Deliverable (Y/N)	Retainage
PM22	Monthly Project Management Services	0	12/5/2005	50,000	Y	
MS01	1/2 ASP Hosting Charges (billed monthly)	0	12/4/2004	96,000	Y	
MS02	1/2 Annual Network Connectivity Charges (billed monthly)	0	12/4/2004	77,280	Y	
MS03	Help Desk (Yr1)	0	6/5/2006	195,000	Y	
MS04	Annual Software Charges (Yr1)	0	6/5/2005	46,890	N	
MS05	ASP Hosting Charges (Yr1) (billed monthly)	0	6/5/2005	230,200	Y	
MS06	Annual Network Connectivity Charges (Yr1) (billed monthly)	0	6/5/2005	154,560	Y	
MS07	Help Desk (Yr2)	0	6/6/2007	390,000	Y	
MS08	Annual Software Charges (Yr2)	0	6/6/2006	93,780	N	
MS09	ASP Hosting Charges (Yr2) (billed monthly)	0	6/6/2006	230,200	Y	
MS10	Annual Network Connectivity Charges (Yr2)	0	6/6/2006	154,560	Y	
MS11	Software Assurance Upgrades (OS, DB, Other)	0	6/6/2006	10,000	Y	
MS12	Help Desk (Yr3)	0	6/7/2008	390,000	Y	
MS13	Annual Software Charges (Yr3)	0	6/7/2008	93,780	N	
MS14	ASP Hosting Charges (Yr3) (billed monthly)	0	6/7/2007	230,200	Y	
MS15	Annual Network Connectivity Charges (Yr3) (billed monthly)	0	6/7/2007	154,560	Y	
MS16	Software Assurance Upgrades (OS, DB, Other)	0	6/7/2007	10,000	Y	
MS17	Help Desk (Yr4)	0	6/8/2009	390,000	Y	
MS18	Annual Software Charges (Yr4)	0	6/8/2009	93,780	Y	
MS19	ASP Hosting Charges (Yr4) (billed monthly)	0	6/8/2008	230,200	N	
MS20	Annual Network Connectivity Charges (Yr4) (billed monthly)	0	6/8/2008	154,560	Y	
MS21	Software Assurance Upgrades (OS, DB, Other)	0	6/8/2008	10,000	Y	
TA01-TA17	County Site Prep & Installation (17 counties at \$2,000 each)	5	4/5/2005	34,000	Y	3,400
TA185	Implementation of Prototype Technical Architecture	5	+0 days	50,000	N	5,000
TA186	ASP Servers	0	10/4/2004	156,700	Y	15,670
TA188	Technical Architecture Design	5	+105 days	50,000	Y	5,000
TA18-TA32	County Site Prep & Installation (15 counties at \$2,000 each)	5	5/5/2005	30,000	Y	3,000
TA187	Technical Architecture Requirements	5	+90 days	25,000	Y	2,500
TA189	Security Requirements	5	+90 days	25,000	Y	2,500
TA190	Security Design	5	+105 days	25,000	Y	2,500
TA33-TA47	County Site Prep & Installation (15 counties at \$2,000 each)	5	6/5/2005	30,000	Y	3,000
TA48-TA62	County Site Prep & Installation (15 counties)	5	7/5/2005	30,000	Y	3,000

Deliverable Payment Schedule						
Deliverable ID	Brief Description	Acceptance Period (Business Days)	Estimated Delivery Date	Amount	Reusable Deliverable (Y/N)	Retainage
TA63-TA77	County Site Prep & Installation (15 counties)	5	8/5/2005	30,000	Y	3,000
TA78-TA92	County Site Prep & Installation (15 counties)	5	9/5/2005	30,000	Y	3,000
TA93-TA184	92 Individual County Implementation Plans	10	+110 days	184,000	Y	18,400
TR01	User Training Requirements	5	+90 days	10,000	Y	1,000
TR02	User Training Design	10	+90 days	50,000	N	5,000
TR03	User Training Materials	0	3/5/2005	75,000	N	7,500
TR04-TR11	User Training Execution (8 classes @ \$8,000 each)	0	5/5/2005	64,000	N	6,400
TR12-TR19	User Training Execution (8 classes @ \$8,000 each)	0	6/5/2005	64,000	N	6,400
TR20-TR27	User Training Execution (8 classes @ \$8,000 each)	0	7/5/2005	64,000	N	6,400
TR28-TR36	User Training Execution (9 classes)	0	8/5/2005	72,000	N	7,200
TR37-TR45	User Training Execution (9 classes)	0	9/5/2005	72,000	N	7,200
TR46-TR54	User Training Execution (9 classes)	0	10/5/2005	72,000	N	7,200
TR55-TR63	User Training Execution (9 classes)	0	11/5/2005	72,000	N	7,200
TR64	Annual Training Refresh (Yr5)	0	11/5/2009	43,800	N	
TR65	Annual Training Refresh (Yr2)	0	6/6/2006	43,800	N	
TR66	Annual Training Refresh (Yr3)	0	6/7/2007	43,800	N	
TR67	Annual Training Refresh (Yr4)	0	6/8/2008	43,800	N	
UD01	User Documentation Acceptance (no reports)	10	5/5/2005	75,000	N	7,500
UD02	User Documentation Acceptance (reports)	10	7/5/2005	46,600	N	4,660
	Totals			9,526,245		586,500

Article 11. BUSINESS AND TECHNICAL REQUIREMENTS

The Licensed Software Program Specification shall achieve State’s business and technical requirements as reflected in Request for Proposal 4-43 (except as set forth in the following paragraph), Quest’s “best and final offer” in response to Request for Proposal 4-43 (the “BAFO”) , and Quest’s response to Request for Proposal 4-43 (that response and the BAFO, collectively, the “RFP Responses”).

The following Request for Proposal 4-43 requirements are excluded from the Licensed Software Program Specification:

- Requirement 107 – Excluded based on the batch integration approach and approval process between the GIS application and the 1st Tuesday application.
- Requirement 297, 298 & 299 – The capability exists to accept imports from Microsoft Access, Excel and Word, however, requirements not specified in RFP 4-43 will be required to complete the change control process and is not included as part of this contract.
- Requirement 331 – The capability exists; however, any customizations to input screens and formats not specified in RFP 4-43 will be required to complete the change control process and is not included as part of this contract.
- Requirement 360 – The capability exists; however, any APIs or web services not specified in RFP 4-43 will be required to complete the change control process and is not included as part of this contract.
- Requirement 396 – The capability exists; however, BMV will be responsible for integration to SSA. If the State requires integration to SSA in the future, the request will be considered a change control item.
- Requirement 397 – The capability exists to support integration to other state agencies via input files, however, requirements not specified in RFP 4-43 will be required to complete the change control process and is not included as part of this contract.
- Requirement 398 – The capability exists to support integration to other state agencies via export files; however, requirements not specified in RFP 4-43 will be required to complete the change control process and is not included as part of this contract.

The following Request for Proposal 4-43 requirements are included in the Licensed Software Program Specification but modified as set forth in the RFP Response comments of the following requirements:

- Requirement 173 – Modified comment identifies State responsibilities prior to leveraging voter registration acknowledgment cards with magnetic stripes.
- Requirement 319 – Modified comment identifies that the system has the capability but definition is required to meet the requirement.

- Requirement 325 and 326 - Modified comment identifies that the events for system alerts will need to be defined.
- Requirement 361 – Modified comment identifies the portal as the content management tool.

ATTACHMENT B
MANAGED SERVICES STATEMENT OF WORK
AND
SERVICE LEVEL AGREEMENT

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MANAGED SERVICES STATEMENT OF WORK

AND

SERVICE LEVEL AGREEMENT

THIS ATTACHMENT B is issued under and subject to the Agreement between the STATE OF INDIANA, acting through the Office of the Secretary of State and the Indiana Election Division (“**State**”) and QUEST INFORMATION SYSTEMS, INC. (“**Quest**”) for a statewide voter registration management system (“**Agreement**”). Quest will provide to the State the Managed Services as generally defined in the Agreement and further specified in this Attachment B. Unless otherwise provided in this Attachment, capitalized terms used in this Attachment have the meaning specified in the Agreement.

Article 1. MANAGED SERVICES

Section 1.1 **Definition of Services.** The Managed Services to be performed by Quest include Application Hosting Services, System Maintenance Services, Network Services, and Help Desk Services as specified in this Attachment B.

Section 1.2 **Application Hosting Services.** “**Application Hosting Services**” are part of the Managed Services and consist of providing the Hardware and Software required to operate the System in a production hosting environment, hosting platform connectivity to the System, daily monitoring and operations of the System and providing system and data backup and recovery services. Quest will provide all applicable Application Hosting Services with the capability to support the System as described in the Specifications and to meet the Service Levels set forth in this Attachment B.

Section 1.3 **Hardware and Software.** Quest will provide the Licensed Software Program, all System Software (described in Section 1.17), all State Hosting Site network Hardware, all server and application Hardware (described in Section 1.16), as designed and required to operate the Licensed Software Program to meet all Functional, Performance, Security and Failover Requirements. No centralized printing services will be provided.

Section 1.4 **Availability.** All State Hosting Site Hardware, the Licensed Software Program and System Software will be secured in a hosting facility and designed to be generally available on a 7 day, 24 hours per day basis, except for Maintenance Windows (as defined in Section 1.12) or as otherwise described in Attachment B.

Section 1.5 **Connectivity.** “**System Connectivity**” includes both Hosted Platform Connectivity and User Network Connectivity. “**Hosted Platform Connectivity**” is that Internet Protocol connectivity from the Quest hosting facility to the Internet, including the collocation switches at the Quest hosting facility. “**User Network Connectivity**” is that Internet Protocol connectivity from the County or State workstations over the Internet to the Hardware hosting the Licensed Software Program.

Section 1.6 **Response Time.** During the term of this Agreement, Quest will provide and support System Connectivity to support access from the County or State

workstations to the System with a response time to meet the Application Performance requirements.

Section 1.7 **Monitoring**. Quest will monitor all Hardware at the State Hosting Site, all System Software and all Hosted Platform Connectivity. This task will be done using industry standard monitoring tools as well as other Quest tools and processes designed specifically for the System. Quest will monitor on a continuous basis Hardware utilization, CPU utilization, network communication usage, disk space utilization, intrusion detection, load balancing, and equipment faults within the System. Quest will prepare monthly reports for State on these areas so monitored. Monthly summary reports will be developed and provided to the State in a mutually agreed upon format. The following tools will be leveraged to monitor and report on the State Hosting Site:

- (a) Net IQ AppManager or equivalent; and
- (b) Data Return's Digital Ops Suite (includes hardware-specific tools).

Section 1.8 **Pre-Election Testing**. As an extra precaution in the period immediately preceding a Blackout Period, Quest will perform the following tests: CPU Utilization, Web Partition Utilization, Hard Disk Utilization, Memory Utilization and Primary Firewall Ping testing. This test will help determine whether all aspects of the Managed Services environment are functioning to their planned utilization and capacities and that the processes are prepared for the oncoming Blackout Period.

Section 1.9 **Patches, Updates and New Releases**. Quest will apply periodic installation and updates of virus protection software, software patches, and Hardware and/or Software upgrades to the extent needed to maintain Services Levels, as Quest determines necessary.

Section 1.10 **Backup**. Quest will manage all State Hosting Site backups and equipment within the hosted System. System and database backups will be conducted on a nightly basis and will be stored in accordance with Quest's disaster recovery policies and procedures. Quest is responsible for promptly restoring any data lost as a result of System Failure or occurring from any cause, including disasters, other than misuse by an Authorized State User. Quest shall not be responsible for restoring data lost as a result of misuse by a State Authorized User. The data restored by Quest shall be the data set as it existed prior to the loss, including transactions entered since the last backup. Transactions entered since the last backup will not be included in the recovery if the failure was attributed to a loss of the actual data center, thereby making the transaction logs unavailable.

Section 1.11 **System Maintenance Services**. As part of the Managed Services, Quest will provide "**Maintenance Services**" for the Hardware, Licensed Software Program, and System Software provided by and implemented by Quest, as described below.

(a) Quest will comply with the following procedures when performing System Maintenance:

- (i) Quest will make reasonable efforts to schedule maintenance so as not to unreasonably interrupt State business operations;

(ii) Quest shall make no changes that would materially alter the functionality of the System or materially degrade the performance of the System, without first obtaining State's written approval;

(iii) Prior to using any software or hardware to provide the Services, Quest shall utilize customary testing efforts to verify that the item has been properly installed, is operating substantially in conformance to its specifications, and is performing its intended functions in a reliable manner; and

(iv) Quest shall follow Quest's formalized methodology in migrating programs from development and testing environments into production environments.

Section 1.12 Maintenance Windows. "**Maintenance Windows**" means scheduled upgrades of the Hardware at the State Hosting Site, Licensed Software Program and System Software, or adjustments to accommodate designed capacity, as mutually agreed. Unless otherwise agreed by State, all Maintenance Windows shall be performed outside the hours of 8:00 a.m. to 5:00 p.m. Indianapolis time. During the performance of Maintenance Windows, the quality of the Service may be temporarily degraded, including possible outages. Such effects related to Maintenance Windows shall not give rise to Service Credits or warranty claims under this Attachment B. Quest shall provide at least five (5) business day's prior notice to the State regarding all Maintenance Windows. No Maintenance Windows shall be scheduled to be performed during Blackout Periods.

Section 1.13 Urgent Maintenance. "**Urgent Maintenance**" means Services required to correct System conditions that have caused or are likely to cause a Service Level Non-Conformity in a Managed Service and that would require immediate action, including, without limitation, emergency patches. Quest may perform Urgent Maintenance at any time that it is necessary. Quest shall notify State prior to performing Urgent Maintenance. Such notice should be in the form of an email to the State Project Manager. In the event that prior notification would unreasonably delay Urgent Maintenance, Quest may perform Urgent Maintenance, then immediately notify State. In such case, Quest must provide reasonable evidence to State of the need for action prior to notification. Urgent Maintenance may temporarily degrade the quality of services and service levels, including possible outages. If Quest provides State with reasonable evidence that Urgent Maintenance related to the System Software was required due to circumstances or conditions outside the scope of Quest's responsibilities under this Agreement, then any Service Level Non-Conformity directly related to that Urgent Maintenance shall not give rise to Service Credits or warranty claims under this Attachment B.

Section 1.14 State and County User Workstation Maintenance. "**Workstation Maintenance**" means Services required to repair or replace User Hardware. Replacement of the User Hardware is controlled by the State negotiated services bid under the State QPA This process will be described in the Help Desk and Training manuals developed by Quest during implementation. In the event a User Hardware component used by a VR User fails, the VR User will place a service call to the Help Desk. If a hardware

component is determined to need to be repaired or replaced, the Help Desk will coordinate with the provider of maintenance of the hardware component the next day onsite repair for PCs and the next day exchange of scanners and laser printers (either the same make/model as originally provided or a replacement of equivalent or better performance). Equipment subject to exchange is to be shipped overnight where possible, otherwise the fastest shipping method reasonably possible using common carrier. Replacement personal computer components will be configured with the appropriate operating system before being delivered to the user. It will be the responsibility of State (or the applicable user) to configure any specific network settings that are unique to the State or County user location as well as local data backups (if any). Upon receipt of the replacement workstation component, the user will contact the Help Desk. The Help Desk will then talk to the State or County staff through the installation and configuration process. It is the responsibility of State or the user to set up network connectivity and any software and hardware not provided by Quest. The user will return the failed workstation component to Quest or its designee via insured shipment at State's expense within 3 business days. Label printers and bar code wands are not covered by maintenance, State may choose to purchase a stock of spare units over the life of the contract for Quest to distribute as needed.

Section 1.15 Use of User Workstations. Quest will support only the Licensed Software Program and other desktop software and functionality as described in Section 1.3. Quest will not be responsible for damages to the system resulting from use of the workstations for purposes other than the SVRS project. Quest shall provide a method to manage the installation and/or removal of programs on the workstations.

Section 1.16 State Hosting Site Hardware. The necessary servers, networking and other Hardware utilized at the State Hosting Site will be provided as part of the hosting services commitment. Based on final software configuration, Quest will provide the necessary State Hosting Site Hardware to support the System and all requirements.

Section 1.17 State Hosting Site Software. Based on final software configuration, Quest will provide the necessary State Hosting Site software licenses associated with Third Party Software. The costs for the State Hosting Site software are costs based on the following usage estimates:

- (a) 400 concurrent State and County users; and
- (b) Public website access not to exceed more than 1,000 transactions per hour.

Additional usage may result in a Change.

Section 1.18 County Site. The Quest Help Desk will monitor the County sites. Monthly summary reports will be developed and provided to the State in a mutually agreed upon format. The tools utilized to provide this service will be based on telecommunication vendor offerings.

Section 1.19 IED Site. State is responsible for monitoring the Indiana Election Division site.

Section 1.20 State Hosting Site Disaster Recovery. Hosting site disaster recovery will be managed and provided as part of the Hosting Services arrangement.

Quest will leverage the extensive disaster recovery capabilities of Data Return. These capabilities include:

- (a) Multiple telecommunications connections to the Internet provided by different providers;
- (b) Full server redundancy;
- (c) Onsite hardware and software support staff; and
- (d) Battery and power generation capability.

Section 1.21 **VR User Locations**. Quest is not responsible for disaster recovery at the VR User locations.

Section 1.22 **Networking**. Quest will acquire and provide primary and backup telecommunications and networking equipment and services to each County for the use of the System. The State will provide appropriate connectivity for workstations located at a State site. In the event DSL connectivity is unavailable in a given county, Quest will provide alternative connectivity solutions that meet all technical and business requirements to permit County users to effectively use the System. Networking and telecommunications maintenance/support will be provided utilizing services provided by the appropriate vendors.

Article 2. SERVICE LEVELS

Section 2.1 **Help Desk Support**. Quest's help desk for State ("**Help Desk**") will be located at Quest's Indianapolis-based facilities. The Help Desk is designed to respond to user questions in a timely manner.

- (a) Help Desk capabilities include:
 - (i) Immediate ownership of requests by experienced Quest Customer Support staff;
 - (ii) Microsoft expertise, including Microsoft-certified staff;
 - (iii) Licensed Software Program-dedicated functional application specialists;
 - (iv) 8:00 a.m. to 5:00 p.m. Indianapolis Time service coverage; and
 - (v) Additional support hours during Blackout Periods will be 7:00 a.m. to 7:00 p.m. Indianapolis Time with oncall support after hours.

(b) Requests for support will be handled at the time Quest is contacted. If the user calls Quest with a support issue, they will be automatically routed to a Quest Customer Support Specialist. Response will be provided either via phone or email based on the problem, response, or State request.

(c) Quest Support Specialists will be trained to answer questions pertaining to all of the features the Licensed Software Program has to offer, as well as basic PC functionality/operation. These questions include but are not limited to:

- (i) Application-related questions: functionality, how-to, *etc.*;
- (ii) Initial diagnosis of hardware, network or workstation or system-related problems; and
- (iii) Database or other server-related/application and system issues.

Section 2.2 **Tier I Support.**

(a) Help Desk Services will provide end-user (Tier I) support for all calls. Should support personnel not be immediately available, the caller will leave a voice mail for follow-up as soon as a Help Desk resource becomes available. A Help Desk trouble ticket will be created for tracking purposes. If State requests, trouble tickets for certain categories or types of problems will be emailed to a State contact.

(b) Tier I support will also be responsible for taking requests for managing user security issues, access to data, *etc.*

(c) When the Tier I Help Desk support technician cannot resolve a problem or it is determined that there is a “bug” in the application beyond the expertise of the Quest Customer Support Specialist, it will be immediately escalated to the Tier II support personnel for further analysis.

(d) The Tier I Help Desk handles all incoming support calls from any authorized user concerning the Licensed Software Program, the Hardware used by the user, network and Internet connectivity and data base server and infrastructure issues.

Section 2.3 **Tier II Support.**

(a) The Tier II Help Desk support staff will have knowledge of the System architecture and design, as well as the technologies and tools used to develop the application.

(b) All calls deemed Severity Level 4 (enhancements) will be handled by Tier II support. While additional personnel may be called upon to develop the change request estimate(s), Tier II support will be responsible for managing enhancement requests and the interaction between Quest and State. In many cases this may also include establishment of dialog between the end user, State, and Quest support personnel.

(c) The Tier II Help Desk is responsible for problem resolution for all System components, including the Licensed Software Program, and the Hardware, for network and Internet connectivity and for database server and infrastructure issues.

(d) The cost of replacements of any Hardware and the services in resolving problems (including problems with the user workstations and coordinating maintenance of those workstations) are included in the fees paid by State for maintenance.

Section 2.4 Support: Priority Level Assignments & Escalation Policy. All support incidents reported to Quest are assigned a priority level, logged and documented.

As depicted in the following table, Quest will assign a Priority level according to the following criteria:

PRIORITY	4	3	2	1
Severity Level	Enhancement	Error	Critical	System Failure
	System is functioning as intended. Incident can be regarded as an enhancement or new feature suggestion to be included into a future release.	System is functioning but is hampered by an error or threat to future productivity. A work-around can be implemented and used until further analysis is performed.	System is not functioning properly and a suitable work-around is not available. A core component of the system is no longer functional.	No System feature is currently functioning
Response Time	As Required	1 Business Day	2 Hours	30 Minutes
Target Resolution Time Goal	Future Release	The maximum acceptable resolution time is 30 business days.	The maximum acceptable resolution time is 5 business days.	The maximum acceptable resolution time is 24 continuous hours, after initial report.
Escalation Policy		Support Services Manager – 2 Business Days VP Consulting Operations – 5 Business Days	Support Services Manager – 4 Hours VP Consulting Operations – 8 Hours President of Quest – 2 Days	Support Services Manager – 2 Hours VP Consulting Operations – 4 Hours President of Quest – 8 Hours

Section 2.5 Support for Priority 1 Issues (Failure).

(a) A Priority 1 issue is defined as a situation where no system feature is currently functioning. This would also include issues pertaining to the total lack of capability to use the Licensed Software Program system.

(b) In the event of a Priority 1 support issue, Quest will respond with the utmost urgency. In addition to receiving Help Desk calls regarding priority 1 issues, Quest will assign cell phones to designated Quest Customer Support Specialists responsible for dealing with Priority 1 issues. Servers will be configured to send automatic notification of severe problems.

(c) Should a Support Specialist not be immediately available, it is Quest’s intention to respond to support request calls within thirty minutes. In the event a

Support Specialist is not available to immediately respond to a Priority 1 call, instructions will be given for escalation procedures.

(d) Should a Priority 1 call go unresolved beyond one hour, Quest will begin an escalation process as follows:

(i) **Two Hours.** Within two hours of receipt of the call with no resolution, the Quest Support Specialist will notify the Support Services Manager of the Priority 1 issue. If the Support Services Manager is not readily available, the Quest Customer Support Specialist will leave a priority voice mail and send an email to the Support Services Manager.

(ii) **Four Hours.** After four hours of troubleshooting, Priority 1 issues are escalated to Quest's VP of Consulting Operations.

(iii) **Eight Hours.** After eight hours of troubleshooting with no resolution identified, Priority 1 issues are escalated to the President of Quest and Quest will establish a conference call to determine a mutually agreeable plan of action for problem resolution.

Section 2.6 **Support for Priority 2 issues (Critical).**

(a) A Priority 2 issue is defined as a situation where the System is not functioning properly and a suitable workaround is not available. This would also include issues regarding severe degradation to the System. Servers will be configured to send automatic notification of severe problems.

(b) Should a call go unresolved beyond two hours, Quest will begin an escalation process as follows:

(i) **Four Hours.** After four hours of troubleshooting with no resolution identified, the call is escalated to the Support Services Manager.

(ii) **Eight Hours.** After eight hours of troubleshooting without resolution, the situation is escalated to the Quest VP of Consulting Operations.

(iii) **Two Business Days.** After two business days of troubleshooting without resolution, Quest will escalate the situation to the President of Quest and establish a conference call to determine a mutually agreeable plan of action for problem resolution.

Section 2.7 **Support for Priority 3 Issues (Error).** A Priority 3 issue is defined as a situation where State can use the Licensed Software Program system, but the System is hampered by an error. Some recurring or intermittent problems would also fit into this category. In most cases, a work-around can be implemented and used until Quest Support staff can conduct further analysis. In these situations, Quest will:

(a) Assign the call to a Support Specialist and commence diagnostic work;

(b) Use all commercially reasonable efforts to resolve the problem; and

(c) Work with State to determine a mutually agreeable resolution to the issue.

Should the issue go unresolved for more than 48 hours, the situation will be escalated to the Support Services Manager. Should the issue be unresolved beyond 5 business days, the issue will be escalated to Quest's VP of Consulting Operations.

Section 2.8 Support for Priority 4 Issues (Enhancement).

(a) Priority 4 issues are defined as situations where the System is functioning properly, but the client would like to request a new feature or enhancement. These issues can be regarded as an enhancement or new feature suggestion to be included into a future release. Quest expects that the State will make best efforts to route Priority 4 issues through the State staff for review and agreement prior to contacting Quest. Should Quest receive a request from an end user, Quest will contact the State to determine the best course of action.

(b) State will forward change requests or new feature suggestions to Quest's Customer Support team. Quest's management team will determine if each enhancement or new feature suggestion will be considered for the next system release. Requests will be prioritized based on evaluation of all client requests submitted during that time period and on frequency or demand for that enhancement or new feature request. Should Quest determine the request is a customization for Indiana, Quest will notify appropriate State staff to determine the appropriate course of action.

Section 2.9 Help Desk Support Status Reporting. Quest will also be responsible for tracking issues and reported problems. Quest will log, maintain, and track all issues throughout the Support process. Quest will prepare and distribute monthly email reports, notifying the State of number of calls, status of calls, outstanding calls, *etc.* Quest shall provide State a weekly report of all communications from County users with regarding to Application Performance. This information will be made available through a web-browser interface for State staff to review, via a link on the State's election portal in the Licensed Software Program application.

Section 2.10 Onsite Support. In the event of a significant issue, should onsite support be necessary, it will be provided at no additional cost.

Section 2.11 Outsourced/Hosting System Monitoring. The Quest Help Desk function will be responsible for monitoring key indicators of System health and reliability of the State Hosting Site environment. These key indicators will include:

- (a) System Usage (memory, disk, processor, bandwidth);
- (b) Application performance and response times;
- (c) Telecommunications errors;
- (d) Server logs;
- (e) Security and access failures;
- (f) Network activity;
- (g) Help Desk call trends; and
- (h) Operating and other system software patches and upgrades.

Section 2.12 **Licensed Software Program Error Correction.** Quest will correct, without additional charge to State, any failures of the Licensed Software Program to conform to the warranty in Section 18.2 of the Agreement.

Section 2.13 **Development Services.** During each year that Quest is providing Managed Services to State, Quest will perform, without additional charge, up to 1,000 hours of development and implementation services specified by State in connection with applying updates and changes to the Licensed Software Program.

Section 2.14 **New Services.** New services will be identified and procured in a collaborative process between the Parties as required, pursuant to Article 8 of the Agreement.

Article 3. MANAGED SERVICE LEVEL METRICS

Section 3.1 **Service Levels.** During the performance of the Managed Services, Quest will maintain the following service levels (“**Service Levels**”):

- (a) System Availability;
- (b) Application Performance;
- (c) Help Desk Response Time; and
- (d) Follow Up.

Section 3.2 **System Availability.** “**System Availability**” is defined as provided in this Section. If the location of the Indiana Election Division and the locations of each of the Counties (collectively “**Work Sites**”) are able to access the System and perform the voter registration operations contemplated by the Agreement, then the System is deemed to be up and available. If any Work Site is not able to access the System and perform the voter registration operations contemplated by the Agreement, then there is no System Availability as to that Work Site unless the lack of System Availability is a result of any of the following (the lack of System Availability is referred to as “**Unexcused Downtime**”):

- (a) Acts or omissions of any party (other than Quest or Quest subcontractors or communications providers), including the acts or omissions of State (including State Authorized Users), or third parties on behalf of State;
- (b) Force Majeure events;
- (c) Maintenance Windows;
- (d) Physical damage or destruction to a Work Site;
- (e) Loss of electrical service to a Work Site; or
- (f) Any other cause outside of Quest’s control but only if Quest provides a reasonable and practical workaround that meets all the business needs of the users at the Work Site.

Section 3.3 **Application Performance.** “**Application Performance**” is defined as the time it takes from the instant an end user submits a transaction at his or her workstation to the instant the result is shown back to the end user at the end user’s

workstation. At or prior to the Major Milestone “Licensed Software Program Design Acceptance” (defined in Article 1 of Attachment A to the Agreement) Quest may propose a different response time for certain transactions. If State approves, such approval not to be unreasonably withheld so long as the response time for the transaction meets the State’s business and technical requirements, then those transactions (the “**Other Transactions**”) will have the different response time (the “**Other Response Times**”). Application Performance will be measured on all System transactions. Application Performance will be measured separately for: (i) Other Transactions; and (ii) all transactions except Other Transactions. Quest will not be responsible for Service Credits or warranty claims if Application Performance degradation or an outage is a result of any of the following:

- (a) Acts or omissions of any party (other than Quest or Quest subcontractors or Quest communications providers), including the acts or omissions of State (including State Authorized Users), or third parties on behalf of State;
- (b) Force Majeure events;
- (c) Maintenance Windows;
- (d) Physical damage or destruction to a Work Site;
- (e) Loss of electrical service to a Work Site; or
- (f) Any other cause outside of Quest’s control but only if Quest provides a reasonable and practical workaround that meets all the business needs of the users at the Work Site.

Application Performance shall be satisfactory if, for each hour of the day: (i) the Application Performance for each Other Transaction meets the applicable Other Time Response; and (ii) for all other transactions (computed on an hourly basis): (x) the average Application Performance is three (3) seconds or less; (y) the Application Performance for no more than 25% of the transactions exceeds three (3) seconds; and (z) the Application Performance for the ninetieth percentile of transactions is less than five (5) seconds. If State believes that the Application Performance at a Work Site does not meet this standard, State shall give Quest notice and, within the Correction Period, Quest shall either demonstrate to State that the Application Performance at the Work Site meets the standard or take such action as is necessary to cause the Application Performance to meet this standard. If Quest fails to correct the failure within the Correction Period, then the period from the date on which State gave Quest notice until the date the Application Performance problem has been corrected for the Work Site is the “**Failure Period.**”

Section 3.4 **Help Desk Response Time.** Quest will respond to Help Desk calls based upon priority level of the pending issue addressed in the call. The Help Desk will assign a priority level (“**Priority Level**”) to the issue based on the following descriptions:

PRIORITY	PROBLEM DESCRIPTION
Level 1	Application is completely unavailable or severely impaired.
Level 2	Application has important functionality which is unavailable or severely impaired and no mutually agreeable workaround is available.

PRIORITY	PROBLEM DESCRIPTION
Level 3	Application has minor functionality which is unavailable or severely impaired and no mutually agreeable workaround is available.
Level 4	All other issues and or questions.

Section 3.5 **Follow Up**. After the initial call regarding an Issue, the Help Desk will use reasonable efforts to follow up with the caller within the following timeframes after initial contact:

PRIORITY	BLACKOUT PERIOD RESPONSE TIME	NON-BLACKOUT PERIOD RESPONSE TIME
Level 1	Initial response provided within one (1) business hour. Additional contacts will be made on an hourly or “as agreed” basis until a resolution plan is defined.	Initial response provided within two (2) business hours. Additional contacts will be made every two (2) hours or “as agreed” basis until a resolution plan is defined.
Level 2	Four (4) business hours. Additional contacts will be made every four hours or on an “as agreed” basis until a resolution plan is defined.	Eight (8) business hours . Additional contacts will be made on a daily or “as agreed” basis until a resolution plan is defined.
Level 3	Twenty-four (24) business hours. Resolution of Level 3 severity issues will be reviewed with the State and scheduled for release in a mutually agreed upon schedule.	Forty (40) business hours. Resolution of Level 3 severity issues will be reviewed with the State and scheduled for release in a mutually agreed upon schedule.
Level 4	Eighty (80) business hours. Resolution of Level 4 severity issues will be reviewed with the State and scheduled in the next appropriate Licensed software Program release.	One Hundred and Twenty (120) business hours. Level 4 severity issues will be reviewed with the State and scheduled in the next appropriate Licensed Software Program release.

Note that the above objectives are intended to describe the time period between when the initial discussion with the Help Desk occurs and the Help Desk will respond to a caller, and not intended as the time period when a problem relating to the applicable Issue will be fixed.

Section 3.6 **Exceptions**. Quest will not be responsible for Service Credits or warranty claims if Help Desk Response Time nonconformity is a result of any of the following:

- (a) Any Force Majeure event;
- (b) Maintenance Windows;
- (c) The State or State Authorized Users failure to meet their responsibilities; or
- (d) Any circumstances or causes beyond the reasonable control of Quest.

Section 3.7 Notification and Escalation Procedures.

(a) **Service Interruptions.** The State Point of Contact shall be notified within sixty (60) minutes after Quest becomes aware of a Service interruption that impacts the System. If an outage is noticed by State, and notification to Quest has not been given, the State Point of Contact will within sixty (60) minutes after becoming aware of such interruption, collect the mutually agreed upon relevant information and provide such information to Quest.

(b) **Intrusion.** The State Point of Contact shall be notified by the Quest Account Representative as soon as reasonably possible to report any and all suspicious activity regarding the System equipment, or to report any attempts by unauthorized persons attempting to access the System for the purpose of accessing the System equipment.

(c) **Escalation Procedures.** Any problems experienced by the State or State Authorized Users may be called in to Help Desk during Help Desk service hours. The Help Desk is the single point of contact.

(d) **User Hardware Problems.** For problems that are related to User Hardware, the Help Desk representative will troubleshoot the problem. If a determination is made that the problem resides on a User Hardware workstation that contains software other than the Licensed Software Program, installed by the State or an State Authorized User, and a User Hardware workstation that contains solely for the Licensed Software Program does not exhibit the same problem, the State or County user as the case may be, should follow their normal local procedures. If the problem appears to be related to an equipment failure of the User Hardware desktop PC, the State or County user will contact the Help Desk to communicate the problem and that PC will be replaced with a substantially similar PC, to be shipped overnight where possible. If overnight shipping is unavailable at the time of the Help Desk call, the fastest commercially available shipping method will be used for delivery during normal business hours. The replacement workstation will be configured with the appropriate OS and version of the Licensed Software Program. It will be the responsibility of the State or County or the user to configure any specific network settings that are unique to the County's location as well as local data backups (if any). If the problem is determined to be related to the Managed Services, the Help Desk representative will immediately contact the System specialist who is on 24-hour call for resolution.

(e) **Quest Points of Contact.** The Quest Points of Contact for these Managed Services are:

(i) Quest Representative – Primary Quest Representative:

Name: Mike Hinline
Address: 8425 Keystone Crossing
Suite 240
Indianapolis, Indiana 46240
Phone: 317-554-5412
Fax: 317-554-5412
Email: mhineline@questis.com
(ii) Quest Account Representative:

Name: Bill McCully
Address: 8425 Keystone Crossing
Suite 240
Indianapolis, Indiana 46240
Phone: 317-554-6536
Fax: 317-554-6536
Email: bmccully@questis.com

(f) **State Points of Contact.** The State Points of Contact for these Managed Services are and shall be given to each of them by simultaneous e-mail or courier service:

Heather Willis
Indiana Secretary of State Todd Rokita
The Statehouse
200 West Washington Street, Room 201
Indianapolis, IN 46204
hwillis@sos.IN.gov

J. Bradley King
Indiana Election Division
302 West Washington Street
Room E-204
Indianapolis, IN 46204
bking@iec.IN.gov

Kristi Robertson
Indiana Election Division
302 West Washington Street
Room E-204
Indianapolis, IN 46204
krobertson@iec.IN.gov

Section 3.8 Reporting. A monthly Service Level report will be made available to the State within thirty (30) days after the end of the previous month. The report will be provided to the State Project Manager starting after the first full month following the pilot County implementation. Service Level data will be collected and distributed by Quest to the State Project Manager. Any mutually agreed to adjustments to the Service Levels

(including the Service Level baselines, acceptable levels of performance, and Service Credits) will be mutually agreed to in writing by the State and Quest with the first review occurring during the first ninety (90) days after the accepted System is in production. Items to be included in the monthly report will be:

- (a) Hosted Platform Connectivity Data (Availability and Latency);
- (b) Details of any incident that affected the System in the hosted environment;
- (c) Help Desk request summaries and trouble ticket status; and
- (d) Application performance data (TBD in first 90 days of production).

Section 3.9 Remedy for Service Level Non-Conformities.

(a) **Service Credits.** If Quest fails to meet a Service Level specified in this Attachment B (a “**Non-Conformity**”), Quest shall owe the State, as a liquidated damage and not a penalty, a Service Credit for the Service Level Non-Conformity. In setting these Service Credits, the Parties have taken into account that Non-Conformities during certain periods could put an election at risk. Quest shall apply the Service Credit as a deduction to the monthly invoice delivered immediately following the month in which such nonconformity was reported, and extended to subsequent months as required, and shall identify the Service Credit as a separate line item on the invoice. A Service Credit is the sole and exclusive remedy, except as otherwise provided in Section 21.5 of the Agreement, and Critical Blackout Period Remedies under this section for a failure by Quest to meet a Service Level specified in this Attachment B. If two or more Service Credits are due for the same non-conformity, the larger of the two Service Credits will be the sole and exclusive remedy. Quest shall notify State in writing if State becomes entitled to a Service Credit as part of its reporting obligations pursuant to this Attachment. Such notice shall specify the nature of the Service Level Non-Conformity and the amount of the Service Credit that State is entitled to receive.

(b) For the purposes of the Managed Services and for determining Service Credits, the “**Critical Blackout Period**” (defined below) is the portion of the Blackout Period consisting of the seven (7) calendar days prior to through seven (7) business days after a primary, general or municipal election as described in JC 3-5-1 or a special election conducted by State that is supported by the System. The Service Credits for the Blackout Period apply only to Managed Services provided during the hours from 7:00 a.m. through 7:00 p.m. Indianapolis time. The Service Credits for Non-Blackout Periods apply only to the hours from 8:00 a.m. through 5:00 p.m. Indianapolis time on regular business days:

SERVICE LEVEL METRIC MEASUREMENT PERIOD	CRITICAL BLACKOUT PERIOD REMEDY	BLACKOUT PERIOD REMEDY	NON-BLACKOUT PERIOD REMEDY
System Availability Daily Service Level	\$5.00 for each minute in a day (midnight to midnight) of Unexcused Downtime over 72 minutes experienced by a Work Site. ¹ The maximum Service Credit for any day is \$65,000.	\$1.00 for each minute in a day (midnight to midnight) of Unexcused Downtime over 72 minutes experienced by a Work Site. The maximum Service Credit for any day is \$30,000. ¹	\$5.00 for each hour in a day (midnight to midnight) of Unexcused Downtime over 72 minutes experienced by a Work Site. ¹
Application Performance	\$500 for each business day in the Failure Period for the Work Site.	\$500 for each business day in the Failure Period for the Work Site.	\$500 for each business day in the Failure Period for the Work Site.
Help Desk Response Time	\$10,000 for each day of nonconformity.	\$5,000 for each day of nonconformity.	\$1,000 for each month of nonconformity.
Help Desk Follow Up	\$10,000 for each day of nonconformity.	\$5,000 for each day of nonconformity.	\$1,000 for each day of nonconformity.

Article 4. PAYMENT SCHEDULE

Included in Attachment A.

¹ This is cumulative. Thus, if two Work Sites each experience 92 minutes of unexcused downtime, the dollar amount will be multiplied by 40.

ATTACHMENT C
HARDWARE AND SOFTWARE
STATEMENT OF WORK

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HARDWARE AND SOFTWARE

STATEMENT OF WORK

THIS ATTACHMENT C is issued under and subject to the Agreement between the STATE OF INDIANA, acting through the Office of the Secretary of State and the Indiana Election Division (“**State**”) and QUEST INFORMATION SYSTEMS, INC. (“**Quest**”) for a statewide voter registration management system (“**Agreement**”). Quest will provide to the State the Managed Hardware and Software as generally defined in the Agreement and further specified in this Attachment C. Unless otherwise provided in this Attachment, capitalized terms used in this Attachment have the meaning specified in the Agreement.

Article 1. HARDWARE

Section 1.1 **Hosting Site**. The necessary servers, networking and other Hardware utilized at the hosting site will be provided as part of the hosting services commitment. This Hardware is described in Attachment B Section 1.16.

Section 1.2 **County and State Site Workstations**. Quest will manage the acquisition by the State of the workstations that are part of the User Hardware utilizing the State QPA contracts. Acquisition of this equipment will be performed by the State directly and the costs are not included in the amount set forth in Article 4 of the Agreement. Quest will provide the services necessary to acquire, configure and deploy the User Hardware. The cost is estimated for 368 workstations at a cost of \$1,388 per unit for a total anticipated cost of \$510,784. The county workstation hardware requirements are:

- (a) HP DX2000 Minitowers or equivalent;
- (b) 17” flat screen monitor with 1024x768 resolution;
- (c) 256MB of RAM;
- (d) Minimum of 10GB of disk;
- (e) 10/100 ethernet card;
- (f) 4 USB ports;
- (g) Sound card and speakers;
- (h) Windows XP Professional with Internet Explorer 6.0 with 5 years software assurance;
- (i) Microsoft Office 2003 Standard Edition with 5 years software assurance; and
- (j) 5-year onsite hardware maintenance (CarePack from HP).

Section 1.3 **County and State Site Printers**. Quest will manage the acquisition by the State of County Site Hardware utilizing the State QPA contracts. Acquisition of this equipment will be performed by the State directly and the costs are not included in the amount set forth in Article 4 of the Agreement. Quest will provide the services necessary to acquire, configure and deploy this hardware. The cost is estimated for 217 printers at a cost of \$1,015 per unit for a total anticipated cost of \$244,615. The County printer Hardware requirements are:

- (a) HP2300DTN or equivalent printer.

Section 1.4 **County and State Site Barcode Equipment.** Quest will manage the acquisition by the barcode equipment which is part of the User Hardware utilizing the State QPA contracts. Acquisition of this equipment will be performed by the State directly and the costs are not included in the amount set forth in Article 4 of the Agreement. Quest will provide the services necessary to acquire, configure and deploy this hardware. The cost is estimated for 368 readers at a cost of \$145 per unit for a total anticipated cost of \$53,360. The County barcode Hardware requirements are:

- (a) WASP Wand readers or equivalent.

Section 1.5 **County and State Site Scanning Equipment.** Quest will manage the acquisition by the State of the scanning equipment which is part of the User Hardware utilizing the State QPA contracts. Acquisition of this equipment will be performed by the State directly and the costs are not included in the amount set forth in Article 4 of the Agreement. Quest will provide the services necessary to acquire, configure and deploy this hardware. The cost is estimated for 127 scanners at a cost of \$825 per unit for a total anticipated cost of \$104,775. The County scanning Hardware requirements are:

- (a) HP Scanjet 8250 Scanner or equivalent.

Section 1.6 **County and State Site Label Printers.** Quest will manage the acquisition by the State of the label printers which are part of the User Hardware utilizing the State QPA contracts. Acquisition of this equipment will be performed by the State directly and the costs are not included in the amount set forth in Article 4 of the Agreement. Quest will provide the services necessary to acquire, configure and deploy this hardware. The cost is estimated for 284 label printers at a cost of \$125 per unit for a total anticipated cost of \$35,500. The County label printer hardware requirements are:

- (a) DYMO Labelwriter 310 for PC/MAC USB printer or equivalent.

Section 1.7 **Networking Equipment.** Quest will acquire and provide telecommunications and networking equipment as described in Attachment B Section 1.20.

Section 1.8 **Maintenance.** Hardware maintenance will be managed by the Quest Help Desk and performed by HP under the terms of the maintenance acquired by the State with the purchase of each item. No maintenance is provided for the barcode equipment as it is more effective for the State to acquire spare units (annual maintenance costs exceed the cost of acquisition). No maintenance is provided for the label printers as it is more effective for the State to acquire spare units (annual maintenance costs exceed the cost of acquisition).

Article 2. SOFTWARE

Section 2.1 **Hosting Site.** The necessary State Hosting Site Software will be provided as part of the hosting services commitment. This software is described in Attachment B, Section 1.17.

Section 2.2 **County and State Sites.** Software required for the County sites are included in the acquisition cost of the workstation. Software requirements are:

- (a) Windows XP Professional;

(b) Internet Explorer 6.0; and

(c) Microsoft Office 2003 Standard Edition.

Section 2.3 **Software Assurance/Maintenance**. The State will purchase 5-year software assurance on Microsoft products as part of acquisition cost.

Article 3. PAYMENT SCHEDULE

Included in Attachment A.

ATTACHMENT D

TRAINING

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TRAINING

THIS ATTACHMENT D is issued under and subject to the Agreement between the STATE OF INDIANA, acting through the Office of the Secretary of State and the Indiana Election Division (“**State**”) and QUEST INFORMATION SYSTEMS, INC. (“**Quest**”) for a statewide voter registration management system (“**Agreement**”). Quest will provide to the State the training design, development, and delivery services as generally defined in the Agreement and further specified in this Attachment D. Unless otherwise provided in this Attachment, capitalized terms used in this Attachment have the meaning specified in the Agreement.

Article 1. INITIAL TRAINING CURRICULUM

Section 1.1 **Training Concept.** Quest will design, develop and deliver a training curriculum based on the business goal of developing competency on the new Indiana SVRS in the State offices and all 92 counties at all levels of end users. This competency will be to efficiently perform voter registration tasks with the new system and business processes. Another important component of the training delivered will be regarding managing change and change enablement in the workplace and the impacts of positive acceptance of these changes.

Section 1.2 **Training Delivery Methods.** Delivery of the training curriculum will be handled through a combination of instructor led classes, web based courseware, quick reference cards (Flipcards) and integrated help within the application.

Section 1.3 **Training Components.** The components of the SVRS training curriculum are:

- (a) Up to sixty (60) five (5) day instructor led SVRS User classes for full time State and County end users of the SVRS, with up to fifteen (15) attendees at each class;
- (b) One (1) three (3) day instructor led Site Expert class built on SVRS User Course for up to fifteen (15) State employees;
- (c) Up to ten (10) one (1) day GIS System Area Expert instructor led classes for up to ten (10) attendees each;
- (d) Ten (10) one-hour web based refresher modules designed to supplement and support the instructor led class work;
- (e) Six (6) one-hour web based modules designed to provide high level functionality instruction for part time or seasonal employees regarding specific, event driven activities;
- (f) Reference cards (Flipcards) designed for quick lookup of SVRS activities for each person attending training; and
- (g) Online help panels integrated into the application with context sensitive help screens.

Section 1.4 **Training Design.** Quest will work with State and County personnel while designing an effective and efficient set of materials and services to develop competency in the use of the SVRS. A set of User Training Design documents will be delivered to the State for approval before training development begins (Deliverable TR01).

Section 1.5 Training Development. Quest will develop all courses as described, both instructor led and web based, using industry best practices. Development will include all course materials including: student handouts, necessary PowerPoint presentations, Instructor Notes in PowerPoint notes, supply lists, job aids, job aid masters, pre & post tests, web based courseware programming, online help source development, and other required materials.

Section 1.6 Training Delivery. Quest will deliver the training components as described in Section 1.3. Quest will manage all course scheduling, participant tracking and reporting, and coordination of all training issues.

Section 1.7 Training Content. The courses will contain the following by course type.

(a) Five (5) day classroom training SVRS User course for state and county end users:

- (i) Course topics;
- (ii) Introduction;
- (iii) Key Application Processes;
- (iv) How to get the most from the system;
- (v) Three (3) days functionality;
- (vi) Two (2) days change, resiliency, ongoing learning;
- (vii) 80% experiential/20% lecture;
- (viii) Pre & Post Testing of Users; and
- (ix) Certification upon passing of post-test.

(b) Three (3) day classroom training Site Expert course for state users:

- (i) SVRS application training builds upon the SVRS User course to deliver a more in depth knowledge of the internal workings of the SVRS application; and
- (ii) Additional change management instruction including helping with change enablement, resiliency, and ongoing learning in others.

(c) Ten (10) one-hour modules of web-based refresher training covering core application competencies taught in the SVRS User course:

- (i) Pre/post test for each module;
 - (ii) Certification requires completing all modules and passing post test;
- and
- (iii) Use a metaphor/scenario approach.

(d) Six (6) one-hour modules of web-based casual and seasonal user training:

- (i) Search;
- (ii) Add a Voter;
- (iii) Absentee Application Request;
- (iv) Report Printing;

- (v) Pre & Post-test as well as certification; and
- (vi) Simulates real workflow.

Section 1.8 **GIS System Area Expert Training.** Quest feels that to maximize the benefit derived from the SVRS, it would be to each county’s advantage to have an individual who understands the use of the GIS functionality in more detail to act as an onsite expert for the county.

- (a) Train one GIS knowledgeable System Area Expert in each county.

Section 1.9 **Rates.** In the event of a Change to the Training to be provided pursuant to this Attachment, the following hourly billing rates per staff level shall apply:

STAFF LEVEL	BILLING RATE
Project Manager	\$175.00
Analyst	\$125.00
Architect	\$125.00
Developer	\$100.00
Tester	\$ 75.00
Documenter	\$ 75.00

Article 2. ANNUAL TRAINING CURRICULUM

Section 2.1 **Annual Training.** Quest will conduct annual training as refresher and for new hires and replacement staff as follows.

- (a) Conduct one (1) five (5) day SVRS User course as described in Section 1.3 (a) and Section 1.7 (a) at the State each quarter;
- (b) Conduct two (2) GIS System Area Expert Training courses as described in Section 1.3 (c) and Section 1.7 (d) each year; and
- (c) Training material changes for annual training will incur added costs.

Article 3. TRAINING SCHEDULE

Section 3.1 **SVRS User Course Scheduling.** Quest will develop and deliver a schedule of SVRS User Courses as the ongoing project plan is further developed and defined throughout the project. Once conversion planning and the sequence of county participation is developed, a comprehensive schedule will be developed for State review and approval. The schedule will follow the following guidelines:

- (a) The initial SVRS User course will include all State representatives and representatives from the first one or two pilot counties. This initial group, in addition to participating in the training, will provide feedback to Quest with regards to the effectiveness of the training, the materials, and all training activities. This feedback will be used to make modifications to the training program and materials to improve the effectiveness of the coursework.
- (b) SVRS User courses will be planned for one (1) to three (3) weeks before a county is scheduled to go live on the First Tuesday application. Said timeframe can be changed if mutually agreed upon by State and Quest project Managers.

Section 3.2 **Site Expert Course Scheduling.** Once the initial SVRS User course is scheduled including the State participation, the Site Expert 3 day course will be scheduled for all State employees. This session will be held within two (2) weeks of the initial SVRS User course.

Section 3.3 **GIS System Area Expert Training.** Quest will conduct ten (10) one (1) day classes. These will be scheduled into the plan once the conversion and training schedules are finalized for the counties in order to provide the best coverage for county employees.

Article 4. TRAINING LOCATIONS

Section 4.1 **SVRS User Class Locations.** The delivery of the SVRS User classes will be planned to minimize travel times for the attendees as much as possible. Six to eight locations will be selected around the state to conduct these sessions with appropriate facilities to deliver the training. Quest and State project staff will agree upon these locations as specific locations can be finalized with the final conversion schedule.

Section 4.2 **GIS System Area Expert Class Locations.** The delivery of the GIS System Area Expert classes will be planned throughout the state. Quest and State project staff will agree upon these locations as specific locations can be finalized with the final conversion and training schedules.

Section 4.3 **Training Facilities and Equipment.** Quest is responsible for managing the arrangements, including the Training Facilities and Equipment, necessary to perform this training. The State is responsible for the costs associated with the Training Facilities and Equipment, based on a mutually agreed upon Training Facilities and Equipment Plan.

Article 5. TRAINING ACCEPTANCE

Section 5.1 **Training Deliverables.** The State will review and approved the User Training Requirements Specification (TR01), the User Training Design (TR02), and the User Training Materials (TR03). After the Pilot County activities are completed (PI01), adjustments to the User Training Design and Materials will be identified and made before the execution of the remaining classes.

Section 5.2 **Trainers.** The State will approve each professional trainer before the execution of the User Training classes.

Section 5.3 **Metrics.** Measurements will be developed to address the performance objectives as described in Section 5.1. Multiple levels will be measured including:

- (a) Participant reaction via evaluations done by students at the end of class,
- (b) Learning achievement via pre and post class testing, and
- (c) Each SVRS office can determine on the job performance and implement additional measures as needed via the refresher web based training.

Section 5.4 **Feedback and Update of Materials.** Feedback will be solicited after the initial SVRS User training for pilot counties and State users to supply any final revisions to courseware and materials.

Section 5.5 **Certification Testing.** Certification testing will be provided at the conclusion of the training

Article 6. PAYMENT SCHEDULE

Section 6.1 **Initial Training.** Initial Training costs are detailed in Attachment A Section 10 Payment Schedule, as Deliverable ID's TR01 through TR62. TR01 covers User training Design and TR02 covers User Training materials Delivery. The remainder cover actual user training sessions as they are held.

Section 6.2 **Annual Training Cost.** Annual training costs are detailed in Attachment A Section 10 Payment Schedule, as Deliverable ID's TR63 through TR67. GIS training is included in the annual GIS hosting fee.