

AGREEMENT FOR SERVICES #4371

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**THIS AGREEMENT** made and entered by and between the County of El Dorado, a political subdivision of the State of California (hereinafter referred to as "County") and SCRAM of California, Inc., a California Corporation, duly qualified to conduct business in the State of California, whose principal place of business is 402 W. Broadway, Suite 400, San Diego, CA 92101, (hereinafter referred to as "Contractor");

**RECITALS**

**WHEREAS**, County has determined that it is necessary to obtain a Contractor to provide continuous transdermal electronic alcohol monitoring equipment, SCRAM CAM Bracelet with and without the house arrest component, SCRAM One-Piece GPS, SCRAM GPS Home Base Cellular unit, and SCRAM Remote Breath, along with access to SCRAM System Program Management Center (currently known as SCRAMNET), and provide necessary equipment and internet based software program training to staff on an "as-requested" basis for the Probation Department; and

**WHEREAS**, Contractor has represented to County that it is specially trained, experienced, expert and competent to perform the special services required hereunder and County has determined to rely upon such representations; and

**WHEREAS**, it is the intent of the parties hereto that such services be in conformity with all applicable federal, state and local laws; and

**WHEREAS**, County has determined that the provision of these services provided by Contractor is in the public's best interest, and that these services are more economically and feasibly performed by outside independent Contractors as well as authorized by El Dorado County Charter, Section 210 (b) (6) and/or Government Code 31000;

**NOW, THEREFORE**, County and Contractor mutually agree as follows:

## ARTICLE I

**Scope of Services:** Contractor agrees to furnish the personnel and equipment necessary to provide continuous transdermal electronic alcohol monitoring equipment (currently known as the SCRAM CAM Bracelet) with/without the house arrest component, allow access to SCRAM System Program Management Center (currently known as SCRAMNET), and provide necessary equipment and internet based software program training to staff on an “as-requested” basis for the Probation Department. Services shall include but not be limited to the central computer hardware and software necessary for the operation of Probation’s 24 hour monitoring of adults and juveniles on the electronic monitoring program. Services shall be in accordance with “Exhibit A, NASPO ValuePoint Participating Addendum” and “Exhibit B, Contract #00212 with Alcohol Monitoring Systems, dba SCRAM Systems, for Electronic Monitoring of Offenders,” and any amendments thereto, incorporated herein and made by reference a part hereof.

Contractor also agrees to furnish the personnel and equipment necessary to provide continuous transdermal electronic alcohol monitoring equipment (currently known as SCRAM One-Piece GPS, SCRAM GPS Home Base Cellular Unit, SCRAM Remote Breath), and provide necessary equipment and internet based software program training to staff on an “as-requested” basis for the Probation Department.

Contractor shall provide qualified staff to provide the following services for participants on alcohol monitoring, GPS tracking, or Remote Breath testing:

- Install and remove electronic monitoring equipment
- Mobile service to probation, court, jail, or treatment
- Orientations of monitoring program requirements and signing of participant agreement
- Data entry and system activation of monitoring participants
- Input of schedule and zone requirements per officer instructions
- Schedule and complete maintenance associated with equipment (batteries, straps, etc.)
- Equipment inspections (tampering, intentional damage, etc.)
- Inventory management and cleaning of devices
- Resolution of alerts: communication, low battery warnings/calls, tamper and alcohol interference warnings
- Reporting of no-compliance (confirmed alcohol consumptions, confirmed tamper events)
- Data tracking (exit survey results, weekly summary reports, etc.)
- Court support and court appearances (contested hearings, collaborative court, status checks)
- Training and MCLE presentations

In the event of any conflict between or among the terms and conditions of this Agreement #4371, any Exhibits incorporated herein or attached, and any other document referred to and incorporated herein, such conflict shall be resolved by giving precedence in the following order of priority: to the text of this Agreement #4371; to the language of the Exhibits attached and incorporated; and to the language of any other document referred to and incorporated.

## ARTICLE II

**Term:** This Agreement shall become effective upon final execution by both parties hereto and shall cover the period of January 1, 2020, through December 31, 2022.

## ARTICLE III

**Compensation for Services:** For services provided herein, including any deliverables that may be identified herein, County agrees to pay Contractor upon the satisfactory completion and County's acceptance of work, in arrears and within forty-five (45) days following the County's receipt and approval of itemized invoice(s) identifying services rendered.

For the purposes of this Agreement, the billing rate shall be in accordance with "Exhibit B, Appendix E Price Sheets, attached to the Third Amendment to Contract No. 00212 Electronic Monitoring of Offenders, dated October 1, 2018," or "Exhibit C, SCRAM One-Piece GPS, SCRAM GPS Home Base Cellular Unit, SCRAM Remote Breath Pricing."

All SCRAM System products and consumables will be shipped by ground unless special circumstances exist. Contractor pays the cost of ground shipment and County pays the cost if an express shipment (e.g. air) is requested.

Total amount of this Agreement shall not exceed \$500,000.00.

Itemized invoices shall follow the format specified by County and shall reference this Agreement number on their faces and on any enclosures or backup documentation. Copies of documentation attached to invoices shall reflect Contractor's charges for the specific services billed on those invoices. Invoices shall be mailed to County at the following address:

County of El Dorado  
Probation Department  
Accounts Payable  
3974 Durock Road, Suite 205  
Shingle Springs, California 95682

or to such other location as County directs.

In the event that Contractor fails to deliver the documents or other deliverables required by this Agreement, County at its sole option may delay the monthly payment for the period of time of the delay, cease all payments until such time as the deliverables are received, or proceed as set forth herein below in **Article XII, Default, Termination, and Cancellation.**

#### **ARTICLE IV**

**Taxes:** Contractor certifies that as of today's date, it is not in default on any unsecured property taxes or other taxes or fees owed by Contractor to County. Contractor agrees that it shall not default on any obligations to County during the term of this Agreement.

#### **ARTICLE V**

**Confidentiality:** The Contractor shall protect from unauthorized disclosure names and other identifying information concerning persons receiving services pursuant to this Agreement, except for statistical information not identifying any client. The Contractor shall not use such information for any other purpose other than carrying out the Contractor's obligations under this Agreement. The Contractor shall promptly transmit to the County all requests for disclosure of such information not emanating from the client. The Contractor shall not disclose, except as otherwise specifically permitted by this Agreement or authorized by the client, any such information to anyone other than the County, except when subpoenaed by a court. For purposes of this paragraph, identity shall include, but not be limited to, name, identifying number, symbol, or other identifying particular assigned to the individual, such as finder or voice print or a photograph. If the Contractor receives any individually identifiable health information ("Protected Health Information" or "PHI") from County or creates or receives any PHI on behalf of County, the Contractor shall maintain the security and confidentiality of such PHI as required of County by applicable laws and regulations, including the Health Insurance Portability and Accountability Act of 1996 ("HIPAA") and the regulations promulgated thereunder.

#### **ARTICLE VI**

**Changes to Agreement:** This Agreement may be amended by mutual consent of the parties hereto. Said amendments shall become effective only when in writing and fully executed by duly authorized officers of the parties hereto.

#### **ARTICLE VII**

**Contractor to County:** It is understood that the services provided under this Agreement shall be prepared in and with cooperation from County and its staff. It is further agreed that in all matters pertaining to this Agreement, Contractor shall act as Contractor only to County and shall not act as Contractor to any other individual or entity affected by this Agreement nor provide information in any manner to any party outside of this Agreement that would conflict with Contractor's responsibilities to County during term hereof.

#### **ARTICLE VIII**

**Assignment and Delegation:** Contractor is engaged by County for its unique qualifications and skills as well as those of its personnel. Contractor shall not subcontract, delegate or assign services to be provided, in whole or in part, to any other person or entity without prior written consent of County.

## **ARTICLE IX**

**Independent Contractor/Liability:** Contractor is, and shall be at all times, deemed independent and shall be wholly responsible for the manner in which it performs services required by terms of this Agreement. Contractor exclusively assumes responsibility for acts of its employees, associates, and subcontractors, if any are authorized herein, as they relate to services to be provided under this Agreement during the course and scope of their employment.

Contractor shall be responsible for performing the work under this Agreement in a safe, professional, skillful and workmanlike manner and shall be liable for its own negligence and negligent acts of its employees. County shall have no right of control over the manner in which work is to be done and shall, therefore, not be charged with responsibility of preventing risk to Contractor or its employees.

## **ARTICLE X**

**Fiscal Considerations:** The parties to this Agreement recognize and acknowledge that County is a political subdivision of the State of California. As such, El Dorado County is subject to the provisions of Article XVI, Section 18 of the California Constitution and other similar fiscal and procurement laws and regulations and may not expend funds for products, equipment or services not budgeted in a given fiscal year. It is further understood that in the normal course of County business, County will adopt a proposed budget prior to a given fiscal year, but that the final adoption of a budget does not occur until after the beginning of the fiscal year.

Notwithstanding any other provision of this Agreement to the contrary, County shall give notice of cancellation of this Agreement in the event of adoption of a proposed budget that does not provide for funds for the services, products or equipment subject herein. Such notice shall become effective upon the adoption of a final budget which does not provide funding for this Agreement. Upon the effective date of such notice, this Agreement shall be automatically terminated and County released from any further liability hereunder.

In addition to the above, should the Board of Supervisors during the course of a given year for financial reasons reduce, or order a reduction, in the budget for any County department for which services were contracted to be performed, pursuant to this paragraph in the sole discretion of the County, this Agreement may be deemed to be canceled in its entirety subject to payment for services performed prior to cancellation.

## **ARTICLE XI**

**Audit by California State Auditor:** Contractor acknowledges that if total compensation under this agreement is greater than \$10,000.00, this Agreement is subject to examination and audit by the California State Auditor for a period of three (3) years, or for any longer period required by law, after final payment under this Agreement, pursuant to California Government Code §8546.7. In order to facilitate these potential examinations and audits, Contractor shall maintain, for a period of at least three (3) years, or for any longer period required by law, after final payment under the contract, all books, records and documentation necessary to demonstrate performance under the Agreement.

## **ARTICLE XII**

### **Default, Termination, and Cancellation:**

- A. **Default:** Upon the occurrence of any default of the provisions of this Agreement, a party shall give written notice of said default to the party in default (notice). If the party in default does not cure the default within ten (10) days of the date of notice (time to cure), then such party shall be in default. The time to cure may be extended at the discretion of the party giving notice. Any extension of time to cure must be in writing, prepared by the party in default for signature by the party giving notice and must specify the reason(s) for the extension and the date on which the extension of time to cure expires.

Notice given under this section shall specify the alleged default and the applicable Agreement provision and shall demand that the party in default perform the provisions of this Agreement within the applicable period of time. No such notice shall be deemed a termination of this Agreement unless the party giving notice so elects in this notice, or the party giving notice so elects in a subsequent written notice after the time to cure has expired. In the event of termination for default, County reserves the right to take over and complete the work by contract or by any other means.

- B. **Bankruptcy:** This Agreement, at the option of the County, shall be terminable in the case of bankruptcy, voluntary or involuntary, or insolvency of Contractor.
- C. **Ceasing Performance:** County may terminate this Agreement in the event Contractor ceases to operate as a business, or otherwise becomes unable to substantially perform any term or condition of this Agreement.
- D. **Termination or Cancellation without Cause:** County may terminate this Agreement in whole or in part upon seven (7) calendar days written notice by County without cause. If such prior termination is effected, County will pay for satisfactory services rendered prior to the effective dates as set forth in the Notice of Termination provided to Contractor, and for such other services, which County may agree to in writing as necessary for contract resolution. In no event, however, shall County be obligated to pay more than the total amount of the contract. Upon receipt of a Notice of Termination, Contractor shall promptly discontinue all services affected, as of the effective date of termination set forth in such Notice of Termination, unless the notice directs otherwise.

## **ARTICLE XIII**

**Notice to Parties:** All notices to be given by the parties hereto shall be in writing and served by depositing same in the United States Post Office, postage prepaid and return receipt requested. Notices to County shall be addressed as follows:

COUNTY OF EL DORADO  
Probation Department  
3974 Durock Road, Suite 205  
Shingle Springs, CA 95682  
ATTN: Chief Probation Officer

or to such other location as the County directs.

with a copy to

COUNTY OF EL DORADO  
Chief Administrative Office  
Procurement and Contracts Division  
360 Fair Lane  
Placerville, CA 95667  
ATTN: Purchasing Agent

Notices to Contractor shall be addressed as follows:

SCRAM of California, Inc.  
402 W. Broadway, Suite 400  
San Diego, CA 92101  
ATTN: Aaron Fleisher, President & General Manager

or to such other location as the Contractor directs.

#### **ARTICLE XIV**

**Change of Address:** In the event of a change in address for Contractor's principal place of business, Contractor's Agent for Service of Process, or Notices to Contractor, Contractor shall notify County in writing pursuant to the provisions contained in this Agreement under the Article titled "Notice to Parties." Said notice shall become part of this Agreement upon acknowledgment in writing by the County Contract Administrator, and no further amendment of the Agreement shall be necessary provided that such change of address does not conflict with any other provisions of this Agreement.

#### **ARTICLE XV**

**Indemnity:** The Contractor shall defend, indemnify, and hold the County harmless against and from any and all claims, suits, losses, damages and liability for damages of every name, kind and description, including attorney's fees and costs incurred, brought for, or on account of, injuries to or death of any person, including but not limited to workers, County employees, and the public, or damage to property, or any economic or consequential losses, which are claimed to or in any way arise out of or are connected with the Contractor's services, operations, or performance hereunder, regardless of the existence or degree of fault or negligence on the part of the County, the Contractor, subcontractor(s) and employee(s) of any of these, except for the sole, or active negligence of the County, its officers and employees, or as expressly prescribed by statute. This

duty of Contractor to indemnify and save County harmless includes the duties to defend set forth in California Civil Code Section 2778.

## **ARTICLE XVI**

**Insurance:** Contractor shall provide proof of a policy of insurance satisfactory to the County of El Dorado Risk Manager and documentation evidencing that Contractor maintains insurance that meets the following requirements:

- A. Full Worker's Compensation and Employer's Liability Insurance covering all employees of Contractor as required by law in the State of California.
- B. Commercial General Liability Insurance of not less than \$1,000,000.00 combined single limit per occurrence for bodily injury and property damage and a \$2,000,000.00 aggregate limit.
- C. Automobile Liability Insurance of not less than \$1,000,000.00 is required in the event motor vehicles are used by the Contractor in the performance of the Agreement.
- D. In the event Contractor is a licensed professional or professional consultant, and is performing professional services under this Agreement, professional liability is required with a limit of liability of not less than \$1,000,000.00 per occurrence.
- E. Contractor shall furnish a certificate of insurance satisfactory to the County of El Dorado Risk Manager as evidence that the insurance required above is being maintained.
- F. The insurance will be issued by an insurance company acceptable to Risk Management, or be provided through partial or total self-insurance likewise acceptable to Risk Management.
- G. Contractor agrees that the insurance required above shall be in effect at all times during the term of this Agreement. In the event said insurance coverage expires at any time or times during the term of this Agreement, Contractor agrees to provide at least thirty (30) days prior to said expiration date, a new certificate of insurance evidencing insurance coverage as provided for herein for not less than the remainder of term of the Agreement, or for a period of not less than one (1) year. New certificates of insurance are subject to the approval of Risk Management and Contractor agrees that no work or services shall be performed prior to the giving of such approval. In the event the Contractor fails to keep in effect at all times insurance coverage as herein provided, County may, in addition to any other remedies it may have, terminate this Agreement upon the occurrence of such event.
- H. The certificate of insurance must include the following provisions stating that:
  1. The insurer will not cancel the insured's coverage without prior written notice to County, and;



2. The County of El Dorado, its officers, officials, employees and volunteers are included as additional insured on an additional insured endorsement, but only insofar as the operations under this Agreement are concerned. This provision shall apply to the general liability policy.
- I. The Contractor's insurance coverage shall be primary insurance as respects the County, its officers, officials, employees and volunteers. Any insurance or self-insurance maintained by the County, its officers, officials, employees or volunteers shall be in excess of the Contractor's insurance and shall not contribute with it.
- J. Any deductibles or self-insured retentions must be declared to and approved by the County, either: the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the County, its officers, officials, employees and volunteers; or the Contractor shall procure a bond guaranteeing payment of losses and related investigations, claim administration and defense expenses.
- K. Any failure to comply with the reporting provisions of the policies shall not affect coverage provided to the County, its officers, officials, employees or volunteers.
- L. The insurance companies shall have no recourse against the County of El Dorado, its officers and employees or any of them for payment of any premiums or assessments under any policy issued by any insurance company.
- M. Contractor's obligations shall not be limited by the foregoing insurance requirements and shall survive expiration of this Agreement.
- N. In the event Contractor cannot provide an occurrence policy, Contractor shall provide insurance covering claims made as a result of performance of this Agreement for not less than three (3) years following completion of performance of this Agreement.
- O. Certificate of insurance shall meet such additional standards as may be determined by the contracting County Department either independently or in consultation with Risk Management, as essential for protection of the County.

## **ARTICLE XVII**

**Interest of Public Official:** No official or employee of County who exercises any functions or responsibilities in review or approval of services to be provided by Contractor under this Agreement shall participate in or attempt to influence any decision relating to this Agreement which affects personal interest or interest of any corporation, partnership, or association in which he/she is directly or indirectly interested; nor shall any such official or employee of County have any interest, direct or indirect, in this Agreement or the proceeds thereof.

## **ARTICLE XVIII**

**Interest of Contractor:** Contractor covenants that Contractor presently has no personal interest or financial interest, and shall not acquire same in any manner or degree in either: 1) any other contract connected with or directly affected by the services to be performed by this Agreement; or, 2) any other entities connected with or directly affected by the services to be performed by this Agreement. Contractor further covenants that in the performance of this Agreement no person having any such interest shall be employed by Contractor.

## **ARTICLE XIX**

**Conflict of Interest:** The parties to this Agreement have read and are aware of the provisions of Government Code Section 1090 et seq. and Section 87100 relating to conflict of interest of public officers and employees. Contractor attests that it has no current business or financial relationship with any County employee(s) that would constitute a conflict of interest with provision of services under this contract and will not enter into any such business or financial relationship with any such employee(s) during the term of this Agreement. County represents that it is unaware of any financial or economic interest of any public officer or employee of Contractor relating to this Agreement. It is further understood and agreed that if such a financial interest does exist at the inception of this Agreement either party may immediately terminate this Agreement by giving written notice as detailed in the Article in the Agreement titled, "Default, Termination and Cancellation."

## **ARTICLE XX**

### **Nondiscrimination:**

- A. County may require Contractor's services on projects involving funding from various state and/or federal agencies, and as a consequence, Contractor shall comply with all applicable nondiscrimination statutes and regulations during the performance of this Agreement including but not limited to the following: Contractor and its employees and representatives shall not unlawfully discriminate against any employee or applicant for employment because of race, religion, color, national origin, ancestry, physical handicap, medical condition, marital status, age, or sex; Contractor shall, unless exempt, comply with the applicable provisions of the Fair Employment and Housing Act (Government Code, Sections 12900 et seq.) and applicable regulations promulgated thereunder (California Code of Regulations, Title 2, Sections 7285.0 et seq.); the applicable regulations of the Fair Employment and Housing Commission implementing Government Code, Section 12990, set forth in Chapter 5 of Division 4 of Title 2 of the California Code of Regulations incorporated into this Agreement by reference and made a part hereof as if set forth in full; and Title VI of the Civil Rights Act of 1964, as amended. Contractor and its employees and representatives shall give written notice of their obligations under this clause as required by law.
- B. Where applicable, Contractor shall include these nondiscrimination and compliance provisions in any of its agreements that affect or are related to the services performed herein.

- C. Contractor's signature shall provide any certifications necessary under the federal laws, the laws of the State of California, including but not limited to Government Code Section 12990 and Title 2, California Code of Regulations, Section 8103.

#### **ARTICLE XXI**

**California Residency (Form 590):** If Contractor is a California resident, Contractors must file a State of California Form 590, certifying its California residency or, in the case of a corporation, certifying that it has a permanent place of business in California. The Contractor will be required to submit a Form 590 prior to execution of an Agreement or County shall withhold seven (7) percent of each payment made to the Contractor during term of the Agreement. This requirement applies to any agreement/contract exceeding \$1,500.00.

#### **ARTICLE XXII**

**Nonresident Withholding:** If Contractor is not a California resident, Contractor shall provide documentation that the State of California has granted a withholding exemption or authorized reduced withholding prior to execution of this Agreement or County shall withhold seven (7%) percent of each payment made to the Contractor during term of the Agreement as required by law. This requirement applies to any agreement/contract exceeding \$1,500.00. Contractor shall indemnify and hold the County harmless for any action taken by the California Franchise Tax Board.

#### **ARTICLE XXIII**

**Taxpayer Identification Number (Form W-9):** All independent Contractors or corporations providing services to the County must file a Department of the Treasury Internal Revenue Service Form W-9, certifying their Taxpayer Identification Number.

#### **ARTICLE XXIV**

**County Business License:** It is unlawful for any person to furnish supplies or services, or transact any kind of business in the unincorporated territory of El Dorado County without possessing a County business license unless exempt under County Code Section 5.08.070.

#### **ARTICLE XXV**

**Licenses:** Contractor hereby represents and warrants that Contractor and any of its subcontractors employed under this Agreement has all the applicable licenses, permits, and certifications that are legally required for Contractor and its subcontractors to practice its profession or provide the services or work contemplated under this Agreement in the State of California. Contractor and its subcontractors shall obtain or maintain said applicable licenses, permits, or certificates in good standing throughout the term of this Agreement.

**ARTICLE XXVI**

**Administrator:** The County Officer or employee with responsibility for administering this Agreement is Gary Romanko, Deputy Chief Probation Officer, Probation Department, or successor.

**ARTICLE XXVII**

**Authorized Signatures:** The parties to this Agreement represent that the undersigned individuals executing this Agreement on their respective behalf are fully authorized to do so by law or other appropriate instrument and to bind upon said parties to the obligations set forth herein.

**ARTICLE XXVIII**

**Partial Invalidity:** If any provision of this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions will continue in full force and effect without being impaired or invalidated in any way.

**ARTICLE XXIX**

**Venue:** Any dispute resolution action arising out of this Agreement, including, but not limited to, litigation, mediation, or arbitration, shall be brought in El Dorado County, California, and shall be resolved in accordance with the laws of the State of California.

**ARTICLE XXX**

**No Third Party Beneficiaries:** Nothing in this Agreement is intended, nor will be deemed, to confer rights or remedies upon any person or legal entity not a party to this agreement.

**ARTICLE XXXI**

**Entire Agreement:** This document and the documents referred to herein or exhibits hereto are the entire Agreement between the parties and they incorporate or supersede all prior written or oral Agreements or understandings.

**Requesting Contract Administrator Concurrence:**

By: \_\_\_\_\_ Dated: \_\_\_\_\_  
Gary Romanko, Deputy Chief Probation Officer  
Probation Department

**Requesting Department Head Concurrence:**

By: \_\_\_\_\_ Dated: \_\_\_\_\_  
Brian Richart, Chief Probation Officer  
Probation Department

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the dates indicated below.

**-- COUNTY OF EL DORADO --**

Dated: \_\_\_\_\_

By: \_\_\_\_\_

Chair  
Board of Supervisors  
"County"

ATTEST:  
Kim Dawson  
Clerk of the Board of Supervisors

By: \_\_\_\_\_

Deputy Clerk

Dated: \_\_\_\_\_

**-- CONTRACTOR --**

SCRAM of California, Inc.  
A California Corporation

By: \_\_\_\_\_

Aaron Fleisher  
President & General Manager  
"Contractor"

Dated: \_\_\_\_\_



**ELECTRIC MONITORING**  
 Led by the State of Washington

Master Agreement #: 00212

Contractor: **ALCOHOL MONITORING SYSTEMS  
 DBA SCRAM SYSTEMS**

Participating Entity: **EL DORADO COUNTY PROBATION DEPARTMENT  
 (HERINAFTER “PARTICIPATING STATE/ENTITY”)**

**Master Agreement Terms and Conditions:**

1. Scope: This addendum covers the Electronic Monitoring of Offenders led by the State of Washington for use by state agencies and other entities located in the Participating State [or State Entity] authorized by that State’s statutes to utilize State contracts with the prior approval of the State’s Chief Procurement Official.

*Removable Instruction: Participating States should ensure that paragraph 2 properly defines the scope of participation. The model language in paragraph enables participation by all political subdivisions, institutions of higher education, and other entities included in the state’s statewide contract program.*

2. Participation: This NASPO ValuePoint Master Agreement may be used by all state agencies, institutions of higher institution, political subdivisions and other entities authorized to use statewide contracts in the State of [xxxxxxx]. Issues of interpretation and eligibility for participation are solely within the authority of the State Chief Procurement Official.

3. Primary Contacts: The primary contact individuals for this Participating Addendum are as follows (or their named successors):

Contractor

Name:	John Hennessey, Vice President/General Manager
Address:	Alcohol Monitoring Systems 1241 W. Mineral Avenue Littleton, CO 80120
Telephone:	(815) 342-4469
Fax:	(815) 280-0747
Email:	jhennessey@alcoholmonitoring.com



**ELECTRIC MONITORING**  
Led by the State of Washington

Participating Entity

Name:	Gary Romanko
Address:	3974 Durock Rd, Suite 205, Shingle Springs, CA 95682
Telephone:	(530) 621-6562
Fax:	(530) 676-6216
Email:	Gary.romanko@edcgov.us

**4. PARTICIPATING ENTITY MODIFICATIONS OR ADDITIONS TO THE MASTER AGREEMENT**

These modifications or additions apply only to actions and relationships within the Participating Entity.

Participating Entity must check one of the boxes below.

No changes to the terms and conditions of the Master Agreement are required.

The following changes are modifying or supplementing the Master Agreement terms and conditions.

Participating State/Entity requests that the equipment and services be delivered exercising the Preferred Optional Service: Alcohol Monitoring Transdermal Equipment and Service- Optional Vendor Provided Offender Services. Participating State/Entity specifically acknowledges that the equipment and services will be delivered by SCRAM of California, an Authorized US SCRAMx Products and Service Partner

5. Lease Agreements: *[If applicable, insert a statement about whether or not equipment lease agreement terms and conditions included in the Master Agreement have been approved for use by the Participating State and any restrictions or requirements for the use of the lease agreement language in the Master Agreement. If not applicable, mark Section 4 as "Reserved".]*

6. Subcontractors: All contactors, dealers, and resellers authorized in the State of [xxxxxx], as shown on the dedicated Contractor (cooperative contract) website, are approved to provide sales and service support to participants in the NASPO ValuePoint Master Agreement. The contractor's dealer participation will be in accordance with the terms and conditions set forth in the aforementioned Master Agreement.



**ELECTRIC MONITORING**  
Led by the State of Washington

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7. Orders: Any order placed by a Participating Entity or Purchasing Entity for a product and/or service available from this Master Agreement shall be deemed to be a sale under (and governed by the prices and other terms and conditions) of the Master Agreement unless the parties to the order agree in writing that another contract or agreement applies to such order.

IN WITNESS, WHEREOF, the parties have executed this Addendum as of the date of execution by both parties below.

Participating Entity:	Contractor:
Signature:	Signature:
Name:	Name:
Title:	Title:
Date:	Date:

*[Additional signatures may be added if required by the Participating Entity]*





**ELECTRIC MONITORING**  
Led by the State of Washington

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For questions on executing a participating addendum, please contact:

NASPO ValuePoint

Cooperative Development Coordinator:	Ted Fosket
Telephone:	(907) 723-3360
Email:	<a href="mailto:tfosket@naspovaluepoint.org">tfosket@naspovaluepoint.org</a>

***[Please email fully executed PDF copy of this document to***

***[PA@naspovaluepoint.org](mailto:PA@naspovaluepoint.org)***

***to support documentation of participation and posting in appropriate data bases.]***

State of Washington  
Department of Enterprise Services  
Contracts and Legal Division  
Master Contracts & Consulting (MCC)



# **Contract #00212 with Alcohol Monitoring Systems for Electronic Monitoring of Offenders**

**The State of Washington on behalf of the  
WSCA-NASPO Cooperative Purchasing Organization**

Under the Authority of  
State of Washington, Chapter 39.26 RCW (formerly Chapter 43.19 RCW)

Contract 00212 with Alcohol Monitoring Systems for Electronic Monitoring of Offenders

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## 1.0 OVERVIEW

### 1.1 CONTRACT SCOPE

The purpose of this contract is the purchase of vendor-provided equipment and services for the monitoring of offenders through transdermal alcohol monitoring. Contracts may be established with one or more vendors for each of these monitoring services and may be modified as necessary to add new technology or enhancements to existing equipment/service available from the contract vendor.

However, during the term of this contract should new methods or types of offender monitoring equipment and/or services become available in the marketplace from a non-contract vendor the state reserves the right to establish separate contracts for such monitoring equipment/services.

### 1.2 CONTRACT SCOPE AND MODIFICATIONS

The MMC reserves the right to modify this Contract by mutual agreement between the MCC and the Contractor, so long as such modification is substantially within the scope of the original Contract. Such modifications will be evidenced by issuance of a written authorized amendment by the Contract Administrator.

### 1.3 RECITALS

The state of Washington (acting as the Lead State for the WSCA-NASPO Cooperative Purchasing Organization, referred to as WSCA-NASPO), acting by and through MCC, issued a Request for Proposal for the purpose of purchasing equipment and services for the electronic monitoring of offenders in accordance with its authority under Chapter 39.26 RCW.

Alcohol Monitoring Systems, Inc. submitted a timely Response to the MCC's Solicitation (incorporated by reference).

The MCC evaluated all properly submitted Responses to the above-referenced RFP and has identified Alcohol Monitoring Systems, Inc. as one of the apparently successful Contractors.

The MCC has determined that entering into a Contract with Alcohol Monitoring Systems, Inc. for the category of electronic monitoring service (transdermal alcohol) will meet Purchaser's needs and will be in Purchaser's best interest.

NOW THEREFORE, MCC awards to Alcohol Monitoring Systems, Inc. this Contract, the terms and conditions of which shall govern Contractor's furnishing to Purchasers the equipment and services identified herein for the electronic monitoring of offenders. This Contract is not for personal use.

IN CONSIDERATION of the mutual promises as hereinafter set forth, the parties agree as follows:

### 1.4 ESTIMATED USAGE

Based on past and/or projected future usage, it is estimated that purchases over the initial three (3) year term of the Contract may approximate \$1,000,000 for contract products and services. This estimate was provided solely for the purpose of assisting Bidders in preparing their Response. Orders will be placed by Purchasers (Participating Entities) only on an as needed basis.

**The State of Washington/WSCA-NASPO Cooperative Purchasing Organization does not represent or guarantee any minimum level of purchase.**

### 1.5 CONTRACT TERM

The initial term of this contract is for approximately three (3) years from May 1, 2013, or the date of last signature whichever is later, through December 31, 2016 with the option to extend for additional

## **Contract 00212 with Alcohol Monitoring Systems for Electronic Monitoring of Offenders**

term(s) or portions thereof. Extension for each additional term shall be offered at the sole discretion of the MCC and are subject to written mutual agreement. The total contract term, including the initial term and all subsequent extensions, shall not exceed ten (10) years unless an emergency exists and/or special circumstances require a partial term extension. The MCC reserves the right to extend with all or some of the Contractors, solely determined by the MCC.

### **1.6 PURCHASERS/PARTICIPATING ENTITIES**

#### **Participating Entities**

Potential Purchasers/Participating Entities include members of the Western States Contracting Alliance (which was replaced by the WSCA-NASPO Cooperative Purchasing Organization). The Western States Contracting Alliance (WSCA) is a cooperative group-contracting consortium for state government departments, institutions, institutions of higher education, agencies and political subdivisions (e.g., school districts, counties, cities, etc.) for the States of Alaska, Arizona, California, Colorado, Hawaii, Idaho, Minnesota, Montana, Nevada, New Mexico, Oregon, South Dakota, Utah, Washington, and Wyoming. WSCA is a cooperative purchasing arm of the National Association of State Procurement Officials (NASPO). The balance of the 50 states, the District of Columbia, US Territories and other public entities may also use WSCA-NASPO contracts.

In addition to the State of Washington, the following Participating Entities have signified their intent to participate in this contract: State of Montana, State of Utah, State of South Dakota, State of Hawaii, State of New Mexico, State of Arkansas, State of Virginia, State of Alaska, State of Connecticut, State of Oklahoma, State of California, State of Nevada, State of South Carolina, State of North Dakota, State of Louisiana, State of Michigan, State of Mississippi, and State of Rhode Island. An estimated average number of units in daily usage or an estimated anticipated annual spend amount was provided in the Request for Proposal document to assist vendors in preparing their proposals. Individual state terms and conditions for the states of Utah, Oklahoma, and North Dakota are incorporated by reference into this Contract as was provided in the Request for Proposal document in Appendix H Intent to Participate for Electronic Monitoring of Offenders Contract.

However, this Intent to Participate document is not binding. During the term of this Contract, other states and public entities may use this contract by executing a Participating Addendum between themselves and the Contractor.

#### **Washington State Purchasing Cooperative (WSPC)**

Additionally, this Contract may be used by members of the Washington State Purchasing Cooperative (WSPC) including where applicable: State Agencies, Institutions of Higher Education, Political Subdivisions, and Non-Profit Corporations. A list of WSPC members is available at <http://www.ga.wa.gov/PCA/SPC.htm>

The State of Washington reserves the right to define the delivery process for any and all awarded vendor services for the purpose of sales within Washington State. This includes the right to establish an independent broker to work with prisons, other correctional institutions and other offender monitoring activities.

## **2.0 CONTRACT ADMINISTRATION**

### **2.1 MCC CONTRACT ADMINISTRATOR**

The MCC shall appoint a single point of contact that will be the Contract Administrator for this Contract and will provide oversight of the activities conducted hereunder. The Contract Administrator will be the principal contact for Contractor concerning business activities under this

## **Contract 00212 with Alcohol Monitoring Systems for Electronic Monitoring of Offenders**

Contract. The MCC will notify Contractor, in writing, when there is a new Contract Administrator assigned to this Contract.

### **2.2 ADMINISTRATION OF CONTRACT**

MCC will maintain Contract information and pricing and make it available on the DES web site.

### **2.3 CONTRACTOR SUPERVISION AND COORDINATION**

Contractor shall:

1. Competently and efficiently, supervise and coordinate the implementation and completion of all Contract requirements specified herein;
2. Identify the Contractor's Representative, who will be the principal point of contact for the MCC Contract Administrator concerning Contractor's performance under this Contract.
3. Immediately notify the Contract Administrator in writing of any change of the designated Contractor's Representative assigned to this Contract; and
4. Violation of any provision of this paragraph may be considered a material breach establishing grounds for Contract termination.
5. Be bound by all written communications given to or received from the Contractor's Representative.

### **2.4 POST AWARD CONFERENCE**

The Contractor may be required to attend a post award conference scheduled by the Procurement Coordinator to discuss contract performance requirements. The time and place of this conference will be scheduled following contract award.

### **2.5 CONTRACT MANAGEMENT**

Upon award of this Contract, the Contractor shall:

1. Review the impact of the award and take the necessary steps needed to ensure that contractual obligations will be fulfilled.
2. Promote and market the use of this Contract to all authorized contract Purchasers/Participating Entities.
3. Ensure that those who endeavor to utilize this Contract are authorized Purchasers/Participating Entities under the terms and conditions of this Contract.
4. At no additional charge, assist Purchasers/Participating Entities in the following manner to make the most cost effective, value based, purchases including, but not limited to:
  - a) Visiting the Purchaser/Participating Entities site and providing them with materials/supplies/equipment recommendations.
  - b) Providing Purchasers/Participating Entities with a detailed list of contract products and services including current contract pricing.
5. The Contractor shall designate a customer service representative who will be responsible for addressing Purchaser/Participating Entities issues including, but not limited to:
  - a) Logging requests for service, ensuring equipment repairs are completed in a timely manner, dispatching service technicians, and processing warranty claim documentation.



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- b) Providing Purchasers/Participating Entities with regular and timely status updates in the event of an order or repair fulfillment delay.
- 6. Acting as the lead and liaison between the Contractor and Purchaser/Participating Entities in resolving warranty claims for Contract items purchased.

**2.6 CHANGES**

Alterations to any of the terms, conditions, or requirements of this Contract shall only be effective upon written issuance of a mutually agreed Contract Amendment by the Contract Administrator. However, changes to point of contact information may be updated without the issuance of a mutually agreed Contract Amendment.

**2.7 CONTRACT ADMINISTRATION FEE**

The Contract(s) will be subject to a WSCA-NASPO Administration Fee. Bidder(s) will include this fee in its bid pricing and not as a separate line item to Purchasers/Participating Entities. The Contractor(s) will collect the fees and distribute the fees to WSCA-NASPO as outlined below.

The WSCA-NASPO Administration Fee will be one-half of one percent (0.5%) on all purchases made under authority of the Contract. Purchases are defined as total invoice price less any applicable sales tax. No taxes will be assessed against this WSCA-NASPO Administration Fee.

The WSCA-NASPO Administrative fee shall be paid within sixty (60) days after the end of the calendar quarter. It is the Contractor's responsibility to calculate and remit the Administrative Fee since WSCA-NASPO does not issue an invoice for this fee. Contractor shall indicate the Contract Number 00212 and include with the remittance, a quarterly sales report by WSCA-NASPO contract participant. The administrative fee shall be paid to:

WSCA-NASPO COOPERATIVE PURCHASING ORGANIZATION  
PROGRAM MANAGER  
201 EAST MAIN STREET, SUITE 1450  
LEXINGTON, KY 40507

In addition to the WSCA-NASPO Administration Fee as stated above, some Participating Entities may also require an administrative fee, and it will be incorporated into the Participating Entity's Participating Addendum. Participating Entity Administrative Fees may or may not be added to the price of contract products/services as determined between themselves.

**2.8 CONTRACT ADMINISTRATION FEE FOR STATE OF WASHINGTON SALES**

Contractor shall pay the Department of Enterprise Services (DES) a fee ("Washington Management Fee") equal to 0.74% of the total invoice price, less any taxes, returns, credits, or adjustments, of all sales ("Total Net Sales") made to Purchasers/Participating Entities located within the state of Washington under this Contract. Contractor shall hold the Management Fee in trust for DES until such fees are remitted to DES.

The Washington Management Fee will be included in Contractor's pricing, as set forth in the Contract (including all amendments), and will not be included as a separate line item on any invoice submitted to a Washington Purchasers/Participating Entities.

DES may, at its sole discretion, increase, decrease, or eliminate the Washington Management Fee upon thirty (30) days written notice to Contractor. Any decrease to or elimination of the Washington Management Fee, shall be reflected in Contract pricing commensurate with the adjustment. DES reserves the right to negotiate Contract pricing with the Contractor when the Washington Management Fee adjustment results in an increase to Contract prices.

## **Contract 00212 with Alcohol Monitoring Systems for Electronic Monitoring of Offenders**

Contractor will provide DES with a Sales Report detailing Total Net Sales for the preceding quarter in accordance with the Sales & Subcontractor Reports section of the Contract. DES will send an invoice each quarter, based on the Sales Report within thirty (30) days after receiving the Sales Report. Payment of the Washington Management Fee is due within thirty (30) days of Contractor's receipt of such invoice from DES.

MCC reserves the right to audit, or have a designated third party audit, applicable records to ensure that the state has been properly invoiced and all Washington Management Fees have been paid. Failure to accurately report Total Net Sales, to submit a timely Sales Report, or remit timely payment of the Washington Management Fee, may be cause for Contract termination, the charging of interest or penalties, or the exercise of other remedies provided by law.

Washington Management Fee payment must reference the Contract number and the quarter/year for which the Washington Management Fee is being remitted. All payments must be sent to:

State of Washington  
Department of Enterprise Services  
Finance Department  
Post Office Box 41411  
Olympia, WA 98504-1411

### **2.9 WASHINGTON'S STATEWIDE VENDOR PAYMENT REGISTRATION**

Contractors are required to be registered in the Statewide Vendor Payment system, prior to submitting a request for payment from Purchasers located within the state of Washington under this Contract. Purchasers who are Washington state agencies require registration to be completed prior to payment.

The Washington State Office of Financial Management (OFM) maintains a central contractor registration file for Washington State agencies to process contractor payments.

To obtain registration materials go to <http://www.ofm.wa.gov/accounting/vendors.asp> the form has two parts; Part 1 is the information required to meet the above registration condition. Part 2 allows the state to pay invoices electronically with direct deposit and is the state's most efficient method of payment and you are encouraged to sign up for this form of payment.

### **2.10 SALES & SUBCONTRACTOR REPORTS**

The Contractor shall provide a Sales and Subcontractor Report to the Master Contracts & Consulting on a quarterly basis in the electronic format provided by the Master Contracts & Consulting at: <https://fortress.wa.gov/ga/apps/CSR/Login.aspx>.

Reports must be submitted electronically within thirty (30) days after the end of the calendar quarter, i.e., no later than April 30th, July 31st, October 31st and January 31st.

### **2.11 OTHER MCC REQUIRED REPORT(S)**

All MMC required reports under this contract must be delivered to the Contract Administrator. Contractor may be required to provide a detailed annual contract sales history report that may include but is not limited to product/service description, per unit quantities/services supplied, contract price in an electronic format that can be read by MS Excel. Other required reports will be designed and approved by the parties by mutual agreement.

## **Contract 00212 with Alcohol Monitoring Systems for Electronic Monitoring of Offenders**

### **2.12 WASHINGTON'S ELECTRONIC BUSINESS SOLUTION (WEBS)**

Contractor shall be registered in the Contractor registration system, Washington's Electronic Business Solution (WEBS) [www.ga.wa.gov/webs](http://www.ga.wa.gov/webs), maintained by the Washington State Department of Enterprise Services. Contractors already registered need not re-register. It is the sole responsibility of Contractor to properly register with WEBS and maintain an accurate Contractor profile in WEBS.

## **3.0 PRICING**

### **3.1 PRICE PROTECTION**

Contractor warrants that prices of materials, supplies, services, and/or equipment set forth herein do not exceed those charged by the Contractor to any other customer purchasing the same under similar conditions and in like or similar quantities.

### **3.2 NO ADDITIONAL CHARGES**

Unless otherwise specified herein, no additional charges by the Contractor will be allowed including, but not limited to: handling charges such as packing, wrapping, bags, containers, reels; or the processing fees associated with the use of credit cards. Notwithstanding the foregoing, in the event that market conditions, laws, regulations or other unforeseen factors dictate, at the Contract Administrators sole discretion, additional charges may be allowed.

### **3.3 VOLUME/PROMOTIONAL DISCOUNTS**

Contract prices are the maximum or ceiling price Contractor can charge. The Contractor may also offer volume and/or promotional price discounts to Purchasers/Participating Entities.

### **3.4 NEW PRODUCTS/SERVICES**

A Contractor may propose a revision to its contract offerings to reflect technical product upgrades or other changed products and/or services appropriate to the scope of the Contract. These proposed new products/services with associated pricing may be provided to the MCC Contract Administrator for approval. Contract Administrator has the sole discretion to accept or reject such product/service offerings and pricing. New or changed products/services proposed by Contractor must meet the requirements established in the original solicitation document or subsequent revisions. If approved by MCC, the new products/services will be added to the Contract by written amendment.

### **3.5 PRICE ADJUSTMENTS**

At least one hundred twenty (120) calendar days before the end of the current term of this Contract and subsequent extension periods, Contractor may propose purchase price and support (service) rate increases by written notice to the MCC's Contract Administrator. Price adjustments may be taken into consideration by the MCC's Contract Administrator when determining whether to extend this Contract. Price increases will not be considered without supporting documentation sufficient to justify the requested increase. Contractor shall provide a detailed breakdown of their costs upon request.

**Contractors shall not make contract extensions contingent on price adjustments.**

Documentation must be based on published indices, such as the Producer Price Index and/or the result of increases at the manufacturer's level, incurred after contract commencement date. The grant of any price adjustment will be at the sole discretion of the MCC and, if granted, shall not produce a higher profit margin for the Contractor than that established by the original contract pricing. The

## **Contract 00212 with Alcohol Monitoring Systems for Electronic Monitoring of Offenders**

Contractor shall be notified in writing by the Contract Administrator of any price adjustment granted by the MCC, and such price adjustment shall be set forth in a written amendment to the contract.

### **4.0 CONTRACTOR QUALIFICATIONS AND REQUIREMENTS**

#### **4.1 ESTABLISHED BUSINESS**

Prior to commencing performance, or prior to that time if required by the MCC, law or regulation, Contractor must be an established business firm with all required licenses, fees, bonding, facilities, equipment and trained personnel necessary to meet all requirements and perform the work as specified in the Solicitation. Contractor shall maintain compliance with these requirements throughout the life of this contract.

The MCC reserves the right to require receipt of proof of compliance with said requirements within ten (10) calendar days from the date of request, and to terminate this Contract as a material breach for noncompliance with any requirement of this paragraph.

#### **4.2 USE OF SUBCONTRACTORS**

In accordance with RFP requirements, Contractor agrees to take complete responsibility for all actions of its Subcontractors.

Prior to performance, Contractor shall identify all subcontractors who will perform services in fulfillment of contract requirements, including their name, the nature of services to be performed, address, telephone, facsimile, email, federal tax identification number (TIN), and anticipated dollar value of each subcontract:

The MCC reserves the right to approve or reject any and all Subcontractors that are identified by the Contractor. Any Subcontractors not listed in the Bidder's Response, who are engaged by the Contractor, must be pre-approved, in writing, by the MCC.

Specific restrictions apply to contracting with current or former state employees pursuant to Chapter 42.52 RCW.

#### **4.3 SUBCONTRACTS AND ASSIGNMENT**

Contractor shall not Subcontract, assign, or otherwise transfer its obligations under this Contract without the prior written consent of the Contract Administrator. Contractor shall provide a minimum of thirty (30) calendar days advance notification of intent to Subcontract, assign, or otherwise transfer its obligations under this Contract. Violation of this condition may be considered a material breach establishing grounds for Contract termination. The Contractor shall be responsible to ensure that all requirements of the Contract shall flow down to any and all Subcontractors. In no event shall the existence of a Subcontract operate to release or reduce the liability of Contractor to the state for any breach in the performance of the Contractor's duties.

#### **4.4 CONTRACTOR AUTHORITY AND INFRINGEMENT**

Contractor is authorized to sell under this Contract, only those materials, supplies, services and/or equipment as stated herein and allowed for by the provisions of this Contract. Contractor shall not represent to any Purchasers that they have the contract authority to sell any other materials, supplies, services and/or equipment. Further, Contractor may not intentionally infringe on other established Washington State Contracts.

## **Contract 00212 with Alcohol Monitoring Systems for Electronic Monitoring of Offenders**

### **4.5 MATERIALS AND WORKMANSHIP**

The Contractor shall be required to furnish all materials, supplies, equipment and/or services necessary to perform Contractual requirements. Materials, supplies and workmanship used in the construction of equipment for this Contract shall conform to all applicable federal, state, and local codes, regulations and requirements for such equipment, specifications contained herein, and the normal uses for which intended. Materials, supplies and equipment shall be manufactured in accordance with the best commercial practices and standards for this type of materials, supplies, and equipment.

### **4.6 MERCURY CONTENT AND PREFERENCE**

Contractor shall provide mercury-free products when available. Should mercury-free products not exist, contractors shall provide products with the lowest mercury content available. Contractor shall disclose products that contain added mercury and provide an explanation that includes the amount or concentration of mercury, and justification as to why added mercury is necessary for the function or performance of the product.

The MCC reserves the right to require receipt of proof of compliance with said requirements within ten (10) calendar days from the date of request, and to terminate this Contract as a material breach for noncompliance with any requirement of this paragraph.

## **5.0 DELIVERY REQUIREMENTS**

### **5.1 ORDER FULFILLMENT REQUIREMENTS**

Authorized Purchasers/Participating Entities may place orders against this Contract either in person, electronically, facsimile or by phone. Once an order is issued, the following shall apply:

1. For purposes of price verification and auditing, upon receipt of a purchase order the Contractor shall send the Purchaser an order confirmation notification that identifies applicable Contract prices to be applied to the order.
2. Upon the request of the Purchaser, the Contractor shall supply Purchaser documentation needed to verify Contract pricing compliance.
3. Product damaged prior to acceptance will either be replaced or repaired in an expedited manner at Contractor's expense. Alternatively, at the Purchaser's option, any possible damage to the product can be noted on the receiving report and the cost deducted from final payment.

The Contractor is responsible to verify delivery conditions/requirements with the Purchaser prior to the delivery.

### **5.2 EQUIPMENT DEMONSTRATION**

During the term of the contract the Contractor may be requested by a Purchaser/Participating Entity to provide an on-site demonstration of the equipment and services available through this contract. Such demonstration(s) shall be provided at no additional cost to the Purchaser/Participating Entity at a mutually agreed upon date and location.

### **5.3 SHIPPING AND RISK OF LOSS**

Contractor shall ship all Products purchased pursuant to this Contract, freight prepaid, FOB Purchaser's specified destination. The method of shipment shall be consistent with the nature of the Products and hazards of transportation. Regardless of FOB point, Contractor agrees to bear all risks

## **Contract 00212 with Alcohol Monitoring Systems for Electronic Monitoring of Offenders**

of loss, damage, or destruction of the Products ordered hereunder that occurs prior to delivery, except loss or damage attributable to Purchaser's fault or negligence; and such loss, damage, or destruction shall not release Contractor from any obligation hereunder. After delivery, the risk of loss or damage shall be borne by Purchaser, except loss or damage attributable to Contractor's fault or negligence.

### **5.4 DELIVERY**

Delivery of Products must be made during Purchaser's normal work hours and within time frames mutually agreed in writing between the Purchaser and Contractor at the time of order placement.

Failure to comply with agreed upon delivery times may subject Contractor to damages. The Purchaser may refuse shipment when delivered after normal working hours. The Contractor shall verify specific working hours of individual Purchasers and instruct carrier(s) to deliver accordingly. The acceptance by the Purchaser of late performance, with or without objection or reservation by the Purchaser, shall not waive the right to claim damage for such breach, nor preclude the MCC or Purchaser from pursuing any other remedy provided herein, including termination, nor shall such acceptance of late performance constitute a waiver of the requirements for the timely performance of any obligation remaining to be performed by Contractor.

All deliveries are to be made to the applicable delivery location as indicated in the Order Document. When applicable, the Contractor shall take all necessary actions to safeguard items during inclement weather. In no case shall the Contractor initiate performance prior to receipt of written or verbal authorization from authorized Purchasers. Expenses incurred otherwise shall be borne solely by the Contractor.

### **5.5 SITE SECURITY**

While on Purchaser's/Participating Entity's premises, Contractor, its agents, employees, or Subcontractors shall conform in all respects with physical, fire, or other security regulations.

### **5.6 INSPECTION AND REJECTION**

The Purchaser's/Participating Entity's inspection of all materials, supplies and equipment upon delivery is for the purpose of forming a judgment as to whether such delivered items are what was ordered, were properly delivered and ready for Acceptance. Such inspection shall not be construed as final acceptance, or as acceptance of the materials, supplies or equipment, if the materials, supplies or equipment does not conform to contractual requirements. If there are any apparent defects in the materials, supplies, or equipment at the time of delivery, the Purchaser will promptly notify the Contractor. Without limiting any other rights, the Purchaser may require the Contractor to: (1) repair or replace, at Contractor's expense, any or all of the damaged goods; (2) refund the price of any or all of the damaged goods; or (3) accept the return of any or all of the damaged goods.

### **5.7 TREATMENT OF ASSETS**

1. Title to all property furnished by the Purchaser/Participating Entity shall remain with the Purchaser/Participating Entity, as appropriate. Title to all property furnished by the Contractor, the cost for which the Contractor is entitled to be reimbursed as a direct item of cost under this contract, shall pass to and vest in the Purchaser upon delivery of such property by the Contractor and acceptance by the Purchaser. Title to other property, the cost of which is reimbursable to the Contractor under this Contract, shall pass to and vest in the Purchaser upon (i) issuance for use of such property in the performance of this Contract, or (ii) commencement of use of such property in the performance of this Contract, or (iii) reimbursement of the cost thereof by the Purchaser in whole or in part, whichever first occurs.

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Title to monitoring equipment or accessories furnished by the Contractor and leased by the Purchaser does not pass to the Purchaser during the performance of this Contract.

2. Any property of the Purchaser furnished to the Contractor shall, unless otherwise provided herein or approved by the Purchaser, be used only for the performance of this Contract.
3. The Contractor shall be responsible for damages as a result of any loss or damage to property of the Purchaser which results from the negligence of the Contractor or which results from the failure on the part of the Contractor to maintain, administer and protect that property in a reasonable manner and to the extent practicable in all instances.
4. If any Purchaser property is lost, destroyed, or damaged, the Contractor shall immediately notify the Purchaser and shall take all reasonable steps to protect the property from further damage.
5. The Contractor shall surrender to the Purchaser all property of the Purchaser prior to settlement upon completion, termination, or cancellation of this contract.
6. All reference to the Contractor under this clause shall also include Contractor's employees, agents or Subcontractors.

### **5.8 LABELING**

Individual shipping cartons shall be labeled with the name of the ordering agency, order number, contract number, contractor, state stock numbers, and where applicable, date of manufacture, batch number, storage requirements, conditions, and recommended shelf life. Contractors are encouraged to offer product packaging with recycled content.

## **6.0 PAYMENT**

### **6.1 ADVANCE PAYMENT PROHIBITED**

No advance payment shall be made for the Products and Services furnished by Contractor pursuant to this Contract.

Notwithstanding the above, maintenance payments, if any, may be made on a quarterly basis at the beginning of each quarter.

This language shall not prohibit Contractor from collecting advance payments from program participants as part of offender-funded programs, when contracted to do so with a Purchaser/Participating Entity.

### **6.2 IDENTIFICATION**

All invoices, packing lists, packages, instruction manuals, correspondence, shipping notices, shipping containers, and other written materials associated with this Contract shall be identified by the Contract number and the applicable Purchaser's/Participating Entity's order number. Packing lists shall be enclosed with each shipment and clearly identify all contents and any backorders.

### **6.3 PAYMENT, INVOICING AND DISCOUNTS**

Payment is the sole responsibility of, and will be made by, the Purchaser/Participating Entity.

Contractor shall provide a properly completed invoice to Purchaser/Participating Entity. All invoices are to be delivered to the address indicated in the purchase order.

Each invoice shall be identified by the associated WSCA-NASPO Contract Number; the Purchaser's/Participating Entity's contract/purchase order number (as applicable), and shall be in U.S. dollars. Invoices shall be prominently annotated by the Contractor with all applicable prompt

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payment and/or volume discount(s) and shipping charges unless otherwise specified in the Solicitation. Hard copy credit memos are to be issued when the state has been overcharged.

Invoices for payment will accurately reflect all discounts due the Purchaser/Participating Entity. Invoices will not be processed for payment, nor will the period of prompt payment discount commence, until receipt of a properly completed invoice denominated in U.S. dollars and until all invoiced items are received and satisfactory performance of Contractor has been accepted by the Purchaser/Participating Entity. If an adjustment in payment is necessary due to damage or dispute, any prompt payment discount period shall commence on the date final approval for payment is authorized.

Under Chapter 39.76 RCW, if Purchaser fails to make timely payment(s), Contractor may invoice for 1% per month on the amount overdue or a minimum of \$1.00. Payment will not be considered late if a check or warrant is mailed within the time specified. If no terms are specified, net 30 days will automatically apply. Payment(s) made in accordance with Contract terms shall fully compensate the Contractor for all risk, loss, damages or expense of whatever nature and acceptance of payment shall constitute a waiver of all claims submitted by Contractor. If the Purchaser/Participating Entity fails to make timely payment(s) or issuance of credit memos, the Contractor may impose a 1% per month on the amount overdue.

Payment for materials, supplies and/or equipment received and for services rendered shall be made by Purchaser/Participating Entity and be redeemable in U.S. dollars. Unless otherwise specified, the Purchaser's/Participating Entity's sole responsibility shall be to issue this payment. Any bank or transaction fees or similar costs associated with currency exchange procedures or the use of purchasing/credit cards shall be fully assumed by the Contractor.

### **6.4 TAXES, FEES AND LICENSES**

#### **Taxes:**

Where required by statute or regulation, the Contractor shall pay for and maintain in current status all taxes that are necessary for Contract performance. Unless otherwise indicated, the Purchaser agrees to pay State of Washington taxes on all applicable materials, supplies, services and/or equipment purchased. No charge by the Contractor shall be made for federal excise taxes and the Purchaser/Participating Entity agrees to furnish Contractor with an exemption certificate where appropriate.

#### **Collection of Retail Sales and Use Taxes:**

In general, Contractors engaged in retail sales activities within the State of Washington are required to collect and remit sales tax to Department of Revenue (DOR). In general, out-of-state Contractors must collect and remit "use tax" to Department of Revenue if the activity carried on by the seller in the State of Washington is significantly associated with Contractor's ability to establish or maintain a market for its products in Washington State. Examples of such activity include where the Contractor either directly or by an agent or other representative:

1. Maintains an in-state office, distribution house, sales house, warehouse, service enterprise, or any other in-state place of business;
2. Maintains an in-state inventory or stock of goods for sale;
3. Regularly solicits orders from Purchasers located within the State of Washington via sales representatives entering the State of Washington;
4. Sends other staff into the State of Washington (e.g. product safety engineers, etc.) to interact with Purchasers in an attempt to establish or maintain market(s); or



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### 5. Other factors identified in WAC 458-20.

#### **Department of Revenue Registration for Out-of-State Contractors:**

Out-of-state Contractors meeting any of the above criteria must register and establish an account with the Department of Revenue. Refer to WAC 458-20-193, and call the Department of Revenue at 800-647-7706 for additional information. When out-of-state Contractors are not required to collect and remit "use tax," Purchasers located in the State of Washington are responsible for paying this tax, if applicable, directly to the Department of Revenue.

#### **Fees/Licenses:**

After award of Contract, and prior to commencing performance under the Contract, the Contractor shall pay for and maintain in a current status any licenses, fees, assessments, permit charges, etc., which are necessary for Contract performance. It is the Contractor's sole responsibility to maintain licenses and to monitor and determine any changes or the enactment of any subsequent regulations for said fees, assessments, or charges and to immediately comply with said changes or regulations during the entire term of this Contract.

#### **Customs/Brokerage Fees:**

Contractor shall take all necessary actions, including, but not limited to, paying all customs, duties, brokerage, and/or import fees, to ensure that materials, supplies, and/or equipment purchased under the Contract are expedited through customs. Failure to do so may subject Contractor to liquidated damages as identified herein and/or to other remedies available by law or Contract. Neither the MCC nor the Purchaser will incur additional costs related to Contractor's payment of such fees.

#### **Taxes on Invoice:**

Contractor shall calculate and enter the appropriate Washington State and local sales tax on all invoices. Tax is to be computed on new items after deduction of any trade-in in accordance with WAC 458-20-247.

### **6.5 OVERPAYMENTS TO CONTRACTOR**

Contractor shall refund to Purchaser/Participating Entity the full amount of any erroneous payment or overpayment under this Contract within thirty (30) days' written notice. If Contractor fails to make timely refund, Purchaser may charge Contractor one percent (1%) per month on the amount due, until paid in full.

### **6.6 AUDITS**

The MCC Contract Administrator and/or the Purchaser/Participating Entity reserves the right to audit, or have a designated third party audit, applicable records to ensure that the Purchaser/Participating Entity has been properly invoiced. Any remedies and penalties allowed by law to recover monies determined owed will be enforced. Repetitive instances of incorrect invoicing may be considered complete cause for contract termination.

## **7.0 QUALITY ASSURANCE**

### **7.1 RIGHT OF INSPECTION**

Contractor shall provide right of access to its facilities to MCC, or any of MCC's officers, or to any other authorized agent or official of the state of Washington or other Participating Entity, or the federal government, at all reasonable times, in order to monitor and evaluate performance, compliance, and/or quality assurance under this Contract.

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### **7.2 CONTRACTOR COMMITMENTS, WARRANTIES AND REPRESENTATIONS**

Any written commitment by Contractor within the scope of this Contract shall be binding upon Contractor. Failure of Contractor to fulfill such a commitment may constitute breach and shall render Contractor liable for damages under the terms of this Contract. For purposes of this section, a commitment by Contractor includes: (i) Prices, discounts, and options committed to remain in force over a specified period of time; and (ii) any warranty or representation made by Contractor in its Response or contained in any Contractor or manufacturer publications, written materials, schedules, charts, diagrams, tables, descriptions, other written representations, and any other communication medium accompanying or referred to in its Response or used to effect the sale to Purchaser.

### **7.3 PRODUCT WARRANTY**

Warranty(ies): Unless otherwise specified, full parts and labor warranty period shall be for a minimum period of one (1) year after receipt of materials or equipment by the Purchaser. All materials or equipment provided shall be new and unused (or like new with no blemishes or defects), of the latest model or design and of recent manufacture.

In the event of conflict between Contract terms and conditions and Contractor's submitted warranty, the Contract terms and conditions shall prevail; except, to afford the Purchaser/Participating Entity maximum benefits, the MCC may avail itself of the Contractor's warranty if deemed more beneficial to the Purchaser/Participating Entity.

### **7.4 WARRANTIES**

Contractor warrants that all materials, supplies, services and/or equipment provided under this Contract shall be fit for the purpose(s) for which intended, for merchantability, and shall conform to the requirements and specifications herein. Acceptance of any materials, supplies, service and/or equipment, and inspection incidental thereto, by the Purchaser shall not alter or affect the obligations of the Contractor or the rights of the Purchaser.

The Contractor warrants for a period of one year(s) from the date of Acceptance that: (a) the Product performs according to all specific claims that the Contractor made in its response to the solicitation, (b) the Product is suitable for the ordinary purposes for which such Product is used, (c) the Product is suitable for any special purposes identified in the solicitation or for which the Participating Entity has relied on the Contractor's skill or judgment, (d) the Product is designed and manufactured in a commercially reasonable manner, and (e) the Product is free of defects. Upon breach of the warranty, the Contractor will repair or replace (at no charge to the Participating Entity) the Product whose nonconformance is discovered and made known to the Contractor. If the repaired and/or replaced Product proves to be inadequate, or fails of its essential purpose, the Contractor will refund the full amount of any payments that have been made. The rights and remedies of the parties under this warranty are in addition to any other rights and remedies of the parties provided by law or equity, including, without limitation, actual damages, and, as applicable and awarded under the law, to a prevailing party, reasonable attorneys' fees and costs.

### **7.5 DATE WARRANTY**

Contractor warrants that all Products provided under this Contract: (i) do not have a life expectancy limited by date or time format; (ii) will correctly record, store, process, and present calendar dates; (iii) will lose no functionality, data integrity, or performance with respect to any date; and (iv) will be interoperable with other software used by Purchaser that may deliver date records from the Products, or interact with date records of the Products ("Date Warranty"). In the event a Date Warranty problem is reported to Contractor by Purchaser and such problem remains unresolved after three (3) calendar days, at Purchaser's discretion, Contractor shall send, at Contractor's sole

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expense, at least one (1) qualified and knowledgeable representative to Purchaser's premises. This representative will continue to address and work to remedy the failure, malfunction, defect, or nonconformity on Purchaser's premises. This Date Warranty shall last perpetually. In the event of a breach of any of these representations and warranties, Contractor shall indemnify and hold harmless Purchaser from and against any and all harm, injury, damages, costs, and expenses incurred by Purchaser arising out of said breach.

### **7.6 COST OF REMEDY**

Cost of Remedying Defects: All defects, indirect and consequential costs of correcting, removing or replacing any or all of the defective materials or equipment will be charged against the Contractor.

### **7.8 TRAINING**

Customer and offender training shall be as specified and described in *Appendix D Specifications*.

## **8.0 INFORMATION AND COMMUNICATIONS**

### **8.1 ADVERTISING**

Contractor shall not publish or use any information concerning this Contract in any format or media for advertising or publicity without prior written consent from the MCC Contract Administrator.

### **8.2 RETENTION OF RECORDS**

The Contractor shall maintain all books, records, documents, data and other evidence relating to this Contract and the provision of materials, supplies, services and/or equipment described herein, including, but not limited to, accounting procedures and practices which sufficiently and properly reflect all direct and indirect costs of any nature expended in the performance of this Contract. Contractor shall retain such records for a period of seven (7) years following the date of final payment or as otherwise specified in *Appendix D Specifications*. At no additional cost, these records, including materials generated under the Contract, shall be subject at all reasonable times to inspection, review, or audit by the MCC, personnel duly authorized by the MCC, personnel duly authorized by the Purchaser, the Washington State Auditor's Office, and federal and state officials so authorized by law, regulation or agreement.

If any litigation, claim or audit is started before the expiration of the seven (7) year period, the records shall be retained until final resolution of all litigation, claims, or audit findings involving the records.

### **8.3 PROPRIETARY OR CONFIDENTIAL INFORMATION**

To the extent consistent with Chapter 42.56 RCW, the Public Disclosure Act, the MCC shall maintain the confidentiality of Contractor's information marked confidential or proprietary. If a request is made to view Contractor's proprietary information, the MCC will notify Contractor of the request and of the date that the records will be released to the requester unless Contractor obtains a court order enjoining that disclosure. If Contractor fails to obtain the court order enjoining disclosure, the MCC will release the requested information on the date specified.

The MCC's sole responsibility shall be limited to maintaining the above data in a secure area and to notify Contractor of any request(s) for disclosure for so long as the MCC retains Contractor's information in the MCC records. Failure to so label such materials or failure to timely respond after notice of request for public disclosure has been given shall be deemed a waiver by Contractor of any claim that such materials are exempt from disclosure.

**8.4 NON-ENDORSEMENT AND PUBLICITY**

Neither the MCC nor the Purchasers/Participating Entities are endorsing the Contractor's Products or Services, nor suggesting that they are the best or only solution to their needs. Contractor agrees to make no reference to the state of Washington, MCC, Purchaser/Participating Entity in any literature, promotional material, brochures, sales presentation or the like, regardless of method of distribution, without the prior review and express written consent of the MCC and/or the impacted Participating Entity.

**8.5 PROTECTION OF CONFIDENTIAL AND PERSONAL INFORMATION**

Contractor acknowledges that some of the material and information that may come into its possession or knowledge in connection with this Contract or its performance may consist of information that is exempt from disclosure to the public or other unauthorized persons under either Chapter 42.17 RCW or other state or federal statutes ("Confidential Information"). Confidential Information includes, but is not limited to, names, addresses, Social Security numbers, e-mail addresses, telephone numbers, financial profiles, credit card information, driver's license numbers, medical data, law enforcement records, agency source code or object code, agency security data, or information identifiable to an individual that relates to any of these types of information. Contractor agrees to hold Confidential Information in strictest confidence and not to make use of Confidential Information for any purpose other than the performance of this Contract, to release it only to authorized employees or Subcontractors requiring such information for the purposes of carrying out this Contract, and not to release, divulge, publish, transfer, sell, disclose, or otherwise make the information known to any other party without Purchaser's express written consent or as provided by law. Contractor agrees to release such information or material only to employees or Subcontractors who have signed a nondisclosure agreement, the terms of which have been previously approved by Purchaser. Contractor agrees to implement physical, electronic, and managerial safeguards to prevent unauthorized access to Confidential Information.

"Personal information" including, but not limited to, "Protected Health Information" (PHI) under Health Insurance Portability And Accountability Act (HIPAA), individuals' names, addresses, phone numbers, birth dates, and social security numbers collected, used, or acquired in connection with this Contract shall be protected against unauthorized use, disclosure, modification or loss.

HIPAA establishes national minimum standards for the use and disclosure of certain health information. The Contractor must comply with all HIPAA requirements and rules when determined applicable by the Purchaser. If Purchaser determines that (1) Purchaser is a "covered entity" under HIPAA, and that (2) Contractor will perform "business associate" services and activities covered under HIPAA, then at Purchaser's request, Contractor agrees to execute Purchaser's business associate Contract in compliance with HIPAA.

Contractor shall ensure its directors, officers, employees, Subcontractors or agents use personal information solely for the purposes of accomplishing the services set forth herein. Contractor and its Subcontractors agree not to release, divulge, publish, transfer, sell or otherwise make known to unauthorized persons personal information without the express written consent of the Agency or as otherwise required by law.

Any breach of this provision may result in termination of the Contract and demand for return of all personal information. The Contractor agrees to indemnify and hold harmless the State of Washington and the Purchaser for any damages related to both: (1) the Contractor's unauthorized use of personal information and (2) the unauthorized use of personal information by unauthorized persons as a result of Contractor's failure to sufficiently protect against unauthorized use, disclosure, modification, or loss.

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Contractor shall maintain a log documenting the following: the Confidential Information received in the performance of this Contract; the purpose(s) for which the Confidential Information was received; who received, maintained and used the Confidential Information; and the final disposition of the Confidential Information. Contractor's records shall be subject to inspection, review or audit in accordance with Retention of Records.

Purchaser reserves the right to monitor, audit, or investigate the use of Confidential Information collected, used, or acquired by Contractor through this Contract. The monitoring, auditing, or investigating may include, but is not limited to, salting databases.

Violation of this section by Contractor or its Subcontractors may result in termination of this Contract and demand for return of all Confidential Information, monetary damages, or penalties.

Immediately upon expiration or termination of this Contract, Contractor shall, at Purchaser's option: (i) certify to Purchaser that Contractor has destroyed all Confidential Information; or (ii) return all Confidential Information to Purchaser; or (iii) take whatever other steps Purchaser requires of Contractor to protect Purchaser's Confidential Information.

### **9.0 GENERAL PROVISIONS**

#### **9.1 GOVERNING LAW/VENUE**

This Contract shall be construed and interpreted in accordance with the laws of the State of Washington, and the venue of any action brought hereunder shall be in the Superior Court for Thurston County.

#### **9.2 SEVERABILITY**

If any provision of this Contract or any provision of any document incorporated by reference shall be held invalid, such invalidity shall not affect the other provisions of this Contract that can be given effect without the invalid provision, and to this end the provisions of this Contract are declared to be severable.

#### **9.3 SURVIVORSHIP**

All transactions executed for Products and Services provided pursuant to the authority of this Contract shall be bound by all of the terms, conditions, Prices and Price discounts set forth herein, notwithstanding the expiration of the initial term of this Contract or any extension thereof. Further, the terms, conditions and warranties contained in this Contract that by their sense and context are intended to survive the completion of the performance, cancellation or termination of this Contract shall so survive. In addition, the terms of the sections titled Overpayments to Contractor; Contractor's Commitments, Warranties and Representations; Protection of Confidential and Personal Information; Order of Precedence, Incorporated Documents, Conflict and Conformity; Non-Endorsement and Publicity; Retention of Records; Proprietary or Confidential Information; Disputes and Remedies; and Limitation of Liability shall survive the termination of this Contract.

#### **9.4 INDEPENDENT STATUS OF CONTRACTOR**

In the performance of this Contract, the parties will be acting in their individual, corporate or governmental capacities and not as agents, employees, partners, joint venturers, or associates of one another. The parties intend that an independent contractor relationship will be created by this Contract. 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 purpose whatsoever. Contractor shall not make any

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claim of right, privilege or benefit which would accrue to an employee under Chapter 41.06 RCW, or Title 51 RCW.

**9.5 GIFTS AND GRATUITIES**

Contractor shall comply with all state laws regarding gifts and gratuities, including but not limited to: RCW 43.19.1937, RCW 43.19.1939, RCW 42.52.150, RCW 42.52.160, and RCW 42.52.170 under which it is unlawful for any person to directly or indirectly offer, give or accept gifts, gratuities, loans, trips, favors, special discounts, services, or anything of economic value in conjunction with state business or contract activities.

Under RCW 43.19.1937 and the Ethics in Public Service Law, Chapter 42.52 RCW state officers and employees are prohibited from receiving, accepting, taking or seeking gifts (except as permitted by RCW 42.52.150) if the officer or employee participates in contractual matters relating to the purchase of goods or services.

**9.6 IMMUNITY AND HOLD HARMLESS**

(The following section applies to State of Washington Agencies and Purchasing Cooperative Members only.)

To the fullest extent permitted by law, Contractor shall indemnify, defend and hold harmless State, agencies of State and all officials, agents and employees of State, from and against all claims for injuries, death or damage to property arising out of or resulting from the performance of the contract. Contractor's obligation to indemnify, defend, and hold harmless includes any claim by Contractors' agents, employees, representatives, or any subcontractor or its employees.

Contractor expressly agrees to indemnify, defend, and hold harmless the State for any claim arising out of or incident to Contractor's or any subcontractor's performance or failure to perform the contract. Contractor shall be required to indemnify, defend, and hold harmless the State only to the extent claim is caused in whole or in part by negligent acts or omissions of Contractor.

Contractor waives its immunity under Title 51 to the extent it is required to indemnify, defend and hold harmless State and its agencies, officials, agents or employees.

**9.8 NO WAIVER OF SOVEREIGN IMMUNITY**

In no event shall this Master Agreement, any Participating Addendum or any contract or any purchase order issued thereunder, or any act of a Lead State or a Participating Entity, be a waiver by the Participating Entity of any form of defense or immunity, whether sovereign immunity, governmental immunity, immunity based on the Eleventh Amendment to the Constitution of the United States or otherwise, from any claim or from the jurisdiction of any court.

If a claim must be brought in a federal forum, then it must be brought and adjudicated solely and exclusively within the United States District Court for the Participating State. This section applies to a claim brought against the Participating State only to the extent Congress has appropriately abrogated the Participating State's sovereign immunity and is not consent by the Participating State to be sued in federal court. This section is also not a waiver by the Participating State of any form of immunity, including but not limited to sovereign immunity and immunity based on the Eleventh Amendment to the Constitution of the United States.

**9.9 PERSONAL LIABILITY**

It is agreed by and between the parties hereto that in no event shall any official, officer, employee or agent of the State of Washington when executing their official duties in good faith, be in any way

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personally liable or responsible for any agreement herein contained whether expressed or implied, nor for any statement or representation made herein or in any connection with this agreement.

**9.10 INSURANCE**

**General Requirements:**

Contractor shall, at their own expense, obtain and keep in force insurance as follows until completion of the Contract. Upon request, Contractor shall furnish evidence in the form of a certificate of insurance satisfactory to the State of Washington that insurance, in the following kinds and minimum amounts, has been secured. Failure to provide proof of insurance, as required, will result in Contract cancellation.

Contractor shall include all Subcontractors as insureds under all required insurance policies, or shall furnish separate Certificates of Insurance and endorsements for each Subcontractor. Subcontractor(s) must comply fully with all insurance requirements stated herein. Failure of Subcontractor(s) to comply with insurance requirements does not limit Contractor’s liability or responsibility.

All insurance provided in compliance with this Contract shall be primary as to any other insurance or self-insurance programs afforded to or maintained by the state.

**Specific Requirements:**

Employers Liability (Stop Gap): The Contractor will at all times comply with all applicable workers’ compensation, occupational disease, and occupational health and safety laws, statutes, and regulations to the full extent applicable and will maintain Employers Liability insurance with a limit of no less than \$1,000,000.00. The State of Washington will not be held responsible in any way for claims filed by the Contractor or their employees for services performed under the terms of this Contract.

Commercial General Liability Insurance: The Contractor shall at all times during the term of this Contract, carry and maintain commercial general liability insurance and if necessary, commercial umbrella insurance for bodily injury and property damage arising out of services provided under this Contract. This insurance shall cover such claims as may be caused by any act, omission, or negligence of the Contractor or its officers, agents, representatives, assigns, or servants.

The insurance shall also cover bodily injury, including disease, illness and death, and property damage arising out of the Contractor’s premises/operations, independent Contractors, products/completed operations, personal injury and advertising injury, and contractual liability (including the tort liability of another assumed in a business Contract), and contain separation of insured’s (cross liability) conditions.

Contractor waives all rights against the State of Washington for the recovery of damages to the extent they are covered by general liability or umbrella insurance.

The limits of liability insurance shall not be less than as follows:

General Aggregate Limits (other than products-completed operations)	\$2,000,000
Products-Completed Operations Aggregate	\$2,000,000
Personal and Advertising Injury Aggregate	\$1,000,000
Each Occurrence (applies to all of the above)	\$1,000,000
Fire Damage Limit (per occurrence)	\$ 50,000
Medical Expense Limit (any one person)	\$ 5,000

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**Business Auto Policy (BAP):**

In the event that services delivered pursuant to this Contract involve the use of vehicles, or the transportation of clients, automobile liability insurance shall be required. The coverage provided shall protect against claims for bodily injury, including illness, disease, and death; and property damage caused by an occurrence arising out of or in consequence of the performance of this service by the Contractor, Subcontractor, or anyone employed by either.

Contractor shall maintain business auto liability and, if necessary, commercial umbrella liability insurance with a combined single limit not less than \$1,000,000 per occurrence. The business auto liability shall include Hired and Non-Owned coverage.

Contractor waives all rights against the State of Washington for the recovery of damages to the extent they are covered by business auto liability or commercial umbrella liability insurance.

**Additional Insurance Provisions:**

All above insurance policies shall include, but not be limited to, the following provisions:

**Additional Insured:**

The State of Washington and all authorized Purchasers shall be named as an additional insured on all general liability, umbrella, excess, and property insurance policies. All policies shall be primary over any other valid and collectable insurance.

**Notice of Policy(ies) Cancellation/Non-renewal:**

For insurers subject to Chapter 48.18 RCW (Admitted and regulated by the Washington State Insurance Commissioner) a written notice shall be given to the director of purchasing or designee forty-five (45) calendar days prior to cancellation or any material change to the policy(ies) as it relates to this Contract. Written notice shall include the affected Contract reference number.

**Surplus Lines:**

For insurers subject to Chapter 48.15 RCW (Surplus Lines) a written notice shall be given to the director of purchasing or designee twenty (20) calendar days prior to cancellation or any material change to the policy(ies) as it relates to this Contract. Written notice shall include the affected Contract reference number.

**Cancellation for Non-payment to Premium:**

If cancellation on any policy is due to non-payment of premium, a written notice shall be given the director of purchasing or designee ten (10) calendar days prior to cancellation. Written notice shall include the affected Contract reference number.

**Identification:**

Policy(ies) and Certificates of Insurance shall include the affected Contract reference number.

**Insurance Carrier Rating:**

The insurance required above shall be issued by an insurance company authorized to do business within the State of Washington. Insurance is to be placed with a carrier that has a rating of A- Class VII or better in the most recently published edition of Best's Reports. Any exception must be reviewed and approved by the Risk Manager for the State of Washington, by submitting a copy of the Contract and evidence of insurance before Contract commencement. If an insurer is not admitted, all insurance policies and procedures for issuing the insurance policies must comply with Chapter 48.15 RCW and Chapter 284-15 WAC .



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### Excess Coverage:

The limits of all insurance required to be provided by the Contractor shall be no less than the minimum amounts specified. However, coverage in the amounts of these minimum limits shall not be construed to relieve the Contractor from liability in excess of such limits.

### Limit Adjustments:

The state reserves the right to increase or decrease limits as appropriate.

### 9.11 INDUSTRIAL INSURANCE COVERAGE

The Contractor shall comply with the provisions of Title 51 RCW Industrial Insurance. If the Contractor fails to provide industrial insurance coverage or fails to pay premiums or penalties on behalf of its employees as may be required by law, the MCC may terminate this Contract. This provision does not waive any of the Washington State Department of Labor and Industries (L&I) rights to collect from the Contractor.

### 9.12 NONDISCRIMINATION

During the performance of this Contract, the Contractor shall comply with all applicable federal and state nondiscrimination laws, regulations and policies, including, but not limited to, Title VII of the Civil Rights Act, 42 U.S.C. section 12101 et. seq.; the Americans with Disabilities Act (ADA); and, Chapter 49.60 RCW, Discrimination – Human Rights Commission.

### 9.13 OSHA AND WISHA REQUIREMENTS

Contractor agrees to comply with conditions of the Federal Occupational Safety and Health Administration (OSHA) and, if manufactured or stored in the State of Washington, the Washington Industrial Safety and Health Act (WISHA) and the standards and regulations issued there under, and certifies that all items furnished and purchased will conform to and comply with said laws, standards and regulations. Contractor further agrees to indemnify and hold harmless MCC and Purchaser from all damages assessed against Purchaser as a result of Contractor's failure to comply with those laws, standards and regulations, and for the failure of the items furnished under the Contract to so comply.

### 9.14 ANTITRUST

The state maintains that, in actual practice, overcharges resulting from antitrust violations are borne by the Purchaser. Therefore, the Contractor hereby assigns to the State of Washington any and all of the Contractor's claims for such price fixing or overcharges which arise under federal or state antitrust laws, relating to the materials, supplies, services and/or equipment purchased under this Contract.

### 9.15 WAIVER

Failure or delay of the MCC or Purchaser to insist upon the strict performance of any term or condition of the Contract or to exercise any right or remedy provided in the Contract or by law; or the MCC's or Purchaser's acceptance of or payment for materials, supplies, services and/or equipment, shall not release the Contractor from any responsibilities or obligations imposed by this Contract or by law, and shall not be deemed a waiver of any right of the MCC or Purchaser to insist upon the strict performance of the entire agreement by the Contractor. In the event of any claim for breach of Contract against the Contractor, no provision of this Contract shall be construed, expressly or by implication, as a waiver by the MCC or Purchaser of any existing or future right and/or remedy available by law.

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**9.16 APPLICABLE STANDARD TERMS AND CONDITIONS**

*Appendix B* titled: *(WSCA-NASPO) Master Agreement Standard Terms and Conditions*, shall supplement the terms and conditions appearing elsewhere within this contract.

**10.0 DISPUTES AND REMEDIES**

**10.1 PROBLEM RESOLUTION AND DISPUTES**

Problems arising out of the performance of this Contract shall be resolved in a timely manner at the lowest possible level with authority to resolve such problem. If a problem persists and cannot be resolved, it may be escalated within each organization.

In the event a bona fide dispute concerning a question of fact arises between MCC or the Purchaser and Contractor and it cannot be resolved between the parties through the normal escalation processes, either party may initiate the dispute resolution procedure provided herein.

The initiating party shall reduce its description of the dispute to writing and deliver it to the responding party. The responding party shall respond in writing within three (3) Business Days. The initiating party shall have three (3) Business Days to review the response. If after this review a resolution cannot be reached, both parties shall have three (3) Business Days to negotiate in good faith to resolve the dispute.

If the dispute cannot be resolved after three (3) Business Days, a Dispute Resolution Panel may be requested in writing by either party who shall also identify the first panel member. Within three (3) Business Days of receipt of the request, the other party will designate a panel member. Those two panel members will appoint a third individual to the Dispute Resolution Panel within the next three (3) Business Days.

The Dispute Resolution Panel will review the written descriptions of the dispute, gather additional information as needed, and render a decision on the dispute in the shortest practical time.

Each party shall bear the cost for its panel member and share equally the cost of the third panel member.

Both parties agree to exercise good faith in dispute resolution and to settle disputes prior to using a Dispute Resolution Panel whenever possible.

Unless irreparable harm will result, neither party shall commence litigation against the other before the Dispute Resolution Panel has issued its decision on the matter in dispute.

MCC, the Purchaser and Contractor agree that, the existence of a dispute notwithstanding, they will continue without delay to carry out all their respective responsibilities under this Contract that are not affected by the dispute.

If the subject of the dispute is the amount due and payable by Purchaser for materials, supplies, services and/or equipment being provided by Contractor, Contractor shall continue providing materials, supplies, services and/or equipment pending resolution of the dispute provided Purchaser pays Contractor the amount Purchaser, in good faith, believes is due and payable, and places in escrow the difference between such amount and the amount Contractor, in good faith, believes is due and payable.

**10.2 ADMINISTRATIVE SUSPENSION**

When it is in the best interest of the state, the MCC may at any time, and without cause, suspend the Contract or any portion thereof for a period of not more than thirty (30) calendar days per event by written notice from the Contract Administrator to the Contractor's Representative. Contractor shall

## **Contract 00212 with Alcohol Monitoring Systems for Electronic Monitoring of Offenders**

resume performance on the next business day following the 30<sup>th</sup> day of suspension unless an earlier resumption date is specified in the notice of suspension. If no resumption date was specified in the notice of suspension, the Contractor can be demanded and required to resume performance within the 30 day suspension period by the Contract Administrator providing the Contractor's Representative with written notice of such demand.

### **10.3 FORCE MAJEURE**

The term "force majeure" means an occurrence that causes a delay that is beyond the control of the party affected and could not have been avoided by exercising reasonable diligence. Force majeure shall include acts of God, war, riots, strikes, fire, floods, epidemics, or other similar occurrences.

Exceptions: Except for payment of sums due, neither party shall be liable to the other or deemed in breach under this Contract if, and to the extent that, such party's performance of this Contract is prevented by reason of force majeure.

Notification: If either party is delayed by force majeure, said party shall provide written notification within forty-eight (48) hours. The notification shall provide evidence of the force majeure to the satisfaction of the other party. Such delay shall cease as soon as practicable and written notification of same shall likewise be provided. So far as consistent with the Rights Reserved below, the time of completion shall be extended by Contract amendment for a period of time equal to the time that the results or effects of such delay prevented the delayed party from performing in accordance with this Contract.

Rights Reserved: The MCC reserves the right to authorize an amendment to this Contract, terminate the Contract, and/or purchase materials, supplies, equipment and/or services from the best available source during the time of force majeure, and Contractor shall have no recourse against the Purchaser or Participating Entity.

### **10.4 ALTERNATIVE DISPUTE RESOLUTION FEES AND COSTS**

In the event that the parties engage in arbitration, mediation or any other alternative dispute resolution forum to resolve a dispute in lieu of litigation, both parties shall share equally in the cost of the alternative dispute resolution method, including cost of mediator or arbitrator. In addition, each party shall be responsible for its own attorneys' fees incurred as a result of the alternative dispute resolution method.

### **10.5 NON-EXCLUSIVE REMEDIES**

The remedies provided for in this Contract shall not be exclusive but are in addition to all other remedies available under law.

### **10.6 LIMITATION OF LIABILITY**

The parties agree that neither Contractor, MCC nor Purchaser shall be liable to each other, regardless of the form of action, for consequential, incidental, indirect, or special damages except a claim related to bodily injury or death, or a claim or demand based on patent, copyright, or other intellectual property right infringement, in which case liability shall be as set forth elsewhere in this Contract. This section does not modify any sections regarding liquidated damages or any other conditions as are elsewhere agreed to herein between the parties. The damages specified in the sections titled Termination for Default and Retention of Records are not consequential, incidental, indirect, or special damages as that term is used in this section.

Neither the Contractor, the MCC nor Purchaser shall be liable for damages arising from causes beyond the reasonable control and without the fault or negligence of the Contractor, the MCC or

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Purchaser. Such causes may include, but are not restricted to, acts of God or of the public enemy, acts of a governmental body other than the MCC or the Purchaser acting in either its sovereign or contractual capacity, war, explosions, fires, floods, earthquakes, epidemics, quarantine restrictions, strikes, freight embargoes, and unusually severe weather; but in every case the delays must be beyond the reasonable control and without fault or negligence of the Contractor, the MCC or the Purchaser, or their respective Subcontractors.

If delays are caused by a Subcontractor without its fault or negligence, Contractor shall not be liable for damages for such delays, unless the Services to be performed were obtainable on comparable terms from other sources in sufficient time to permit Contractor to meet its required performance schedule.

Neither party shall be liable for personal injury to the other party or damage to the other party's property except personal injury or damage to property proximately caused by such party's respective fault or negligence.

### **10.7 FEDERAL FUNDING**

In the event that a federally funded acquisition results from this procurement, the Contractor may be required to provide additional information (free of charge) at the request of the MCC or Purchaser. Further, the Contractor may be subject to those federal requirements specific to the commodity.

### **10.8 FEDERAL RESTRICTIONS ON LOBBYING**

Contractor certifies that under the requirements of Lobbying Disclosure Act, 2 U.S.C., Section 1601 et seq., no Federal appropriated funds have been paid or will be paid, by or on behalf of the Contractor, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

### **10.9 FEDERAL DEBARMENT AND SUSPENSION**

The Contractor certifies, that neither it nor its "principals" (as defined in 49 CFR. 29.105 (p)) is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

## **11.0 CONTRACT TERMINATION**

### **11.1 MATERIAL BREACH**

A Contractor may be Terminated for Cause by the MCC, at the sole discretion of the Contract Administrator, for failing to perform a contractual requirement or for a material breach of any term or condition. Material breach of a term or condition of the Contract may include but is not limited to:

1. Contractor failure to perform services or deliver materials, supplies, or equipment by the date required or by an alternate date as mutually agreed in a written amendment to the Contract;
2. Contractor failure to carry out any warranty or fails to perform or comply with any mandatory provision of the contract;

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3. Contractor becomes insolvent or in an unsound financial condition so as to endanger performance hereunder;
4. Contractor becomes the subject of any proceeding under any law relating to bankruptcy, insolvency or reorganization, or relief from creditors and/or debtors that endangers the Contractor's proper performance hereunder;
5. Appointment of any receiver, trustee, or similar official for Contractor or any of the Contractor's property and such appointment endangers the Contractor's proper performance hereunder;
6. A determination that the Contractor is in violation of federal, state, or local laws or regulations and that such determination renders the Contractor unable to perform any aspect of the Contract.

### **11.2 OPPORTUNITY TO CURE**

In the event that Contractor fails to perform a contractual requirement or materially breaches any term or condition, the MCC may issue a written cure notice. The Contractor may have a period of time in which to cure. The MCC is not required to allow the Contractor to cure defects if the opportunity for cure is not feasible as determined solely within the discretion of the MCC. Time allowed for cure shall not diminish or eliminate Contractor's liability for liquidated or other damages, or otherwise affects any other remedies available against Contractor under the Contract or by law.

If the breach remains after Contractor has been provided the opportunity to cure, the MCC may do any one or more of the following:

1. Exercise any remedy provided by law;
2. Terminate this Contract and any related Contracts or portions thereof;
3. Procure replacements and impose damages as set forth elsewhere in this Contract;
4. Impose actual or liquidated damages;
5. Suspend or bar Contractor from receiving future Solicitations or other opportunities;
6. Require Contractor to reimburse the state for any loss or additional expense incurred as a result of default or failure to satisfactorily perform the terms of the Contract.

### **11.3 TERMINATION FOR CAUSE**

In the event the Contract Administrator, in its sole discretion, determines that the Contractor has failed to comply with the conditions of this Contract in a timely manner or is in material breach, the Contract Administrator has the right to suspend or terminate this Contract, in part or in whole. The Contract Administrator shall notify the Contractor in writing of the need to take corrective action. If corrective action is not taken within thirty (30) calendar days or as otherwise specified by the Contract Administrator, or if such corrective action is deemed by the Contract Administrator to be insufficient, the Contract may be terminated. The Contract Administrator reserves the right to suspend all or part of the Contract, withhold further payments, or prohibit the Contractor from incurring additional obligations of funds during investigation of the alleged breach and pending corrective action by the Contractor or a decision by the Contract Administrator to terminate the Contract.

In the event of termination, the MCC shall have the right to procure for all Purchasers any replacement materials, supplies, services and/or equipment that are the subject of this Contract on

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the open market. In addition, the Contractor shall be liable for damages as authorized by law including, but not limited to, any price difference between the original contract and the replacement or cover contract and all administrative costs directly related to the replacement contract, e.g., cost of the competitive bidding, mailing, advertising and staff time.

If it is determined that: (1) the Contractor was not in material breach; or (2) failure to perform was outside of Contractor's or its Subcontractor's control, fault or negligence, the termination shall be deemed to be a "Termination for Convenience". The rights and remedies of the MCC and/or the Purchaser provided in this Contract are not exclusive and are in addition to any other rights and remedies provided by law.

### **11.4 TERMINATION FOR CONVENIENCE**

Except as otherwise provided in this Contract, the MCC, at the sole discretion of the Contract Administrator, may terminate this Contract, in whole or in part by giving thirty (30) calendar days written notice beginning on the second day after mailing to the Contractor. If this Contract is so terminated, Purchasers shall be liable only for payment required under this Contract for properly authorized services rendered, or materials, supplies and/or equipment delivered to and Accepted by the Purchaser prior to the effective date of Contract termination. Neither the MCC nor the Purchaser shall have any other obligation whatsoever to the Contractor for such termination. This Termination for Convenience clause may be invoked by the MCC when it is in the best interest of the State of Washington and/or WSCA-NASPO.

### **11.5 TERMINATION FOR WITHDRAWAL OF AUTHORITY**

In the event that the MCC and/or Purchaser's authority to perform any of its duties is withdrawn, reduced, or limited in any way after the commencement of this Contract and prior to normal completion, the MCC may terminate this Contract, in whole or in part, by thirty (30) calendar days written notice to Contractor.

### **11.6 TERMINATION FOR NON-ALLOCATION OF FUNDS**

If funds are not allocated to Purchaser(s) to continue this Contract in any future period, MCC may terminate this Contract by thirty (30) calendar days written notice to Contractor or work with Contractor to arrive at a mutually acceptable resolution of the situation. Purchaser will not be obligated to pay any further charges for materials, supplies, services and/or equipment including the net remainder of agreed to consecutive periodic payments remaining unpaid beyond the end of the then-current period. MCC and/or Purchaser agrees to notify Contractor in writing of such non-allocation at the earliest possible time.

No penalty shall accrue to the Purchaser in the event this section shall be exercised. This section shall not be construed to permit MCC to terminate this Contract in order to acquire similar materials, supplies, services and/or equipment from a third party.

### **11.7 TERMINATION FOR CONFLICT OF INTEREST**

MCC may terminate this Contract by written notice to Contractor if it is determined, after due notice and examination, that any party to this Contract has violated Chapter 42.52 RCW, Ethics in Public Service, or any other laws regarding ethics in public acquisitions and procurement and performance of contracts. In the event this Contract is so terminated, the MCC and /or Purchaser shall be entitled to pursue the same remedies against Contractor as it could pursue in the event that the Contractor breaches this Contract.

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### 11.8 TERMINATION BY MUTUAL AGREEMENT

The MCC and the Contractor may terminate this Contract in whole or in part, at any time, by mutual agreement.

### 11.9 TERMINATION PROCEDURE

In addition to the procedures set forth below, if the MCC terminates this Contract, Contractor shall follow any procedures the Contract Administrator specifies in the termination notice.

Upon termination of this Contract and in addition to any other rights provided in this Contract, Contract Administrator may require the Contractor to deliver to the Purchaser any property specifically produced or acquired for the performance of such part of this contract as has been terminated. The provisions of the "Treatment of Assets" clause shall apply in such property transfer.

The Purchaser shall pay to the Contractor the agreed upon price, if separately stated, for completed work and service(s) Accepted by the Purchaser, and the amount agreed upon by the Contractor and the Purchaser for (i) completed materials, supplies, services rendered and/or equipment for which no separate price is stated, (ii) partially completed materials, supplies, services rendered and/or equipment, (iii) other materials, supplies, services rendered and/or equipment which are Accepted by the Purchaser, and (iv) the protection and preservation of property, unless the termination is for cause, in which case the MCC and the Purchaser shall determine the extent of the liability of the Purchaser. Failure to agree with such determination shall be a dispute within the meaning of the "Disputes" clause of this contract. The Purchaser may withhold from any amounts due the Contractor such sum as the Contract Administrator and Purchaser determine to be necessary to protect the Purchaser against potential loss or liability.

The rights and remedies of the MCC and/or the Purchaser provided in this section shall not be exclusive and are in addition to any other rights and remedies provided by law or under this contract.

After receipt of a termination notice, and except as otherwise expressly directed in writing by the Contract Administrator, the Contractor shall:

1. Stop all work, order fulfillment, shipments, and deliveries under the Contract on the date, and to the extent specified, in the notice;
2. Place no further orders or subcontracts for materials, services, supplies, equipment and/or facilities in relation to the Contract except as is necessary to complete or fulfill such portion of the Contract that is not terminated;
3. Complete or fulfill such portion of the Contract that is not terminated in compliance with all contractual requirements;
4. Assign to the Purchaser, in the manner, at the times, and to the extent directed by the Contract Administrator on behalf of the Purchaser, all of the rights, title, and interest of the Contractor under the orders and subcontracts so terminated, in which case the Purchaser has the right, at its discretion, to settle or pay any or all claims arising out of the termination of such orders and subcontracts;
5. Settle all outstanding liabilities and all claims arising out of such termination of orders and subcontracts, with the approval or ratification of the Contract Administrator and/or the Purchaser to the extent Contract Administrator and/or the Purchaser may require, which approval or ratification shall be final for all the purposes of this clause;

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6. Transfer title to the Purchaser and deliver in the manner, at the times, and to the extent directed by the Contract Administrator on behalf of the Purchaser any property which, if the Contract had been completed, would have been required to be furnished to the Purchaser;
7. Take such action as may be necessary, or as the Contract Administrator and/or the Purchaser may direct, for the protection and preservation of the property related to this Contract which is in the possession of the Contractor and in which the MCC and/or the Purchaser has or may acquire an interest.

## **12.0 CONTRACT EXECUTION**

### **12.1 PARTIES**

This Contract ("Contract") is entered into by and between the state of Washington, acting by and through the Department of Enterprise Services, Master Contracts & Consulting (MCC), an agency of Washington State government ("MCC" or "State") located at 1500 Jefferson Street SE, Olympia WA 98501, and Alcohol Monitoring Systems, Inc., a corporation licensed to conduct business in the state of Washington ("Contractor"), located at 1241 W Mineral Avenue, Suite 200, Littleton, Colorado 80120 for the purpose of providing products and services for the electronic monitoring of offenders.

### **12.2 ENTIRE AGREEMENT**

This Contract document and all subsequently issued amendments comprise the entire agreement between the MCC and the Contractor. No other statements or representations, written or oral, shall be deemed a part of the Contract.

This Contract sets forth the entire agreement between the parties with respect to the subject matter hereof and except as provided in the section titled **Contractor Commitments, Warranties and Representations**, understandings, agreements, representations, or warranties not contained in this Contract or a written amendment hereto shall not be binding on either party. Except as provided herein, no alteration of any of the terms, conditions, delivery, Price, quality, or Specifications of this Contract will be effective without the written consent of both parties.

### **12.3 ORDER OF PRECEDENCE, INCORPORATED DOCUMENTS, CONFLICT AND CONFORMITY**

#### **Incorporated Documents:**

Each of the documents listed below is, by this reference, incorporated into this Contract as though fully set forth herein.

1. The MCC's Solicitation document #00212 with all attachments and exhibits, and all amendments thereto
2. Contractor's response to the Solicitation #00212;
3. A Participating Entity's Participating Addendum ("PA");
4. The terms and conditions contained on Purchaser's Order Documents, if used; and
5. All Contractor or manufacturer publications, written materials and schedules, charts, diagrams, tables, descriptions, other written representations and any other supporting materials Contractor made available to Purchaser and used to affect the sale of the Product and /or Service to the Purchaser.

#### **Order of Precedence:**



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In the event of a conflict in such terms, or between the terms and any applicable statute or rule, the inconsistency shall be resolved by giving precedence in the following order:

1. Applicable Federal statutes and regulations.
2. A Participating Entity’s Participating Addendum (“PA”).
3. Mutually agreed written amendments to this Contract.
4. This Contract Number 00212.
5. The Statement of Work or Work Order.
6. The MCC’s Solicitation document with all attachments and exhibits, and all amendments thereto.
7. Contractor’s response to the Solicitation.
8. Any other provision, term, or materials incorporated into the Contract by reference.

**Conflict:** To the extent possible, the terms of this Contract shall be read consistently.

**Conformity:** If any provision of this Contract violates any Federal or State of Washington statute or rule of law, it is considered modified to conform to that statute or rule of law.

**12.4 LEGAL NOTICES**

Any notice or demand or other communication required or permitted to be given under this Contract or applicable law (except notice of malfunctioning Equipment) shall be effective only if it is in writing and signed by the applicable party, properly addressed, and either delivered in person, or by a recognized courier service, or deposited with the United States Postal Service as first-class mail, (postage prepaid), via facsimile or by electronic mail, to the parties at the addresses, fax numbers, or e-mail addresses provided in this section. For purposes of complying with any provision in this Contract or applicable law that requires a “writing,” such communication, when digitally signed with a Washington State Licensed Certificate, shall be considered to be “in writing” or “written” to an extent no less than if it were in paper form.

<b>To Contractor at:</b> Alcohol Monitoring Systems, Inc.	<b>To MCC at:</b> State of Washington Department of Enterprise Services Master Contracts & Consulting
<b>Attn:</b> Don White, Vice President, Field Operations 1241 W Mineral Avenue, Suite 200 Littleton, Colorado 80120	<b>Attn:</b> MCC Contract Administrator Mail: Post Office Box 41411 Olympia, Washington 98504-1411 Street: 1500 Jefferson Street, SE Olympia, WA 98501
Phone: (303) 989-8900	Phone: (360) 407-9430
Fax: (303) 791-4262	Fax: (360) 586-2426
E-mail: <a href="mailto:dwhite@alcoholmonitoring.com">dwhite@alcoholmonitoring.com</a>	E-mail: <a href="mailto:robert.paulson@des.wa.gov">robert.paulson@des.wa.gov</a>

Notices shall be effective upon receipt or four (4) Business Days after mailing, whichever is earlier. The notice address as provided herein may be changed by written notice given as provided above.

In the event that a subpoena or other legal process commenced by a third party in any way concerning the Equipment or Services provided pursuant to this Contract is served upon Contractor

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or MCC, such party agrees to notify the other party in the most expeditious fashion possible following receipt of such subpoena or other legal process. Contractor and MCC further agree to cooperate with the other party in any lawful effort by the other party to contest the legal validity of such subpoena or other legal process commenced by a third party.

**12.5 LIENS, CLAIMS AND ENCUMBRANCES**

All materials, equipment, supplies and/or services shall be free of all liens, claims, or encumbrances of any kind, and if the MCC or the Purchaser requests, a formal release of same shall be delivered to the respective requestor.

**12.6 AUTHORITY TO BIND**

The signatories to this Contract represent that they have the authority to bind their respective organizations to this Contract.

**12.7 COUNTERPARTS**

This Contract may be executed in counterparts or in duplicate originals. Each counterpart or each duplicate shall be deemed an original copy of this Contract signed by each party, for all purposes.

**SIGNATURES**

*In Witness Whereof*, the parties hereto, having read this Contract in its entirety, including all attachments, do agree in each and every particular and have thus set their hands hereunto.

**This Contract is effective May 1, 2013, or the date of last signature whichever is later.**

**This is a Partial award for: Contract 00212**

<b>Approved (Lead State)</b>		<b>Approved</b>	
State of Washington Department of Enterprise Services Master Contracts & Consulting 1500 Jefferson Street, SE Olympia, WA 98501		Alcohol Monitoring Systems, Inc. 1241 W Mineral Avenue, Suite 200 Littleton, Colorado 80120	
/s/	6-3-13	/s/	4/23/13
Signature	Date	Signature	Date
Robert Paulson, Jr., C.P.M.		Don White	
Print or Type Name		Print or Type Name	
Contract Administrator		Vice President, Field Operations	
Title		Title	

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<i>/s/</i>		6-3-13
Signature		Date
Dale Colbert, CPPO		
Print or Type Name		
Unit Manager		
Title		
<i>/s/</i>		6/4/13
Signature		Date
Christine Warnock, CPPO		
Print or Type Name		
Chief Procurement Officer		
Title		

**APPENDIX A STANDARD DEFINITIONS**

This section contains definitions of terms commonly used in Solicitations conducted by the State of Washington, Master Contracts & Consulting. Additional definitions may also be found in Chapter 43.19 RCW and WAC 200-300-015, and all terms contained herein will be read consistently with those definitions.

<b>Acceptance</b>	The materials, supplies, services, and/or equipment have passed appropriate Inspection. In the event that there is a formal Acceptance Testing period required in the Solicitation document then acceptance is formalized in writing. If there is no Acceptance Testing, acceptance may occur when the Products are delivered and inspected.
<b>Acceptance Testing</b>	The process for ascertaining that the materials, supplies, services, and/or equipment meets the standards set forth in the Solicitation, prior to Acceptance by the Purchaser.
<b>Agency</b>	Includes State of Washington institutions, the offices of the elective state officers, the Supreme Court, the court of appeals, the administrative and other departments of state government, and the offices of all appointive officers of the state. In addition, colleges, community colleges, and universities who choose to participate in State Contract(s) are included. "Agency" does not include the legislature.
<b>All or Nothing</b>	The result of a competitive Solicitation that requires that a Contract be executed with a single Bidder for delivery of goods and/or services. In the event that suppliers are unable to deliver the entirety of the goods and/or services required, no Contract is executed. No partial fulfillment opportunities are available as a result of the Solicitation. A method of award resulting from a competitive Solicitation by which the MCC will award the resulting Contract to a single Bidder.  Also, a designation the Bidder may use in its Bid or Response to indicate its offer is contingent upon full award and it will not accept a partial award.
<b>Alternate</b>	A substitute offer of materials, supplies, services and/or equipment that is not at least a functional Equal in features, performance and use and which materially deviates from one or more of the specifications in a competitive Solicitation.
<b>Amendment</b>	A change to a legal document. For the purposes of a Solicitation document, an amendment shall be a unilateral change issued by the MCC, at its sole discretion.
<b>Authorized Representative</b>	An individual designated by the Bidder or Contractor to act on its behalf and with the authority to legally bind the Bidder or Contractor concerning the terms and conditions set forth in Solicitation, Bid and Contract documents.
<b>Bid</b>	A sealed written offer to perform a Contract to provide materials, supplies, services, and/or equipment in reply to an Invitation For Bid (IFB).
<b>Bidder</b>	A Vendor who submits a Bid or Proposal in reply to a Solicitation.

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<b>Business Days</b>	Monday through Friday, 8:00 a.m. to 5:00 p.m., Pacific Time, except for holidays observed by the state of Washington.
<b>Calendar Days</b>	Consecutive days of the year including weekends and holidays, each of which commence at 12:00:01 a.m. and end at Midnight, Pacific Time. When “days” are not specified, Calendar Days shall prevail.
<b>Contract</b>	An agreement, or mutual assent, between two or more competent parties with the elements of the agreement being offer, acceptance, and consideration.
<b>Contract Administrator</b>	The person designated to manage the resultant Contract for the MCC. The primary contact for the MCC with Purchasers and Contractor on a specific Contract.
<b>Contractor</b>	Individual, company, corporation, firm, or combination thereof with whom the MCC develops a Contract for the procurement of materials, supplies, services, and/or equipment. It shall also include any Subcontractor retained by Contractor as permitted under the terms of the Contract.
<b>Equal</b>	An offer of materials, supplies, services and/or equipment that meets or exceeds the quality, performance and use of the specifications identified in a Solicitation.
<b>Estimated Useful Life</b>	The estimated time from the date of acquisition to the date of replacement or disposal, determined in any reasonable manner.
<b>Inspection</b>	An examination of delivered material, supplies, services, and/or equipment prior to Acceptance aimed at forming a judgment as to whether such delivered items are what was ordered, were properly delivered and ready for Acceptance. Inspection may include a high level visual examination or a more thorough detailed examination as is customary to the type of purchase, as set forth in the solicitation document and/or as agreed between the parties. Inspection shall be acknowledged by an authorized signature of the Purchaser.
<b>Invitation For Bid (IFB)</b>	The form utilized to solicit Bids in the formal, sealed Bid procedure and any amendments thereto issued in writing by the MCC. Specifications and qualifications are clearly defined.
<b>Lead Time/After Receipt Of Order (ARO)</b>	The period of time between when the Contractor receives the order and the Purchaser receives the materials, supplies, equipment, or services order.
<b>Life Cycle Cost</b>	The total cost of an item to the state over its Estimated Useful Life, including costs of selection, acquisition, operation, maintenance, and where applicable, disposal, as far as these costs can reasonably be determined, minus the salvage value at the end of its estimated useful life.
<b>Master Contracts &amp; Consulting (MCC)</b>	The MCC within the Washington Department of Enterprise Services, Master Contracts & Consulting authorized under Chapter 39.26 RCW (formerly Chapter 43.19 RCW) to develop and administer contracts for goods and services on behalf of state agencies, colleges and universities, non-profit organizations and local governments.
<b>Order Document</b>	A written communication, submitted by a Purchaser to the Contractor, which details the specific transactional elements required by the Purchaser within the scope of the

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	Contract such as delivery date, size, color, capacity, etc. An Order Document may include, but is not limited to field orders, purchase orders, work order or other writings as may be designated by the parties hereto. No additional or alternate terms and conditions on such written communication shall apply unless authorized by the Contract and expressly agreed between the Purchaser and the Contractor.
<b>Procurement Coordinator</b>	The individual authorized by the MCC who is responsible for conducting a specific Solicitation.
<b>Product</b>	Materials, supplies, services, and/or equipment provided under the terms and conditions of this Contract.
<b>Proposal</b>	A sealed written offer to perform a Contract to supply materials, supplies, services, and/or equipment in reply to a Request For Proposal (RFP).
<b>Purchaser</b>	The authorized user of the Contract, as identified in the Solicitation, who may or actually does make purchases of material, supplies, services, and/or equipment under the resulting Contract.
<b>Recycled Material</b>	Waste materials and by-products that have been recovered or diverted from solid waste and that can be utilized in place of a raw or virgin material in manufacturing a product and consists of materials derived from post-consumer waste, manufacturing waste, industrial scrap, agricultural wastes and other items, all of which can be used in the manufacture of new or recycled products.
<b>Recycled Content Product</b>	A product containing recycled material.
<b>Request For Proposal (RFP)</b>	The form utilized to solicit Proposals in the formal, sealed Bid procedure and any amendments thereto issued in writing by the MCC. The specifications and qualification requirements are written in an outcome based form allowing for consideration of a broad range of different solutions to meet the procurement need.
<b>Responsible</b>	The ability, capacity, and skill to perform the Contract or provide the service required , including, but not limited to the character, integrity, reputation, judgment, experience, and efficiency of the Bidder; Further considerations may include, but are not limited to whether the Bidder can perform the contract within the time specified, the quality of performance of previous contracts or services, the previous and existing compliance by the Bidder with laws relating to the contract or services and such other information as may be secured having a bearing on the decision to award the contract:
<b>Responsive</b>	A Bid or Proposal that meets all material terms of the Solicitation document.
<b>Response</b>	A Bid or Proposal
<b>Solicitation</b>	The process of notifying prospective Bidders that the MCC desires to receive competitive Bids or Proposals for furnishing specified materials, supplies, services, and/or equipment. Also includes reference to the actual documents used for that process, including: the Invitation For Bids (IFB) or Request For Proposals (RFP), along with all attachments and exhibits thereto.
<b>State</b>	The State of Washington acting by and through the MCC.

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<b>State Contract</b>	<p>The written document memorializing the agreement between the successful Bidder and the MCC for materials, supplies, services, and/or equipment and/or administered by the Master Contracts &amp; Consulting on behalf of the State of Washington.</p> <p>“State Contract” does not include the following:</p> <ul style="list-style-type: none"> <li>• Colleges and universities that choose to purchase under <u>RCW 28B.10.029</u></li> <li>• Purchases made in accordance with state purchasing policy under <u>Washington Purchasing Manual Part 6.11 Best Buy Program</u>;</li> <li>• Purchases made pursuant to authority granted or delegated under <u>RCW 43.19.190(2) or (3)</u></li> <li>• Purchases authorized as an emergency purchase under <u>RCW 43.19.200(2)</u>; or</li> <li>• Purchases made pursuant to other statutes granting the Agency authority to independently conduct purchases of materials, supplies, services, or equipment.</li> </ul>
<b>Subcontractor</b>	<p>A person or business that is, or will be, providing or performing an essential aspect of the Contract under the direction and responsibility of the Contractor and with the agreement of the MCC.</p>
<b>Vendor</b>	<p>A provider of materials, supplies, services, and/or equipment.</p>
<b>Washington’s Electronic Business Solution (WEBS)</b>	<p>The Vendor registration and Bidder notification system maintained by the Washington State Department of Enterprise Services located at: <a href="http://www.ga.wa.gov/webs">www.ga.wa.gov/webs</a>.</p>



**APPENDIX B WSCA-NASPO MASTER AGREEMENT  
STANDARD TERMS AND CONDITIONS**

**1. RESERVED.**

**2. AMENDMENTS.** The terms of this contract shall not be waived, altered, modified, supplemented or amended in any manner whatsoever without prior written approval of the WSCA-NASPO Contract Administrator.

**3. ASSIGNMENT/SUBCONTRACT.** Contractor shall not assign, sell, transfer, subcontract or sublet rights, or delegate responsibilities under this contract, in whole or in part, without the prior written approval of the WSCA-NASPO Contract Administrator.

**4. CANCELLATION.** Unless otherwise stated in the special terms and conditions, any contract entered into as a result of this bid may be canceled by either party upon 60 days notice, in writing, prior to the effective date of the cancellation. Further, any Participating State may cancel its participation upon 30 days written notice, unless otherwise limited or stated in the special terms and conditions of this solicitation. Cancellation may be in whole or in part. Any cancellation under this provision shall not effect the rights and obligations attending orders outstanding at the time of cancellation, including any right of and Purchasing Entity to indemnification by the Contractor, rights of payment for goods/services delivered and accepted, and rights attending any warranty or default in performance in association with any order. Cancellation of the contract due to Contractor default may be immediate.

**5. CONFIDENTIALITY, NON-DISCLOSURE AND INJUNCTIVE RELIEF.**

**5.1 Confidentiality.** Contractor acknowledges that it and its employees or agents may, in the course of providing the Product under this Master Agreement, be exposed to or acquire information that is confidential to Participating Entity or Participating Entity's clients. Any and all information of any form that is marked as confidential or would by its nature be deemed confidential obtained by Contractor or its employees or agents in the performance of this Master Agreement, including, but not necessarily limited to (a) any Participating Entity records, (b) personnel records, and (c) information concerning individuals, is confidential information of Participating Entity ("Confidential Information"). Any reports or other documents or items (including software) that result from the use of the Confidential Information by Contractor shall be treated in the same manner as the Confidential Information. Confidential Information does not include information that (a) is or becomes (other than by disclosure by Contractor) publicly known; (b) is furnished by Participating Entity to others without restrictions similar to those imposed by this Master Agreement; (c) is rightfully in Contractor's possession without the obligation of nondisclosure prior to the time of its disclosure under this Master Agreement; (d) is obtained from a source other than Participating Entity without the obligation of confidentiality, (e) is disclosed with the written consent of Participating Entity or; (f) is independently developed by employees, agents or subcontractors of Contractor who can be shown to have had no access to the Confidential Information.



## Contract 00212 with Alcohol Monitoring Systems for Electronic Monitoring of Offenders

**5.2 Non-Disclosure.** Contractor shall hold Confidential Information in confidence, using at least the industry standard of confidentiality, and not to copy, reproduce, sell, assign, license, market, transfer or otherwise dispose of, give, or disclose Confidential Information to third parties or use Confidential Information for any purposes whatsoever other than the performance of this Master Agreement to Participating Entity hereunder, and to advise each of its employees and agents of their obligations to keep Confidential Information confidential. Contractor shall use commercially reasonable efforts to assist Participating Entity in identifying and preventing any unauthorized use or disclosure of any Confidential Information. Without limiting the generality of the foregoing, Contractor shall advise Participating Entity immediately if Contractor learns or has reason to believe that any person who has had access to Confidential Information has violated or intends to violate the terms of this Master Agreement and Contractor shall at its expense cooperate with Participating Entity in seeking injunctive or other equitable relief in the name of Participating Entity or Contractor against any such person. Except as directed by Participating Entity, Contractor will not at any time during or after the term of this Master Agreement disclose, directly or indirectly, any Confidential Information to any person, except in accordance with this Master Agreement, and that upon termination of this Master Agreement or at Participating Entity's request, Contractor shall turn over to Participating Entity all documents, papers, and other matter in Contractor's possession that embody Confidential Information. Notwithstanding the foregoing, Contractor may keep one copy of such Confidential Information necessary for quality assurance, audits and evidence of the performance of this Master Agreement.

**5.3 Injunctive Relief.** Contractor acknowledges that breach of this Section, including disclosure of any Confidential Information, will cause irreparable injury to Participating Entity that is inadequately compensable in damages. Accordingly, Participating Entity may seek and obtain injunctive relief against the breach or threatened breach of the foregoing undertakings, in addition to any other legal remedies that may be available. Contractor acknowledges and agrees that the covenants contained herein are necessary for the protection of the legitimate business interests of Participating Entity and are reasonable in scope and content.

**6. DEBARMENT.** The contractor certifies that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction (contract) by any governmental department or agency. If the contractor cannot certify this statement, attach a written explanation for review by WSCA-NASPO.

### **7. DEFAULTS & REMEDIES.**

- a. The occurrence of any of the following events shall be an event of default under this Master Agreement:
- i. Nonperformance of contractual requirements; or
  - ii. A material breach of any term or condition of this Master Agreement; or
  - iii. Any representation or warranty by Contractor in response to the solicitation or in this Master Agreement proves to be untrue or materially misleading; or
  - iv. Institution of proceedings under any bankruptcy, insolvency, reorganization or similar law, by or against Contractor, or the appointment of a receiver or similar officer for Contractor or any of its property, which is not vacated or fully stayed within thirty (30) calendar days after the institution or occurrence thereof; or
  - v. Any default specified in another section of this Master Agreement.
- b. Upon the occurrence of an event of default, Lead State shall issue a written notice of default, identifying the nature of the default, and providing a period of 15 calendar days in which Contractor shall have an opportunity to cure the default. The Lead State shall not be required to provide advance written notice or a cure period and may immediately terminate this Master Agreement in whole or in part if the Lead State, in its sole discretion, determines that it is reasonably necessary to preserve public safety or prevent immediate public crisis. Time

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allowed for cure shall not diminish or eliminate Contractor's liability for damages, including liquidated damages to the extent provided for under this Master Agreement.

c. If Contractor is afforded an opportunity to cure and fails to cure the default within the period specified in the written notice of default, Contractor shall be in breach of its obligations under this Master Agreement and Lead State shall have the right to exercise any or all of the following remedies:

- i. Exercise any remedy provided by law; and
- ii. Terminate this Master Agreement and any related Contracts or portions thereof; and
- iii. Impose liquidated damages as provided in this Master Agreement; and
- iv. Suspend Contractor from receiving future bid solicitations; and
- v. Suspend Contractor's performance; and
- vi. Withhold payment until the default is remedied.

d. In the event of a default under a Participating Addendum, a Participating Entity shall provide a written notice of default as described in this section and have all of the rights and remedies under this paragraph regarding its participation in the Master Agreement, in addition to those set forth in its Participating Addendum.

**8. DELIVERY.** Unless otherwise indicated in the Master Agreement, the prices are the delivered price to any Participating State agency or political subdivision. All deliveries shall be F.O.B. destination with all transportation and handling charges paid by the contractor. Responsibility and liability for loss or damage shall remain the Contractor until final inspection and acceptance when responsibility shall pass to the Buyer except as to latent defects, fraud and Contractor's warranty obligations. The minimum shipment amount will be found in the special terms and conditions. Any order for less than the specified amount is to be shipped with the freight prepaid and added as a separate item on the invoice. Any portion of an order to be shipped without transportation charges that is back ordered shall be shipped without charge.

**9. FORCE MAJEURE.** Neither party to this contract shall be held responsible for delay or default caused by fire, riot, acts of God and/or war which is beyond that party's reasonable control. WSCA-NASPO may terminate this contract after determining such delay or default will reasonably prevent successful performance of the contract.

**10. GOVERNING LAW.** This procurement and the resulting agreement shall be governed by and construed in accordance with the laws of the state sponsoring and administering the procurement. The construction and effect of any Participating Addendum or order against the contract(s) shall be governed by and construed in accordance with the laws of the Participating Entity's State. Venue for any claim, dispute or action concerning an order placed against the contract(s) or the effect of a Participating Addendum shall be in the Purchasing Entity's State.

**11. INDEMNIFICATION.** The Contractor shall defend, indemnify and hold harmless WSCA-NASPO, the Lead State and Participating Entities along with their officers, agencies, and employees as well as any person or entity for which they may be liable from and against claims, damages or causes of action including reasonable attorneys' fees and related costs for any death, injury, or damage to property arising from act(s), error(s), or omission(s) of the Contractor, its employees or subcontractors or volunteers, at any tier, relating to the performance under the Master Agreement. This section is not subject to any limitations of liability in this Master Agreement or in any other document executed in conjunction with this Master Agreement.

**12. INDEMNIFICATION – INTELLECTUAL PROPERTY.** The Contractor shall defend, indemnify and hold harmless WSCA-NASPO, the Lead State and Participating Entities along with their officers, agencies, and

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employees as well as any person or entity for which they may be liable ("Indemnified Party") from and against claims, damages or causes of action including reasonable attorneys' fees and related costs arising out of the claim that the Product or its use, infringes Intellectual Property rights ("Intellectual Property Claim"). The Contractor's obligations under this section shall not extend to any combination of the Product with any other product, system or method, unless:

(1) the Product, system or method is:

(a) provided by the Contractor or the Contractor's subsidiaries or affiliates;

(b) specified by the Contractor to work with the Product; or

(c) reasonably required, in order to use the Product in its intended manner, and the infringement could not have been avoided by substituting another reasonably available product, system or method capable of performing the same function; or

(2) it would be reasonably expected to use the Product in combination with such product, system or method.

The Indemnified Party shall notify the Contractor within a reasonable time after receiving notice of an Intellectual Property Claim. Even if the Indemnified Party fails to provide reasonable notice, the Contractor shall not be relieved from its obligations unless the Contractor can demonstrate that it was prejudiced in defending the Intellectual Property Claim resulting in increased expenses or loss to the Contractor. If the Contractor promptly and reasonably investigates and defends any Intellectual Property Claim, it shall have control over the defense and settlement of it. However, the Indemnified Party must consent in writing for any money damages or obligations for which it may be responsible. The Indemnified Party shall furnish, at the Contractor's reasonable request and expense, information and assistance necessary for such defense. If the Contractor fails to vigorously pursue the defense or settlement of the Intellectual Property Claim, the Indemnified Party may assume the defense or settlement of it and the Contractor shall be liable for all costs and expenses, including reasonable attorneys' fees and related costs, incurred by the Indemnified Party in the pursuit of the Intellectual Property Claim. This section is not subject to any limitations of liability in this Master Agreement or in any other document executed in conjunction with this Master Agreement.

**13. INDEPENDENT CONTRACTOR.** The contractor shall be an independent contractor, and as such shall have no authorization, express or implied to bind WSCA-NASPO or the respective states to any agreements, settlements, liability or understanding whatsoever, and agrees not to perform any acts as agent for WSCA-NASPO or the states, except as expressly set forth herein.

**14. INDIVIDUAL CUSTOMER.** Except to the extent modified by a Participating Addendum, each Participating Entity shall follow the terms and conditions of the Master Agreement and applicable Participating Addendum and will have the same rights and responsibilities for their purchases as the Lead State has in the Master Agreement, including but not limited to, any indemnity or to recover any costs allowed in the Master Agreement and applicable Participating Addendum for their purchases. Each Participating Entity will be responsible for its own charges, fees, and liabilities. The Contractor will apply the charges and invoice each Participating Entity individually.

**15. INSURANCE.** Contractor shall, during the term of this Master Agreement, maintain in full force and effect, the insurance described in this section. Contractor shall acquire such insurance from an insurance carrier or carriers licensed to conduct business in the Participating Entity's state and having a rating of A-, Class VII or better, in the most recently published edition of Best's Reports. Failure to buy and maintain the required insurance may result in this Master Agreement's termination or at a Participating Entity's option, result in termination of its Participating Addendum.

Coverage shall be written on an occurrence basis. The minimum acceptable limits shall be as indicated below, with no deductible for each of the following categories:

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- a) Commercial General Liability covering the risks of bodily injury (including death), property damage and personal injury, including coverage for contractual liability, with a limit of not less than \$1 million per occurrence/\$2 million general aggregate;
- b) Contractor must comply with any applicable State Workers Compensation or Employers Liability Insurance requirements.

Contractor shall pay premiums on all insurance policies. Such policies shall also reference this Master Agreement and shall have a condition that they not be revoked by the insurer until thirty (30) calendar days after notice of intended revocation thereof shall have been given to Participating Entity by the Contractor.

Prior to commencement of the work, Contractor shall provide to the Participating Entity a written endorsement to the Contractor's general liability insurance policy that (i) names the Participating Entity as an additional insured, (ii) provides that no material alteration, cancellation, non-renewal, or expiration of the coverage contained in such policy shall have effect unless the named Participating Entity has been given at least thirty (30) days prior written notice, and (iii) provides that the Contractor's liability insurance policy shall be primary, with any liability insurance of the Participating Entity as secondary and noncontributory.

Contractor shall furnish to Participating Entity copies of certificates of all required insurance within thirty (30) calendar days of the Participating Addendum's effective date and prior to performing any work. Copies of renewal certificates of all required insurance shall be furnished within thirty (30) days after renewal date. These certificates of insurance must expressly indicate compliance with each and every insurance requirement specified in this section. Failure to provide evidence of coverage may, at State's sole option, result in this Master Agreement's termination.

Coverage and limits shall not limit Contractor's liability and obligations under this Master Agreement.

**16. LAWS AND REGULATIONS.** Any and all supplies, services and equipment offered and furnished shall comply fully with all applicable Federal and State laws and regulations.

**17. LICENSE OF PRE-EXISTING INTELLECTUAL PROPERTY.** Contractor grants to the Participating Entity a nonexclusive, perpetual, royalty-free, irrevocable, unlimited license to publish, translate, reproduce, modify, deliver, perform, display, and dispose of the Intellectual Property, and its derivatives, used or delivered under this Master Agreement, but not created under it ("Pre-existing Intellectual Property"). The license shall be subject to any third party rights in the Pre-existing Intellectual Property. Contractor shall obtain, at its own expense, on behalf of the Participating Entity, written consent of the owner for the licensed Pre-existing Intellectual Property.

**18. NO WAIVER OF SOVEREIGN IMMUNITY.** In no event shall this Master Agreement, any Participating Addendum or any contract or any purchase order issued thereunder, or any act of a Lead State or a Participating Entity, be a waiver by the Participating Entity of any form of defense or immunity, whether sovereign immunity, governmental immunity, immunity based on the Eleventh Amendment to the Constitution of the United States or otherwise, from any claim or from the jurisdiction of any court.

If a claim must be brought in a federal forum, then it must be brought and adjudicated solely and exclusively within the United States District Court for the Participating State. This section applies to a claim brought against the Participating State only to the extent Congress has appropriately abrogated the Participating State's sovereign immunity and is not consent by the Participating State to be sued in federal court. This section is also not a waiver by the Participating State of any form of immunity, including but not limited to sovereign immunity and immunity based on the Eleventh Amendment to the Constitution of the United States.

**19. ORDER NUMBERS.** Contract order and purchase order numbers shall be clearly shown on all acknowledgments, shipping labels, packing slips, invoices, and on all correspondence.

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**20. PARTICIPANTS.** WSCA-NASPO is the cooperative purchasing arm of the National Association of State Procurement Officials. It is a cooperative group contracting consortium for state government departments, institutions, agencies and political subdivisions (e.g., colleges, school districts, counties, cities, etc.) for all states and the District of Columbia. Obligations under this contract are limited to those Participating States who have signed a Participating Addendum where contemplated by the solicitation. Financial obligations of Participating States are limited to the orders placed by the departments or other state agencies and institutions having available funds. Participating States incur no financial obligations on behalf of political subdivisions. Unless otherwise specified in the solicitation, the resulting award(s) will be permissive.

**21. ENTITY PARTICIPATION.** Use of specific WSCA-NASPO cooperative contracts by state agencies, political subdivisions and other entities (including cooperatives) authorized by individual state's statutes to use state contracts are subject to the approval of the respective State Chief Procurement Official. Issues of interpretation and eligibility for participation are solely within the authority of the respective State Chief Procurement Official.

**22. PAYMENT.** Payment for completion of a contract is normally made within 30 days following the date the entire order is delivered or the date a correct invoice is received, whichever is later. After 45 days the Contractor may assess overdue account charges up to a maximum rate of one percent per month on the outstanding balance. Payments will be remitted by mail. Payments may be made via a State or political subdivision "Purchasing Card" with no additional charge.

**23. PUBLIC INFORMATION.** This Master Agreement and all related documents are subject to disclosure pursuant to the Participating Entity's public information laws.

**24. RECORDS ADMINISTRATION AND AUDIT.** The contractor will maintain, or supervise the maintenance of all records necessary to properly account for the payments made to the contractor for costs authorized by this contract. These records will be retained by the contractor for at least four years after the contract terminates, or until all audits initiated within the four years have been completed, whichever is later. The contractor agrees to allow WSCA-NASPO, State and Federal auditors, and state agency staff access to all the records of this Master Agreement and any order placed under this Master Agreement, for audit and inspection, and monitoring of services. Such access will be during normal business hours, or by appointment.

**25. REPORTS.** The contractor shall submit quarterly reports to the WSCA-NASPO Contract Administrator showing the quantities and dollar volume of purchases by each participating entity.

**26. STANDARD OF PERFORMANCE AND ACCEPTANCE.** The Standard of Performance applies to all Product(s) purchased under this Master Agreement, including any additional, replacement, or substitute Product(s) and any Product(s) which are modified by or with the written approval of Contractor after Acceptance by the Participating Entity. The Acceptance Testing period shall be thirty (30) calendar days or other time period identified in the solicitation or the Participating Addendum, starting from the day after the Product is installed and Contractor certifies that the Product is ready for Acceptance Testing. If the Product does not meet the Standard of Performance during the initial period of Acceptance Testing, Participating Entity may, at its discretion, continue Acceptance Testing on a day-to-day basis until the Standard of Performance is met. Upon rejection, the Contractor will have fifteen (15) calendar days to cure the Standard of Performance issue(s). If after the cure period, the Product still has not met the Standard of Performance Participating Entity may, at its option: (1) declare Contractor to be in breach and terminate the Order; (2) demand replacement Product from Contractor at no additional cost to Participating Entity; or, (3) continue the cure period for an additional time period agreed upon by the Participating Entity and the Contractor. Contractor shall pay all costs related to the preparation and shipping of Product returned pursuant to the section. No Product shall be accepted

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and no charges shall be paid until the Standard of Performance is met. The warranty period will begin upon Acceptance.

**27. SYSTEM FAILURE OR DAMAGE.** In the event of system failure or damage caused by the Contractor or its Product, the Contractor agrees to use its best efforts to restore or assist in restoring the system to operational capacity.

**28. TITLE OF PRODUCT.** Upon Acceptance by the Participating Entity, Contractor shall convey to Participating Entity title to the Product free and clear of all liens, encumbrances, or other security interests. Transfer of title to the Product shall include an irrevocable and perpetual license to use the Embedded Software in the Product. If Participating Entity subsequently transfers title of the Product to another entity, Participating Entity shall have the right to transfer the license to use the Embedded Software with the transfer of Product title. A subsequent transfer of this software license shall be at no additional cost or charge to either Participating Entity or Participating Entity's transferee.

**29. WAIVER OF BREACH.** Failure of Lead State or Participating Entity to declare a default or enforce any rights and remedies shall not operate as a waiver under this Master Agreement or Participating Addendum. Any waiver by the Lead State or Participating Entity must be in writing. Waiver by the Lead State or Participating Entity of any default, right or remedy under this Master Agreement or Participating Addendum, or breach of any terms or requirements shall not be construed or operate as a waiver of any subsequent default or breach of such term or requirement, or of any other term or requirement under this Master Agreement or Participating Addendum.

**30. WARRANTY.** The Contractor warrants for a period of one year from the date of Acceptance that: (a) the Product performs according to all specific claims that the Contractor made in its response to the solicitation, (b) the Product is suitable for the ordinary purposes for which such Product is used, (c) the Product is suitable for any special purposes identified in the solicitation or for which the Participating Entity has relied on the Contractor's skill or judgment, (d) the Product is designed and manufactured in a commercially reasonable manner, and (e) the Product is free of defects. Upon breach of the warranty, the Contractor will repair or replace (at no charge to the Participating Entity) the Product whose nonconformance is discovered and made known to the Contractor. If the repaired and/or replaced Product proves to be inadequate, or fails of its essential purpose, the Contractor will refund the full amount of any payments that have been made. The rights and remedies of the parties under this warranty are in addition to any other rights and remedies of the parties provided by law or equity, including, without limitation, actual damages, and, as applicable and awarded under the law, to a prevailing party, reasonable attorneys' fees and costs.

**31. ASSIGNMENT OF ANTITRUST RIGHTS.** Contractor irrevocably assigns to a Participating Entity any claim for relief or cause of action which the Contractor now has or which may accrue to the Contractor in the future by reason of any violation of state or federal antitrust laws (15 U.S.C. § 1-15 or a Participating Entity's state antitrust provisions), as now in effect and as may be amended from time to time, in connection with any goods or services provided to the Contractor for the purpose of carrying out the Contractor's obligations under this Master Agreement or Participating Addendum, including, at a Participating Entity's option, the right to control any such litigation on such claim for relief or cause of action.

Contractor shall require any subcontractors hired to perform any of Contractor's obligations, under this Master Agreement or Participating Addendum, to irrevocably assign to a Participating Entity, as third party beneficiary, any right, title or interest that has accrued or which may accrue in the future by reason of any violation of state or federal antitrust laws (15 U.S.C. § 1-15 or a Participating Entity's state antitrust provisions), as now in effect and as may be amended from time to time, in connection with any goods or services provided to the subcontractor for the purpose of carrying out the subcontractor's obligations to the Contractor in pursuance of

## Contract 00212 with Alcohol Monitoring Systems for Electronic Monitoring of Offenders

this Master Agreement or Participating Addendum, including, at a Participating Entity's option, the right to control any such litigation on such claim for relief or cause of action.

**32. WSCA-NASPO eMARKET CENTER.** Awarded responders are required to participate in the WSCA-NASPO eMarket Center and, working through WSCA-NASPO's contractor (SciQuest), connect with the eMarket Center. The ideal situation would be to use either a hosted (by SciQuest) or Punchout Level 2 catalog configurations, but actual requirements will be determined by the Lead State Contract Administrator, WSCA-NASPO, WSCA-NASPO's contractor (SciQuest) and the awarded contractor, after award. Participation does not require an awarded responder to have any special level of technology or technological understanding.

### Definitions:

**Acceptance** - means a written notice from a purchasing entity to contractor advising Contractor that the Product has passed its Acceptance Testing. Acceptance of a product for which acceptance testing is not required shall occur following the completion of delivery, installation, if required, and a reasonable time for inspection of the product, unless the Purchasing Entity provides a written notice of rejection to contractor.

**Acceptance Testing** - means the process for ascertaining that the Product meets the standards set forth in the section titled Standard of Performance and Acceptance, prior to Acceptance by the Purchasing Entity.

**Contractor** - means the person or entity delivering Products or performing services under the terms and conditions set forth in this Master Agreement.

**Intellectual Property** – means any and all patents, copyrights, service marks, trademarks, trade secrets, trade names, patentable inventions, or other similar proprietary rights, in tangible or intangible form, and all rights, title, and interest therein.

**Lead State** - means the State conducting this cooperative solicitation and centrally administering any resulting Master Agreement with the permission of the Signatory States.

**Master Agreement** – means the underlying agreement executed by and between the Lead State, as WSCA-NASPO contract manager, acting on behalf of WSCA-NASPO, and the Contractor, as now or hereafter amended.

**Order** - means any purchase order, sales order, or other document used by a Participating Entity to order the Products.

**Participating Addendum** - means a bilateral agreement executed by a Contractor and a Participating Entity incorporating this Master Agreement and any other additional Participating Entity specific language or other requirements ,e.g. ordering procedures specific to the Participating Entity, other terms and conditions.

**Participating Entity** - means a state, or other legal entity, properly authorized by a state to enter into the Master Agreement or Participating Addendum or who is authorized to order under the Master Agreement or Participating Addendum.

**Product** - Any equipment, software (including embedded software), documentation, or deliverable supplied or created by the Contractor pursuant to this Master Agreement.

**WSCA-NASPO** - is a cooperative group contracting consortium for state procurement officials, representing departments, institutions, agencies, and political subdivisions (i.e., colleges, school districts, counties, cities, etc.) for all states and the District of Columbia. WSCA-NASPO is a cooperative purchasing arm of the National Association of State Procurement Officials (NASPO).

**APPENDIX C CONTRACTOR INFORMATION AND PROFILE**

1. **Company Name:** Alcohol Monitoring Systems, Inc.  
Address: 1241 W Mineral Avenue, Suite 200  
City: Littleton State: Colorado Zip: 80120  
Phone: (303) 989-8900 FAX: (303) 791-4262  
Washington State Department of Revenue Registration Tax number: 602 959 944  
Federal Tax ID No.: 30-0127963  
Company Internet URL Address: www.alcoholmonitoring.com
2. **Legal Status of the Bidder:** Corporation: X
3. **Bidder's Authorized Representative:** (Reference Section 2.3)  
Name: John Hennessey  
Title: Vice President/General Manager  
Phone: (815)342-4469 FAX: (815)280-0747 E-mail: JHennessey@alcoholmonitoring.com
4. **Orders to be sent to:**  
Company Name: Alcohol Monitoring Systems, Inc.  
Address: 1241 W Mineral Avenue, Suite 200  
City: Littleton State: Colorado Zip: 80120  
Phone: (303) 989-8900 FAX: (303) 791-4262 E-mail: kmattison@alcoholmonitoring.com
5. **Billing will be from and Payment to be sent to:**  
Company Name: Alcohol Monitoring Systems, Inc.  
Address: 1241 W Mineral Avenue, Suite 200  
City: Littleton State: Colorado Zip: 80120  
Phone: (303) 989-8900 FAX: (303) 791-4262 E-mail: phottovy@alcoholmonitoring.com
6. **Contact Person for Sales Reports to be filed with MCC:** (Reference Section 2.10)  
Contact Person's Name: Zach Kenyon  
Phone: (303) 785-7877 FAX: (303) 791-4262 E-mail: zkenyon@alcoholmonitoring.com
7. **Bidder's Company Experience and History:** Upon request, Contractor will provide information about the company's experience and history in providing electronic monitoring of offenders equipment and services as listed herein.
8. **Minority/Women Owned Business (MWBE):** No: X
9. **Payment Methods and Term:**  
Payment Terms: Net 30 days. Purchasing (charge) Cards accepted include: No
10. **Purchasing Cooperative Members – Washington State Political Subdivision and Nonprofit Corporations:** Contractor agrees to sell the goods and services on this contract to political subdivisions and nonprofit corporations which are members of the State of Washington Purchasing Cooperative (WSPC): Yes X.
11. **Subcontractors:** N/A
12. **Customer References:** Customers may contact the Contractor for a list of references for the category of monitoring equipment and service available through this Contract.



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**APPENDIX D SPECIFICATIONS**

**SPECIFICATIONS**

These specifications are the minimum. The vendor has listed, clearly demonstrated, and presented features that add value, savings and/or reliability.

<b>CATEGORY 2 – ALCOHOL MONITORING TRANSDERMAL EQUIPMENT AND SERVICE</b>			
<b>1.0</b>	<b>SECTION A General Experience Requirements</b>		
<b>Item</b>	<b>Function</b>	<b>Description</b>	<b>Describe how Vendor meets or exceeds specifications</b>
1.1	General Experience	The proposed device must have been in use and installed on offenders through one or more contracts with County, State or Federal Government agencies. This experience must have been within the past six (6) consecutive months prior to the proposal submittal date. Anytime Beta testing does not count toward the required experience.	AMS exceeds this specification. AMS has been contracting with state and/or federal agencies since 2003.
1.2	General Experience	The proposed device must have been installed and in use on at least an aggregate of 500 offenders through one or more contracts with County, State or Federal Governmental agencies. This experience must include at least six (6) months of active monitoring for the model offered in response to this RFP. The Vendor's experience shall have been met with the vendor acting as the prime contractor in providing all of the above services. Identify these agencies, volumes and devices in your proposal response.	AMS exceeds this specification. The number of installed SCRAMx units for all customers in the last six (6) months is over 45,000 units. These agencies include: Michigan Department of Corrections, South Dakota Attorney General's Office, City and County of Denver (CO), Vermont Department of Corrections, Wayne County, MI Sheriff's Department, Contra Costa County, CA Sheriff's Department, North Dakota Attorney General's Office, 8th Judicial District New York State, Suffolk County Probation Department (NY), and Brown County, WI Sheriff's Department.  As the pioneer of CAM technology, Alcohol Monitoring Systems, Inc. (AMS) launched the original SCRAM® system to the criminal justice market in 2003. The second generation, SCRAMx, not only offers the same transdermal alcohol technology, but now also incorporates built-in RF home curfew monitoring to provide optional dual functionality; all in one small bracelet. Since its inception, SCRAM –and now SCRAMx – have monitored nearly 240,000 individuals in over 1,800 jurisdictions and agencies in 48 states across the country, as well as in Canada and Scotland. This is more than all other transdermal manufacturers combined.

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1.3	General Experience	The proposed software must have been in use at least six (6) consecutive months through one or more contracts with County, State and Federal Government agencies. Anytime Beta testing does not count toward the required experience.	AMS exceeds this specification. The SCRAMNET software has been used to monitor offenders on SCRAMx since 2003. The software was specifically designed to support SCRAMx.
1.4	General Experience	The Vendor shall provide a secure confidential monitoring service center and help-desk facility. The Monitoring Center Facility and Services must have been in use for at least six (6) consecutive months through one or more contracts with State Government agencies at the time of proposal submittal. This experience shall be with the same government agencies listed in Item 1.2. The Vendor shall have been the prime contractor for any contract services performed by any subcontracted monitoring service center or help-desk facility.	AMS exceeds this specification. The AMS Monitoring Center has been monitoring offenders on SCRAMx since 2003.
1.5	General Experience	The Manufacturer shall have an ISO 9001 certification.	AMS meets this specification. AMS is ISO certified.
1.6	General Experience	All devices shall be currently registered and approved by the Federal Communications Commission (FCC).	AMS meets this specification. All devices are registered and approved: FCC Part 15 – Registration No. P8M-SM02FCC Part 15; FCC Part 15 – Registration No. P8M-SM03
<b>2.0</b>	<b>SECTION B Monitoring Center Facility and Monitoring Center Interactive Services</b>		
<b>Item</b>	<b>Function</b>	<b>Description</b>	<b>Describe how Vendor meets or exceeds specifications</b>
2.1	Services	The Monitoring Center Facility and Services must have been in use for at least six (6) consecutive months through one or more contracts with State Government agencies at the time of proposal submittal. This experience shall be with the same government agencies listed in Item 1.2. The Vendor shall have been the prime contractor for any contract services performed by any subcontracted monitoring service center or help-desk facility.	AMS exceeds this specification. The AMS Monitoring Center has been monitoring offenders on SCRAMx since 2003. The AMS monitoring center will perform all monitoring services. The central monitoring system, SCRAMNET, offers 24/7 monitoring. AMS Data Analysts are available around the clock to assist agencies.
2.2	Facility	The Vendor’s Monitoring Center should have a permanently installed and functioning emergency backup power source, independent of its main power source, capable of maintaining continuous operations, for a minimum of forty-eight (48) hours, in the event of failures of normal utility power. If power is not restored, a back-up monitoring center service is activated within 60 minutes.	AMS exceeds this specification. If commercial AC power is lost, uninterruptible power supplies (UPS) instantly deliver backup power to all servers and buildings for up to 30 minutes. For the monitoring center areas, a diesel-powered generator comes online within six (6) seconds. The generator delivers power to the entire building for up to one (1) week, with N+1 generators and priority diesel fuel deliveries scheduled on a weekly basis.

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2.3	Facility	The Vendor's Monitoring Center should have ventilation and temperature controls adequate to ensure proper functions of the monitoring center hardware.	AMS exceeds this specification. The monitoring center, which houses the central computer system, have both proper ventilation and temperature controls to ensure seamless functionality.
2.4	Facility	The Vendor's Monitoring Center's physical security features at a minimum should include closed circuit camera system and limited access doorways. Describe other features to ensure physical security.	<p>AMS exceeds this specification. The monitoring facility is secured so that access is restricted to authorized individuals. Visitors must press a buzzer to contact the receptionist, who can see the individual on the door camera and the building camera before admitting the individual into the main lobby. Visitors must sign a log, and are then issued a visitor badge that must be displayed at all times. They must be escorted at all times while visiting the facility. All visitors must sign out and surrender their visitor's badge when they leave.</p> <p>Internal security is maintained through the use of electronic door controls, accessed through security proximity cards, which access schedules of when employees are allowed to be in the building. The building is under camera surveillance at all times.</p> <p>Outside lighting on the perimeter of the building illuminates both the building and the parking lots adjacent to the building. The parking lot perimeter is also monitored by a closed circuit infrared/low light TV system. Cameras are strategically placed in the lobbies and in the elevators, and all transmissions are both monitored and recorded twenty-four hours a day.</p>
2.5	Facility	The Vendor shall have a secondary (backup) Monitoring Center capable of providing full operational functions in the event the primary monitoring center is disabled. The secondary Monitoring Center shall be located sufficiently distant from the primary center, such that it is unlikely to be adversely affected by a manmade or natural event or loss of electrical or communications services that would disable the primary Monitoring Center.	AMS meets this specification. Monitoring center personnel are located throughout the country to ensure seamless operations should the primary monitoring center be disabled.
2.6	Facility	The Vendor shall maintain redundant inbound and outbound communication services, provided by distinct carriers and/or methods, such that the failure of the primary service or method shall not adversely affect the secondary (backup) service or method.	AMS exceeds this specification. AMS uses both Century Link and Global Crossings for telephone T1 connectivity (13 separate T1 lines). A third party carrier, Globalinx, is also used to monitor our call fail over between carriers. The third carrier not only monitors, but can also manage the failover; they can either control or change the workload balancing for all call volume between the diverse T1 communications lines.

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2.7	Facility	The Vendor shall perform complete support of all interface hardware and software equipment (within the monitoring center) necessary to ensure provision of the service for the duration of the contract.	AMS exceeds this specification. AMS' experienced team of Data Analysts are available 24/7 via phone to assist agency personnel with enrollments, monitoring parameters, de-enrollments, and troubleshooting. As AMS-trained and certified experts in their fields, the Data Analysts are highly responsive professionals dedicated to delivering AMS' industry-recognized service. In addition, the premier documentation, troubleshooting materials, and training that AMS provides are all available online for immediate 24-hour access. Email support is also provided to maximize responsiveness and offer a diverse menu of on-demand support options.
2.8	Facility	The Vendor shall provide the Agency a contact number, accessible twenty (24) hours a day, seven (7) days a week for the purpose of reporting problems that might be experienced.	AMS exceeds this specification. The AMS monitoring center personnel will be available 24/7 to assist WSCA agencies with any issues that may arise.
2.9	Facility	In the event any component of the Vendor's Monitoring Center service becomes inoperable, the Vendor shall immediately notify the Agency Program Manager or designee by telephone or alternate acceptable communication method, but no later than thirty (30) minutes after service failure.	AMS will comply with this specification. Should the monitoring center's services become unavailable; the Agency Program Manager will be notified within 30 minutes. However, AMS has monitoring center personnel located throughout the country to ensure seamless monitoring center service. In addition, redundant telephone and Internet carriers, as well as back-up generator power ensure that 24/7 monitoring center services are always available.
2.10	Services	The Vendor's back up Monitoring Center must be activated within 60 minutes of initial system failure or disaster.	AMS meets this specification. Should a monitoring center backup be necessary, AMS personnel are employed throughout the country to assist within 60 minutes or less as needed.
2.11	Services	The Vendor's primary Monitoring Center shall be fully operational and staffed adequately to support the operations of this Contract, twenty four (24) hours a day, 7 days a week, 365 days per year with highly skilled technicians that have completed an initial course of training.	AMS meets this specification. The AMS monitoring center is fully staffed and available 24/7 to meet the needs of the WSCA contract. All AMS monitoring center personnel must undergo at least 316 hours of operational training, as well as ongoing training and certification.

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2.12	Services	The Vendor must provide a staffed communication system utilizing an 800-telephone number an 800- number fax, and email access, available 24-hours per day, 7 days per week, 365 days per year at no additional charge to the Agency for technical, analysis, and application assistance.	AMS meets this specification. AMS' experienced team of Data Analysts are available 24/7 via phone to assist agency personnel with enrollments, monitoring parameters, de-enrollments, and troubleshooting. As AMS-trained and certified experts in their fields, the Data Analysts are highly responsive professionals dedicated to delivering AMS' industry-recognized service. In addition, the premier documentation, troubleshooting materials, and training that AMS provides are all available online for immediate 24-hour access. Email support is also provided to maximize responsiveness and offer a diverse menu of on-demand support options.
2.13	Services	Deleted.	
2.14	Services	The Vendor's Monitoring Center Service must be able to provide for offender enrollments and scheduling to be performed via direct telephone request (password accessible) when Agency staff (officer) does not have immediate access to an internet connection.	AMS meets this specification. The AMS monitoring center is staffed 24/7 to assist WSCA with enrollments, scheduling, troubleshooting, and alert information.
2.15	Services	The Vendor's Monitoring Center Service must be able to activate or deactivate Alcohol Monitoring services for an offender within 30 minutes after receipt of request by fax, telephone or e-mail notification from an the Officer.	AMS meets this specification. All services will be activated or deactivated promptly within 30 minutes.
2.16	Services	The Vendor's Monitoring Center service must maintain accurate and concise historical logs of all telephone, text message, emails and fax calls attempted and completed, including date, time, and the associated incident. The Vendor shall make these logs available to the Agency upon request.	AMS meets this specification. All archived information is maintained indefinitely.
2.17	Services	The Vendor's Monitoring Center service must provide immediate notification via, text message or email 24 hours a day, seven days a week to designated Agency staff when an alert notification is generated. The Vendor's monitoring service shall include the capability to administer a phone call by a live staff person in the Monitoring Center in response to designated priority alert notifications, at an additional fee.	AMS meets this specification. AMS monitoring center personnel will provide immediate notification as necessary.

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2.18	Services	The Vendor's Monitoring Center service must triage alerts, including triaging and responding to alerts with direct contact to both Agency staff and offenders for resolution as defined by the Agency. The Monitoring Center service must have the ability to escalate an alert notification if the officer does not acknowledge the notification within an Agency-specified time to the next Agency designated contact. In the event an alert notification is unresolved, the Vendor's Monitoring Center service shall be responsible for contacting the Agency's designated officer via, text message, fax, email or phone. The means or mode of contact shall be at the Agency's discretion. These services shall be provided twenty-four (24) hours 7 days a week.	AMS meets this specification. AMS will work with the each WSCA agency to provide customized alert notification and to ensure that proper notification is made 24/7.
2.19	Services	The Vendor's Monitoring Center service must provide the capability for every human voice call in and out of the system to be recorded with a transaction record that indicates the called number or calling number, and the result of the call. This information shall be made available to the Agency Program Manager at the Agency's request.	AMS meets this specification. All calls are recorded and available upon agency request.
2.20	Services	The Vendor's Monitoring Center must provide an initial response to pre-determined alert notifications to troubleshoot and resolve the notifications per established protocols.	AMS exceeds this specification. All data received from the SCRAMx bracelet through SCRAMNET is subject to a rigorous data analysis and review process conducted by AMS' team of professionally-trained analysts. These analysts understand the nuances of real-world bracelet use, and can confirm or not confirm drinking episodes using court-proven criteria. Their review process identifies the presence of environmental alcohol and looks at key characteristics of the Transdermal Alcohol Concentration (TAC) curve- which is similar to a BAC (Blood Alcohol Content) to ensure that only true drinking episodes are confirmed (such as alcohol absorption and elimination rates). <i>All</i> drinking events are confirmed by AMS; thus, removing the need for further follow-up by officers/agencies.
2.21	Services	The Vendor's Monitoring Center service must be able to tailor the level of alert notification to the Agency or individual needs or protocols.	AMS meets this specification. With flexible reporting methods and a willingness to customize to the needs of each agency, AMS will work with WSCA agencies to ensure that the necessary alert notification methods meet the needs of the agency.

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2.22	Services	The Vendor's Monitoring Center must be responsible to maintain a call tree to be utilized when contacting Agency staff to report alert notifications pursuant to established protocols and optional price plan.	AMS meets this specification. The AMS Monitoring Center will work with each agency to maintain proper notification protocol.
2.23	Services	In the event of an alert violation, the Monitoring Center service must provide to the Officer, at a minimum the Offender's name, type of violation, time of violation.	AMS meets this specification. All alerts are time and date stamped. Notification includes the offender's name and type of violation, as well as alcohol confirmation with suggested action plan
2.24	Services	The Vendor's Monitoring Center service must be able to tailor the level of alert notification to the Agency or individual needs or protocols at an optional price plan.	AMS meets this specification. With flexible reporting methods and a willingness to customize to the needs of each agency, AMS will work with WSCA agencies to ensure that the necessary alert notification methods meet the needs of the agency.
<b>3.0.</b>	<b>SECTION C Data Center, Data Storage, and Data Access</b>		
<b>Item</b>	<b>Function</b>	<b>Description</b>	<b>Describe how Vendor meets or exceeds specifications</b>
3.1	Data Center	The facility housing the Data Center(s) must have multiple physical security features. Describe the physical security features that protect the Data Center and agency data.	<p>AMS meets this specification. The monitoring facility is secured so that access is restricted to authorized individuals. Visitors must press a buzzer to contact the receptionist, who can see the individual on the door camera and the building camera before admitting the individual into the main lobby. Visitors must sign a log, and are then issued a visitor badge that must be displayed at all times. They must be escorted at all times while visiting the facility. All visitors must sign out and surrender their visitor's badge when they leave.</p> <p>Internal security is maintained through the use of electronic door controls, accessed through security proximity cards, which access schedules of when employees are allowed to be in the building. The building is under camera surveillance at all times.</p> <p>Outside lighting on the perimeter of the building illuminates both the building and the parking lots adjacent to the building. The parking lot perimeter is also monitored by a closed circuit infrared/low light TV system. Cameras are strategically placed in the lobbies and in the elevators, and all transmissions are both monitored and recorded twenty-four hours a day.</p>
3.2	Data Center	The Vendor's Data Centers should have ventilation and temperature control adequate to ensure proper functions of the Monitoring Center hardware.	AMS meets this specification. The data centers, which houses the central computer system, have both proper ventilation and temperature controls to ensure seamless functionality.

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3.3	Data Center	The Vendor's Data Centers must have back-up emergency power generators.	AMS meets this specification. If commercial AC power is lost, uninterruptible power supplies (UPS) instantly deliver backup power to all servers and buildings for up to 30 minutes. For the monitoring center areas, a diesel-powered generator comes online within six (6) seconds. The generator delivers power to the entire building for up to one (1) week, with N+1 generators and priority diesel fuel deliveries scheduled on a weekly basis.
3.4	Data Center	The Vendor must have redundant Data Centers located sufficiently distant from the primary center, such that it is unlikely to be adversely affected by a manmade or natural event or loss of electrical or communications services that would disable the primary Data Center.	AMS meets this specification. AMS has two separately managed, run, and serviced SAS 70 audited data centers in two locations in the Denver, CO metro area: ViaWest in Centennial and Qwest Cyber Center in Highlands Ranch. The two data centers are about 15 miles apart. These two data centers are based on different networks, power grids, central offices, and Service Providers. Each center has redundancy for all areas including cooling, electrical, power generation, and telecommunications.
3.5	Data Center	All back-up systems in the Data Centers must be tested regularly.	AMS meets this specification. Backups are tested every night by restoring the backup to a secondary database server, then running reports to ensure the backup is complete. The configuration of this secondary server is similar to AMS' production database nodes, hence this server can be pressed into service as a production replacement in the unlikely event of a catastrophic failure. The server ensures that data from the previous day's backup are restored and running as of 4:00 am each morning.
3.6	Data Center	The Vendor's system should provide for 100% redundancy to avoid unnecessarily excessive downtime due to hardware or software issues. In the event of data disruption, the secondary Data Center must be activated within 60 minutes of initial system failure.	<p>AMS exceeds this specification. To ensure availability of all data, AMS replicates all data daily to online storage arrays at three separate geographic locations. The database is tested daily to ensure system backup can be used on recovery of any system. In addition, AMS completes a data "snapshot" every four (4) hours to maintain backups. Transaction logs for all activity ensure that a data restore will be complete, and that each transaction is available.</p> <p>A full mirror of the database is maintained, which is approximately five seconds behind the production data base with full replication and data journaling in a near real time mode.</p> <p>Data Backups:</p> <ul style="list-style-type: none"> <li>• Complete backups are performed every night.</li> <li>• Backups are copied to online SANs (Storage Array Networks) in two separate data centers.</li> </ul>



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			<ul style="list-style-type: none"> <li>• Backups are tested every night by restoring the backup to a secondary database server, then running reports to ensure the backup is complete. The configuration of this secondary server is similar to AMS' production database nodes, hence this server can be pressed into service as a production replacement in the unlikely event of a catastrophic failure. The server ensures that data from the previous day's backup are restored and running as of 4:00 am each morning.</li> <li>• Backups are kept online (not on tape) for faster restores and prompt availability.</li> <li>• Five years' worth of backups are stored online.</li> <li>• Multiple fiber rings terminate in each facility.</li> </ul> <p>Hardware Redundancy:</p> <ul style="list-style-type: none"> <li>• AMS' database service is a clustered group of nodes (on two servers, rather than a single server).</li> <li>• Any one of the nodes can handle the full workload of the database needs.</li> <li>• AMS also has a database test restore server that can be used as a production replacement in the event of a catastrophic failure.</li> <li>• AMS' web servers are a group of nodes (seven servers, rather than just a single server), which provide for load balancing.</li> <li>• AMS' communications servers are a group of nodes (ten servers, rather than just a single server), which provide for load balancing with multiple telecom carriers.</li> </ul> <p>If a server in a work group (database, web, or communications) fails, AMS' current redundancy levels in the work groups ensure that our customers will not see or experience the failure.</p>
3.7	Data Storage	The Vendor must ensure that all records (automated or hard copy files) remain the property of the Agency and shall be returned within 30 days, in the event the contract is canceled or terminated.	AMS meets this specification. AMS can return information to the Agency. In all cases the information will remain confidential.

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3.8	Data Storage	The Vendor's system must ensure that all data be recorded with a historical transaction record and stored/archived for retrieval/backup in a database when requested by Agency personnel in accordance with the following:	<p>AMS meets this specification. All data is stored indefinitely, ensuring that all DOC data will be archived and available as needed.</p> <p>To ensure availability of all data, AMS replicates all data daily to online storage arrays at three separate geographic locations. The database is tested daily to ensure system backup can be used on recovery of any system. In addition, AMS completes a data "snapshot" every four (4) hours to maintain backups. Transaction logs for all activity ensure that a data restore will be complete, and that each transaction is available.</p>
3.9	Data Storage	a. All historical data must be centrally stored and accessible for reporting purposes;	AMS meets this specification. All data is stored in SCRAMNET and is available to agency personnel.
3.10	Data Storage	b. This information must be available for reporting in a standard transaction file format; and	AMS meets this specification. Transaction reports are always available in a standard file format.
3.11	Data Storage	c. All current and historical data files must be retained for a minimum period of seven (7) years and this information shall be available at no charge to the Agency.	AMS exceeds this specification. All data is archived indefinitely.
3.12	Data Storage	The Vendor's Data Centers must have duplicate computers with the ability to, at a minimum, permit restoration of data collection and user monitoring services within ten (10) minutes after computer failure. The Monitoring Center should have duplicate data storage devices with automated fail-over and automatic re-establishment of the duplicate databases upon replacement of the failed storage device.	<p>AMS meets this specification. AMS employs hardware redundancy to ensure uninterrupted monitoring:</p> <ul style="list-style-type: none"> <li>• AMS' database service is a clustered group of nodes (on two servers, rather than a single server).</li> <li>• Any one of the nodes can handle the full workload of the database needs.</li> <li>• AMS also has a database test restore server that can be used as a production within 10 minutes replacement in the event of a catastrophic failure.</li> <li>• AMS' web servers are a group of nodes (seven servers, rather than just a single server), which provide for load balancing.</li> <li>• AMS' communications servers are a group of nodes (ten servers, rather than just a single server), which provide for load balancing with multiple telecom carriers.</li> <li>• If a server in a work group (database, web, or communications) fails, AMS' current redundancy levels in the work groups ensure that our customers will not see or experience the failure.</li> </ul>

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3.13	Data Storage	Upon request from the Agency, the Vendor must provide the most up-to-date complete copy of the System database, including historical data, the data dictionary, file layouts, code tables, code values, data relationships, keys, and indices, etc., in a format to be determined by the Agency.	AMS will comply. AMS will work with the agency to provide any necessary database information in a manner that will not compromise overall confidentiality and system integrity.
3.14	Data Access	The Vendor shall not release or reveal any data, program information, operation protocols, implementation plans, training material, report(s), publication(s), updates, and/or statistical data related to the Program to any entity, to include non-Agency personnel, without prior written approval from the Agency Program Manager.	AMS will comply. All agency information will be kept confidential per agency procedures/specifications as allowed by law.
3.15	Data Access	The Vendor must maintain unaltered recorded data of offender violations, to be accessible in original form and substance for utilization as physical evidence for prosecution.	AMS exceeds this specification. All data is maintained in a manner that can be used as evidence in court. SCRAMx has an unrivaled record of court admissibility and peer-reviewed research when compared to any other CAM system on the market.
3.16	Security	The Vendor shall have documented policies and procedures for network security, application security, data transmission and data security, as well as Monitoring Center physical security.	AMS meets this specification. Alcohol Monitoring Systems, Inc. (AMS) has invested significantly in developing a formal Business Continuity Plan with the supporting infrastructure in the area of data backup and recovery, in order to prevent business interruptions and minimize the impact if an interruption does occur. The Datacenter physical security is monitored by SA VIS and ViaWest and controlled through multiple layers of controls. These are SSAE-16 secure sites.
3.17	Security	The system shall provide security features, which prevent unauthorized individuals from accessing any information held by the Vendor. Secure access to the system shall be maintained at all times.	<p>AMS meets this specification. The application is constructed in a manner so that no customer has access to any systems operations areas and is restricted to their portal view of the data. Only an AMS' systems are able to send data to the applications in which customers can only view, not update or change. All front end systems are monitored by firewalls and intrusion detection systems.</p> <p>All information is encrypted using password protection that meets National Institute of Standards (NIS) guideline. AMS webservers use SSL certificates to ensure that all session data is encrypted and all host communications information is confidential. AMS uses industry monitoring tools which monitor network, application, database, and systems 24x7 with alarms and alerting. Both internal and external hosted monitors ensure that an outage will immediately be recognized and alerted for a quick resolution.</p>

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			The entire perimeter is protected and monitored by high availability firewalls and intrusion detection systems.
3.18	Security	The Vendor must maintain security policies and procedures for its network security, application security, data transmission security, data storage security, and physical security. While it is not necessary for the vendor to submit these documents with proposal, they must be provided to any requesting agency post award.	AMS will comply with this specification. Significant investment has been made in developing a formal Business Continuity Plan with the supporting infrastructure in the area of data back-up and recovery, in order to prevent business interruptions. AMS will provide any necessary information documenting these policies.
3.19	Security	The Vendor shall provide secure transmission and storage of data and must ensure that all data, data transmissions and data storage is kept confidential.	AMS meets this specification. Our centrally hosted and managed off-site data center provides sufficient resources to manage and maintain SCRAMNET's information and infrastructure. This necessary redundancy, used in conjunction with off-site vaulting services, ensures that customer data is well protected. SCRAMNET provides high quality, secure backups and operational efficiency. All data transmissions occur in our private data network or private telephony network.
3.20	Security	The Vendor's facility, equipment, data transmissions, and data storage shall be secure. The Vendor's facility shall be alerted and monitored by a local law enforcement Agency or security company. The alert line shall be a tamper-resistant dedicated circuit and shall not be exposed to any person or thing that could alter or damage the line. The Monitoring Center shall be equipped with automated fire detection and suppression equipment.	AMS meets this specification. Our data center facilities are managed by SAVIS (Century Link) and ViaWest which maintains SSAE-16 (formerly SAS 70 Level III) security with external alarming and monitoring from multiple remote facilities. These centers have multiple alert lines and redundant alert lines to ensure immediate alerting even if an inadvertent line cut should occur due to construction or work external to the building. These systems are tested and validated monthly. There are multiple communications entrances into the facility ensuring no failure can occur due to an accidental line cut. Automated fire detection and suppression equipment is standard throughout both facilities. The fire detection system monitors for excessive heat, ionization and smoke particulates both above and below the raised floors. All systems are tested at a minimum once per month with maintenance windows to ensure proper operation.

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3.21	Security	The Vendor shall maintain a written Disaster Recovery Plan to cover power failures, telephone system failures, local equipment failures, flood or fire at the Monitoring Center and Data Center continued continuity of operations.	AMS meets this specification. AMS has invested significantly in developing a formal Business Continuity Plan with the supporting infrastructure in the area of data back-up and recovery, in order to prevent business interruptions. This plan includes data protection, risk assessment information, infrastructure security, back-up and recovery processes, as well as performance monitoring practices. It ensures the protection of critical assets and customer data. Our data disaster plan is exercised daily for database restores and quarterly when we move our processing from one data center to the backup data center for verification of the recovery process.
4b.0	<b>SECTION D ALCOHOL MONITORING TRANSDERMAL EQUIPMENT AND SERVICE Equipment Requirements - for single body-attached device with or without receiver</b>		
Item	Function	Description	Describe how Vendor meets or exceeds specifications
4b.1	Equipment	<p>Vendor is offering the following Transdermal alcohol monitoring a single body-attached device and as identified in the Price Worksheets. The responses to the following specifications are for this equipment.</p> <p><b>Alcohol Monitoring Transdermal Equipment</b></p> <p>Single Body-attached Device: Product Bid: Mfg.: <u>Alcohol Monitoring Systems, Inc.</u> Brand/Model: <u>SCRAMx Bracelet</u></p> <p><b>Alcohol Monitoring Transdermal Equipment</b></p> <p><u>Receiver:</u> For Product Bid: Mfg.: <u>Alcohol Monitoring Systems, Inc.</u> Brand/Model: <u>SCRAMx Base Station</u></p>	
4b.2	Equipment	The device and all additional equipment shall not be available as an open market item if this could compromise the security of the system.	AMS meets this specification. The SCRAMx system is not available commercially.

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4b.3	Equipment	The device shall be currently registered and approved by the Federal Communications Commission (FCC).	<p>AMS meets this specification. The SCRAMx system is approved by the FCC as follows:</p> <p>SCRAMx Transdermal Alcohol Monitoring Bracelet FCC Part 15 – Registration Number P8M-SM02</p> <p>SCRAMx Transdermal Alcohol Monitoring Base Station FCC Part 15 – Registration Number P8M-SM03</p> <p>FCC Part 68 – Product Number US:AMSM00BSM0</p> <p>SCRAMx wireless modem FCC ID : AU792U09D24824</p>
4b.4	Equipment	The strap and circuitry shall enable the device to immediately notify the monitoring center of any tamper attempt or removal from the offenders’ ankle.	<p>During the course of each day, SCRAMNET will notify the supervising authority of any alcohol readings, tamper alerts, or equipment malfunctions so they can respond quickly to problem offenders. The SCRAMx bracelet is equipped with industry-leading, anti-tamper technology that features five sensors to detect and report attempted tampers. These sensors determine whether the bracelet has been cut, removed, obstructed, or submerged. The bracelet’s intelligent self-diagnostic capabilities constantly monitor and report its functionality. Any attempts to tamper with the bracelet or its functionality will be immediately detected by the SCRAMx system.</p>
4b.5	Equipment	The body-attached ankle bracelet unit must offer a rechargeable or field replaceable battery. If rechargeable, device shall function for approximately twenty-four (24) hours on a 2-hour charge. If replaceable batteries, describe the in-use live duration of your proposed battery and the basis for replacement of batteries and/or body-attached ankle bracelet unit including details of the number of small parts (screws, clips, rails, etc) that Officers must replace.	<p>AMS meets this specification. The SCRAMx bracelet uses a Lithium CR2, disposable battery. When monitoring for alcohol only, it has a minimum battery life of 90 days. When using CAM + RF, it has a minimum active battery life of sixty (60) when both days. It will post a low battery message seven (7) days prior to battery failure, allowing sufficient time for the battery to be replaced.</p> <p>The installation process can be completed in less than five (5) minutes. The SCRAMx bracelet is comprised of transmitter, battery, faceplate, and exhaust cap, strap, and two screws. Installation only requires one tool, a custom wrench, which is supplied by AMS. The strap is easily adjusted to fit the client’s ankle. Then, the Direct Connect device is place over the bracelet to begin actively monitoring the client. In addition to training, a “quick sheet” installation guide is provided to walk agency personnel through the installation of the bracelet.</p>

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4b.6	Equipment	Describe all maintenance and/or calibration intervals including steps involved and regularity they must be performed (Example: Replace water vessel inside body-attached ankle bracelet unit, once every 90 days.)	AMS performs all SCRAMx equipment maintenance, including recalibration, to ensure proper working order. The standard policy is to bring devices back once per year for recalibration. This is done by issuing a "Scheduled Maintenance" RMA at the time the device is due. There is not charge to the agency.
4b.7	Equipment	Deleted.	
4b.8	Equipment	The device must be shock resistant, water resistant, and must function under normal atmosphere and environmental conditions.	AMS meets this specification. The SCRAMx system is water and shock resistant, durable, and hypoallergenic. Additionally, the SCRAMx bracelet does not have any exposed water chambers or external features that could freeze in colder temperatures or stop functioning if it was subject to adverse wearing conditions.
4b.9	Equipment	The device shall be capable of sending a signal indicating a low battery condition prior to battery depletion.	AMS meets this specification. The SCRAMx bracelet will post a low battery message seven (7) days prior to battery failure, allowing sufficient time for the battery to be replaced.
4b.10	Equipment	All communications to and from the device shall be encrypted.	AMS meets this specification. All information is encrypted.
4b.11	Equipment	The device may be able to provide two-way communications with the participant as a means of rapid officer response to positive alcohol test results and the basis for Officer contact/intervention? If available, describe specifically how your device communicates and how it is tracked in your proposed system.	The SCRAMx system does not have this capability.
4b.12	Equipment	The device shall be able to detect and record an alert feature with immediate tamper notification including strap tampers, activation and deactivation tampers, and removal tamper notifications. Describe your specific method(s) of tamper detection (Examples: Temperature, Infra-red, etc.) and tamper evident capabilities.	AMS meets this specification. The SCRAMx bracelet is equipped with industry-leading, anti-tamper technology that features five sensors to detect and report attempted tampers. These sensors determine whether the bracelet has been cut off, slipped off, obstructed, or submerged. The bracelet's intelligent self-diagnostic capabilities constantly monitor and report its functionality. Any attempts to tamper with the bracelet or its functionality will be immediately detected by the SCRAMx system.
4b.13	Equipment	The device shall be able to detect and record an alert feature with immediate alert notification for a low battery.	AMS meets this specification. The SCRAMx bracelet will post a low battery message seven (7) days prior to battery failure, allowing sufficient time for the battery to be replaced.

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4b.14	Equipment	The device should incorporate non-volatile memory capable of storing at least 24 hours worth of events (with date and time of occurrence) at times when the cellular service or electrical power may become unavailable. In particular, non-volatile memory will retain unreported events and report them once power/cellular services have been restored, including date & time of occurrence.	<p>AMS meets this specification. The SCRAMx bracelet will store up to a month's worth of court admissible alcohol data. These messages are stored in non-volatile memory and remain there even if the battery goes completely dead. This equates to about 48 tests per day, or 1440 tests per month. A fully charged SCRAMx bracelet battery will last 60 days.</p> <p>The SCRAMx Base Station will store events and alcohol data for approximately one month, or more in some cases. If using the backup battery, it will function for up to 48 hours with a fully charged battery. All messages are stored in its non-volatile memory so that the messages are never lost.</p>
4b.15	Equipment	All straps utilized to attach equipment to an offender shall be designed so that if an offender cuts, severs or otherwise compromises the integrity of the strap an alert is generated.	AMS meets this specification. Part of the SCRAMx anti-tamper technology is to immediately detect and report any cut or removal of the strap.
4b.16	Equipment	Straps used to attach the equipment to an offender shall have exterior surfaces made of hypoallergenic materials, and shall be adjustable in length to fit all offenders All straps designed to attach equipment to an offender shall have the capability to be securely sized to an offender. If straps are pre-sized they should be immediately available in one-half inch increments or less.	AMS meets this specification. It is adjustable in 4 mm increments (about 1/6th of an inch) and is simply tightened or loosened to fit any leg.
4b.17	Equipment	System shall measure the ethanol concentration in a discrete sample of the ethanol vapor as insensitive perspiration or the unnoticed perspiration that occurs continuously and shall be obtained via body-attached device without the need for active participation by the participant. The device must be able to distinguish between environmental factors and actual consumption.	<p>AMS meets this specification. SCRAMx tests for alcohol consumption through transdermal means, meaning that alcohol content is measured "through the skin." Because people excrete approximately one percent (1%) of the alcohol they drink through their sweat, if an individual has been drinking, then it will show up in the level of ethanol vapor present in this insensible perspiration. The SCRAMx device automatically collects transdermal samples of insensible perspiration from the air above the offender's skin and transmits this data to a central source for analysis – requiring no effort on the part of the offender or the supervising agency.</p> <p>All data received from the SCRAMx bracelet through SCRAMNET is subject to a rigorous data analysis and review process conducted by AMS' team of professionally-trained analysts. These analysts understand the nuances of real-world bracelet use, and can confirm or not confirm drinking episodes</p>



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			using court-proven criteria. Their review process identifies the presence of environmental alcohol and looks at key characteristics of the Transdermal Alcohol Concentration (TAC) curve– which is similar to a BAC (Blood Alcohol Content) to ensure that only true drinking episodes are confirmed (such as alcohol absorption and elimination rates).
4b.18	Equipment	The device shall provide for testing to be automatically conducted at fixed intervals that can be set by the Officer on a per participant basis based on the risk of the participant, as frequently as once every 30 minutes. Describe the number of settings, duration of each interval, the steps involved for an Officer to vary the testing intervals, including but not limited to the steps involved, any time delay or conditions for changes in testing interval to become effective, and whether or not there is a need for monitoring center involvement to vary testing intervals.	AMS meets this specification. The SCRAMx device takes an alcohol reading every 30 minutes, 24 hours a day. It is the only CAM device on the market that uses a controlled, quantifiable sampling method, drawing a measured sample every 30 minutes. This is the same proven sample delivery system used in evidential breath testing equipment used in law enforcement. While the testing frequency cannot be adjusted, it should be noted that there is currently not a transdermal continuous alcohol monitoring system on the market that incorporates adjustable testing settings.
4b.19	Equipment	The results of each test shall be reported to the monitoring center and notifiable to Officers. Describe if your device has a cellular reporting connection capable of immediate reporting or, if the test results must be stored in the body-attached ankle bracelet unit and capable of reporting only when the body-attached ankle bracelet returns in range of a second component attached to the participant’s home phone landline or cellular line. Describe the number of reporting settings, duration of each reporting interval, the steps involved for an Officer to vary the reporting interval, including but not limited to any time delay or conditions for changes in reporting interval to become effective, and whether or not there is a need for monitoring center involvement to vary the reporting interval.	AMS meets this specification.  Once detected by SCRAMNET, all alcohol-related events are viewed and interpreted by a committee of AMS-certified analysts. This ensures that alert notifications are reliably confirmed as valid, so that no additional follow-up testing is needed to confirm drinking events. All confirmed alcohol violations are automatically date- and time-stamped, and typically sent to agency supervising authorities by 8:00 am the following day per agency procedures. A Daily Action Plan (DAP) typically delivered via email every day, shows which offenders had specific violations.  AMS offers SCRAMx Wireless to monitor those offenders without access to a phone line. The wireless device simply plugs into an electrical outlet and downloads data daily at scheduled times; it is then uploaded directly to SCRAMNET. The SCRAMx bracelet unit is capable of reporting only when the bracelet is in range of a wireless SCRAMx base station. Otherwise, the test results are stored in the SCRAMx bracelet and uploaded into the base station once it is in range.

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			The SCRAMx system offers reporting settings of 1 to 6 communication times throughout the day. These client settings establish the times that the bracelet and base station will communicate with each other. Any alcohol events received by the base station are immediately uploaded to SCRAMNET. The settings can be adjusted by the officer through SCRAMNET.
<b>5.0</b>	<b>SECTION E System Reports</b>		
<b>Item</b>	<b>Function</b>	<b>Description</b>	<b>Describe how Vendor meets or exceeds specifications</b>
5.1	Equipment Inventory Reports	A system that allows the Agency to generate the following “canned” reports directly from the Vendor’s database through the secure internet site. To ensure that reports are accurate and timely, the system’s database shall be updated in real time to ensure all report data is current when viewed and/or downloaded by the Agency’s personnel. All reports shall have the capability of being queried, sorted or filtered by any field contained in the report or by data parameters as applicable and reports shall be readable on screen, printable and shall be downloadable into an excel format.	AMS meets this specification. SCRAMNET provides a wide range of “instant” reports and graphs – from a snapshot of a single event to a comprehensive view of an offender’s behavior over time. SCRAMNET is updated in real-time, so that agencies always have the latest information. Reports can be queried and filtered to meet the report needs of each agency. All SCRAMNET reports can be viewed online, printed, saved, and emailed /or downloaded as PDFs, Excel files, or Word documents.
5.2	Equipment Inventory Reports	The system must be able to provide real time reports of all assigned equipment. Report shall include description/type of equipment, serial number, assigned Offender, and assigned Officer.	AMS exceeds this specification. SCRAMNET provides several reports to assist agencies with inventory. The Inventory Tracking Report assists as a checklist while conducting a physical inventory and verifying the status of all equipment. It can be sorted by device type and/or inventory status. In addition, the Current Inventory Report sorts the entire inventory by servicing location and status at the time the report is run. Please refer to Attachment X for examples of SCRAMNET’s various inventory reports.

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5.3	Notification Report	<p>The Vendor's system shall provide the Agency the ability to generate a report by date parameters, sorted by location site, identifying the number and type of notifications during specified time parameters, such as:</p> <ul style="list-style-type: none"> <li>• Monday-Friday, 8:00 am-5:00 pm</li> <li>• After hours</li> <li>• Weekends</li> </ul> <p>And indicating summary totals for:</p> <ul style="list-style-type: none"> <li>• Total number of alerts per location site, percent of total per type of alert and average number of alert notifications per month, per offender within each location site.</li> </ul>	<p>AMS meets this specification. SCRAMNET offers several reports to assist agencies with notification information.</p> <p>The Agency Activity Report displays the number of alerts generated by all of clients (by date) assigned to an agent/officer.</p> <p>The Activity by Agency Report supplies different alert summary numbers for positive, tamper, and equipment alerts for a client during a specified date range.</p> <p>Currently, there is no report that gives an average number of alert notifications. However, AMS will work with the agency to provide this report as necessary.</p>
5.4	Offender Alert Report	<p>The Vendor's system shall provide the Agency the ability to generate alert reports, queried by individual assigned offender and date parameters that identifies the type of alert, time of alert, method of alert (fax, e-mail or phone call) and recipient of alert.</p>	<p>AMS meets this specification. The Client Report displays all alerts for a specific client for a defined period of time. The Non-Compliance Report provides very detailed information for a specific client alert.</p>
5.5	Customized Reports	<p>The Agency can request custom reports the cost of which (if any) shall be established between the Vendor and the Agency Program Manager.</p>	<p>AMS meets this specification. AMS will work with each agency to provide any custom reports at minimal cost (if any).</p>
5.6	Offender Report	<p>The Vendor's system shall provide the Agency the ability to generate a summary report of all offenders and/or assigned officer that identifies offender name, Agency number, address, and officer assigned.</p>	<p>AMS meets this specification. The Client Summary for Agency Report provides this information.</p>
5.7	Current Usage Report	<p>The Vendor's system shall be able to provide the Agency the ability to generate a current usage report indicating the actual number of daily service units used to date (real time) for the monthly period. This report should be detailed to reflect offender name, Agency number, service type (active) and number of days utilized to date.</p>	<p>AMS meets this specification. The Client Summary for Agency Report also meets this requirement.</p>
5.8	Daily Alert Summary Report	<p>The Vendor shall submit a daily report (between the hours of midnight and 6:00 a.m. for the previous day) that identifies each alert, type of alert, time and duration of alert, assigned officer, assigned offender, and totals. This report shall be sorted by location sites region/unit/officer and shall be e-mailed to all designated officers within the location sites.</p>	<p>AMS meets this specification. The Daily Action Plan provides this information.</p>

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6.0	<b>SECTION F Equipment Testing, Replacements, Lost/Damaged/Stolen Requirements</b>		
Item	Function	Description	Describe how Vendor meets or exceeds specifications
6.1	Equipment Accessories	The Vendor shall provide all necessary supplies and replacement supplies and instruction/training materials at no additional costs to the Agency.	AMS will meet this specification. AMS will provide all initial training materials at no cost to the agency. In addition, a periodic supply of consumables (such as batteries, clips, battery faceplate kits, field kit etc.), will be supplied at no extra cost.
6.2	Equipment Spare Inventory	The Vendor shall provide and maintain a backup/replacement inventory of monitoring units equal to fifteen percent (15%) of the actual number of units currently in use in each the Agency's Location sites/Office locations at no additional cost. The Agency shall not pay the Vendor an inventory fee, storage fee, installation equipment fee or any other fee related to these inventory units and equipment.	AMS will meet this specification.
6.3	Replacement Equipment	The Vendor shall assure that all equipment delivered to the Agency has been tested to ensure it is operable, free from any defects or damage and is fully operational. The Agency reserves the right to reject any and all equipment not determined to be operational and in acceptable operative order and condition. In the event any equipment becomes inoperative due to a malfunction or through normal use, the Vendor shall incur all replacement costs and repairs. The Vendor shall provide the Agency with replacement equipment within 24 hours of request at no charge to the Agency, including shipping and handling costs for both delivery and return.	AMS meets this specification. AMS thoroughly tests and inspects all equipment prior to shipping. Any inoperable equipment through normal use or due to malfunction will be replaced within 24 hours at no charge to the agency.
6.4	Lost/Damaged/Stolen	At no additional cost, the Vendor shall supply replacements for lost, stolen and damaged equipment up to five percent (5%) per year of the Agency's active units. The Vendor shall have three (3) working days to replenish requested stock. All units shall be maintained at the Agency's office for use as immediate replacements, when needed. Vendor must detail within their Price Sheet the per component replacement cost for each component of every proposed equipment model. This replacement cost shall be applied for any excess losses above the allowed annual 5% lost, stolen and/or damaged equipment replacements.	AMS will meet this specification. All replacement part costs above the 5% lost/stolen/damaged are included in Appendix E, Pricing Worksheets.

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<b>7.0 SECTION G Training Requirements</b>			
<b>Item</b>	<b>Function</b>	<b>Description</b>	<b>Describe how Vendor meets or exceeds specifications</b>
7.1	Training	Vendor shall provide initial on-site training by experienced staff with thirty (30) days of start of Agency's contract, unless an alternate training schedule is agreed upon. Additional on-site training via webinar shall be provided within 48 hours of request. Ongoing training shall be provided as agreed mutually between vendor and agency.	<p>AMS meets this specification. The training objectives are to provide general knowledge of the technology, scientific principles of the technology, software navigation, and all functional aspects of the hardware/equipment tasks. Topics covered in Level 1 Training include:</p> <ul style="list-style-type: none"> <li>• Equipment overview</li> <li>• Components of the SCRAMx system</li> <li>• Accessing SCRAMNET</li> <li>• Region setup (optional)</li> <li>• Court setup, if needed</li> <li>• Judge setup, if needed</li> <li>• Agency setup</li> <li>• Agent and agent supervisor setup</li> <li>• Inventory management</li> <li>• Client enrollment</li> <li>• Equipment assignment and installation</li> <li>• Alert management</li> <li>• Equipment maintenance</li> <li>• Data interpretation</li> <li>• Reporting</li> </ul> <p>In addition the initial training, all training and written documentation is available online.</p>
7.2	On-Site Initial Training	Deleted.	
7.3	Onsite Ongoing Training	Deleted.	
7.4	Manuals/ Installation Guides	The Vendor shall provide training and/or user manuals upon each Officer's initial orientation training in hardcopy or soft file format such as PDF may be provided at the request of the Agency. All training and all associated training manuals shall be provided at no cost to the Agency.	AMS exceeds this specification AMS will provide hardcopy or soft copy user manuals for initial training. In addition, the latest versions of all SCRAMx documentation are available online to reference and download. AMS also has a very detailed "Help" page functionality through SCRAMNET. The content within the Help page is readily maintained. Help features and functionality include:

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			<ul style="list-style-type: none"> <li>• SCRAMx Operations Guide – Facilitates management of an efficient SCRAMx program.</li> <li>• Daily Tasks Guide – Designed for those responsible for managing the day-to-day tasks for clients who are ordered to wear the SCRAMx bracelet. The content is logically grouped by daily, weekly, and quarterly tasks. The guide is not intended to be a comprehensive manual, but rather a concise list of the daily tasks for efficient management of the County’s SCRAMx program.</li> <li>• Quick Sheets – Stand-alone procedures that provide step-by-step directions to assist with SCRAMx equipment tasks, such as equipment setup, equipment replacements, and manual data uploads.</li> </ul>
7.5	Training Materials	The Vendor shall provide all materials and equipment necessary to perform the training and shall utilize actual equipment currently being utilized. All training manuals may-be hardcopies or soft file format, user friendly, and kept up to date with the most current training protocols. Training manuals shall be provided for each Agency staff member trained and upon the request of the Agency Program Manager. The training curriculum and evaluation forms that will be utilized for all training purposed should be submitted by Vendor.	AMS meets this specification. Equipment training will involve the actual SCRAMx equipment and SCRAMNET software. AMS will provide user manuals for initial training and initial training materials as requested by the agency. AMS will work with each agency to ensure that all training material needs are met. Please see the tab labeled “Attachments” for information pertaining to SCRAMx training offerings.
7.6	Webinar and Online Training	The Vendor shall make available to officers remote webinar and online training sessions which demonstrate device applications after initial orientation per officer. The Vendor shall provide Webinar online and online. Training for system, software and hardware updates.	AMS meets this specification. AMS frequently conducts webinars and online training as needed and will make this available to all agencies at no cost.
<b>8.0</b>	<b>SECTION H Additional Requirements</b>		
<b>Item</b>	<b>Function</b>	<b>Description</b>	<b>Describe how Vendor meets or exceeds specifications</b>
8.1	Vendor Staff	The Vendor shall provide an adequate level of staffing for provision of the services outlined herein and shall ensure that staff providing services are highly trained and qualified.	AMS meets this specification. The AMS monitoring center is adequately staffed 24/7 to assist agencies throughout the country. As AMS-trained and certified experts in their fields, the Data Analysts are highly responsive professionals dedicated to delivering AMS’ industry-recognized level of service.

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8.2	On-Site Service	The Vendor shall provide remote diagnostic support and trouble-shooting technical assistance via a toll-free telephone line 24 hours a day, seven (7) days a week, including holidays. In the event of technical problems that are not resolved from a remote location, the Agency Program Manager, upon request, may require the Vendor to provide on-site, technical assistance within 24 hours.	AMS meets this specification. AMS' experienced team of Data Analysts will be available 24/7 via phone to support all WSCA agencies. In addition, the premier documentation, troubleshooting materials, and training that AMS provides are all available online for immediate 24-hour access. Email support is also provided to maximize responsiveness and offer a diverse menu of on-demand support options. With qualified training personnel located throughout the country, onsite technical assistance can typically be provided within 24 hours in extreme cases.
8.3	Litigation-Related Testimony	The Vendor shall make available qualified personnel to provide testimony as requested or subpoenaed. Affidavit, expert witness testimony, violation hearing testimony, or any other expert testimony/certification shall be provided at no additional cost to the Agency. The Vendor shall immediately notify the Agency Program manager or designee upon receipt of any subpoena involving or affecting the Agency.	AMS meets and will comply with this specification. AMS firmly supports SCRAMx monitoring results in court, and is available to offer expert testimony on the science of continuous transdermal alcohol monitoring technology at no additional charge to the agency. Since 2003, AMS has been working with courts and ancillary agencies to provide comprehensive SCRAMx testimony, which has included the creation of nearly 2,000 formal court reports used to detail the monitoring results of offenders who denied a SCRAMx violation (either alcohol consumption, equipment tampering, or a combination). In the majority of the cases, offenders confronted by the court armed with a comprehensive SCRAMx reporting package admitted to the violation prior to the scheduled hearing.
8.4	Quality Assurance Program	The Vendor shall have a formal quality assurance/quality control program in place that demonstrates that routine evaluations of the quality of the system, equipment and service are performed to ensure compliance with the terms and conditions of the Contract.	AMS meets this specification. AMS maintains a formal quality policy/manual which is designed to accomplish the ongoing company goal to provide quality products from a company that stands behind its work. The manual defines AMS' policies of a dynamic Quality Management System, and is ISO certified. A copy of this manual is available for review upon request.

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8.5	Monitoring and Evaluation Requirements	<p>The Agency Program Manager or designated staff may perform Agreement compliance reviews during the term of the Agreement. The Agency Program Manager may include periodic review of compliance with contract service delivery.</p> <p>The Agency Program Manager will provide written compliance reports to the Contractor. When issues of non-compliance are identified, a written Corrective Action Plan (CAP) will be required of the Vendor. The CAP is to be submitted to the Agency Program Manager within ten (10) days of receipt of the Agreement compliance review report. Failure to correct deficiencies after thirty (30) days from the date of receipt of the written Agreement compliance review report notating the deficiencies may result in determination of breach of contract and termination of services.</p>	AMS understand and will comply with this specification. AMS will work with each Agency Program Manager on all CAP's and will correct all deficiencies as required.
8.6	Background Checks	The Vendor shall conduct Criminal background checks for security purposes on all of its employees. The results of the background checks shall be available for review by the Agency. The MCC Contract Administrator on behalf of the Agency has full discretion to require the Vendor to disqualify, prevent, or remove any of its staff from any work being performed under the Contract upon the report of an unsatisfactory background check.	AMS meets this specification. AMS conducts background checks on all employees. The check includes a Social Security Number Verification, a seven-year criminal history report, and a Multi-State Instant Criminal Check, which searches for both felony and misdemeanors in each state and county in which the individual has lived in during the last seven years. AMS will comply with the MCC regarding any request to remove any employee working under this contract should the background check be unsatisfactory.
8.7	Background Checks	The Vendor shall not offer employment to any individual or assign any individual to work under this Contract, who has not had a background check, conducted and the findings of the background check have been determined to be satisfactory.	AMS meets this specification. Under no circumstances does AMS offer employment to any employee without passing a background check.
9.0	<b>SECTION I Additional Vendor's Equipment and Services</b>		
<b>Item</b>	<b>Function</b>	<b>Description</b>	<b>Describe how Vendor meets or exceeds specifications</b>
9.1		The Vendor may offer additional Equipment and Services. The Vendor should provide list and include a summary of each additional piece of equipment, to include: one device, description, training manuals, functionality, service, and optional pricing. Services may be negotiated based on each user Agency's needs.	AMS is not submitting anything additional.



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<b>10b.0</b>	<b>SECTION J ALCOHOL MONITORING TRANSDERMAL EQUIPMENT AND SERVICE Vendor Provided Offender Services for Alcohol Monitoring Transdermal Equipment and Service</b>	
<b>Item</b>	<b>Description</b>	<b>Describe how Vendor meets or exceeds specifications</b>
10b.1	The government entity may choose to provide the contractor with reasonable office space onsite within the government agencies office locations.	AMS understands and will comply. AMS is committed to working with each agency/government entity to provide the level of service needed for a successful transdermal alcohol monitoring program.
10b.2	Each entity will maintain its own computers, software, and internet service for exchanging information.	AMS understands and will comply. AMS is committed to working with each agency/government entity to provide the level of service needed for a successful transdermal alcohol monitoring program.
10b.3	The government entity will maintain complete responsibility for program management services not specifically listed	AMS understands and will comply. AMS is committed to working with each agency/government entity to provide the level of service needed for a successful transdermal alcohol monitoring program.
10b.4	The government agency will be responsible for all referrals of all new offenders to the program	AMS understands and will comply. AMS will only work with offenders that are referred by the government agency.
10b.5	Prior to any referral the government entity will ensure that the subject has a home phone or identifies the need of a cellular service monitoring unit.	AMS understands and will work with the agency as needed.
10b.6	Offenders should have an ability to pay for enrollment and services provided by the contractor.	AMS understands and will work with the agency as needed.
10b.7	Contractor will make arrangements to create a fee payment assessment whereby the cost of the program to offenders will be set on a mutually agreed upon schedule based on monthly earnings of an offender.	AMS exceeds this specification. With experience in setting up thousands of SCRAMx programs nationwide, AMS and its authorized service providers can easily make arrangements for a sliding fee scale based on offender earnings.
10b.8	The contractor will activate and install equipment on offenders and orientate offenders on home equipment placement or transdermal unit connection and care.	AMS exceeds this specification. AMS will subcontract installation, de-installation, and local support services through AMS' existing Virginia-based Small Business Partners located throughout the State.
10b.9	Offenders will be responsible for the cost of lost, damaged, or stolen equipment.	AMS understand and will comply. In an offender paid model program, AMS will charge and collect for lost, damaged, or stolen equipment.

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10b.10	<b>The contractor should provide limited case management to include:</b>	AMS meets these specifications. AMS and its authorized Service Providers can provide a full range of services to the agencies that are based on proven SCRAMx best practices – gained from AMS collective experience in setting up and running thousands of successful SCRAMx programs nationwide. These services include: daily offender management, program set-up and design, billing and fee collection, equipment maintenance, court support and testimony. SCRAMx authorized service providers are located throughout the country and can provide some or all of these services depending on the needs for the program and its location.
10b.11	a. Contractor will coordinate offender (in person) reporting on a schedule agreed upon by both parties	AMS meets this specification. As previously stated in 10b.10, AMS authorized service providers can provide daily offender management, including coordinating meeting personally with offenders.
10b.12	b. The contractor will confirm the employment status of the offender and financial status.	AMS meets this specification. AMS authorized service providers can provide this service.
10b.13	c. The contractor will collect fees from the offender and will provide notices to the government agency on delinquent payments	AMS meets this specification. AMS authorized service providers can:  <ul style="list-style-type: none"> <li>• Work directly with offenders to manage billing and fee collections</li> <li>• Prepare and educate courts and agencies on various offender payment plan options: <ul style="list-style-type: none"> <li>• Daily fee</li> <li>• Sliding scale</li> <li>• Indigent trust accounts</li> </ul> </li> <li>• Perform all accounting activities and recordkeeping relative to offender payments</li> </ul>
10b.14	d. The contractor will review offender curfew activity from the time since the offender last reported.	AMS meets this specification. AMS authorized service providers can provide daily offender management, including reviewing offender monitoring activity.
10b.15	e. The contractor will review monitoring /tracking activity with the offender and provide the government agency with exception reports for program violations.	AMS meets this specification. AMS authorized service providers can provide daily offender management, including reviewing monitoring activity with the offender and providing the agency with violation reports.
10b.16	f. The contractor's case management activities shall be documented in the contractor's caseload management software and accessible to the government entity 24/7.	AMS meets this specification. SCRAMNET logs case management which is accessible 24/7 to government agencies.

**Contract 00212 with Alcohol Monitoring Systems for Electronic Monitoring of Offenders**

**APPENDIX E PRICE SHEETS**

Daily is defined as 12:00 AM to 11:59:59 PM. Bid pricing shall be the not to exceed pricing on a per product/service basis.

<b>CATEGORY 2 – ALCOHOL MONITORING TRANSDERMAL EQUIPMENT AND SERVICE</b>			
<b>Description</b>	<b>Qty</b>	<b>Unit</b>	<b>Daily Rate*</b>
<b>Alcohol Monitoring Transdermal Equipment and Service</b> (Receiver (Home Unit) - Landline Communication Connection)  <b>Body-Attached Device:</b> Mfg.: <u>Alcohol Monitoring Systems, Inc.</u> Brand/Model: <u>SCRAMx Bracelet</u>  With <b>Receiver/Home Unit</b> with Landline Connection: Product Bid: Mfg.: <u>Alcohol Monitoring Systems, Inc.</u> Brand/Model: <u>SCRAMx Base Station</u> (*Daily rate determined on a per customer basis.)	<u>Equipment/Unit (when in use)</u>		
	1 - 50	EA	<u>\$2.50</u>
	51 - 150	EA	<u>\$2.30</u>
	151 - 300	EA	<u>\$2.25</u>
	301+	EA	<u>\$2.20</u>
	<u>Monitoring Services/Unit (when in use)</u>		
	1 - 50	EA	<u>\$4.05</u>
	51 - 150	EA	<u>\$4.05</u>
	151 - 300	EA	<u>\$3.90</u>
	301+	EA	<u>\$3.85</u>

<b>Description</b>	<b>Qty</b>	<b>Unit</b>	<b>Daily Rate*</b>
<b>Alcohol Monitoring Transdermal Equipment and Service</b> (Receiver (Home Unit) - Cellular Communication Connection)  <b>Body-Attached Device:</b> Mfg.: <u>Alcohol Monitoring Systems, Inc.</u> Brand/Model: <u>SCRAMx Bracelet</u>  With <b>Receiver/Home Unit</b> with Cellular Connection: Product Bid: Mfg.: <u>Alcohol Monitoring Systems, Inc.</u> Brand/Model: <u>SCRAMx Wireless</u> (*Daily rate determined on a per customer basis.)	<u>Equipment/Unit (when in use)</u>		
	1 - 50	EA	<u>\$3.16</u>
	51 - 150	EA	<u>\$2.96</u>
	151 - 300	EA	<u>\$2.91</u>
	301+	EA	<u>\$2.86</u>
	<u>Monitoring Services/Unit (when in use)</u>		
	1 - 50	EA	<u>\$5.05</u>
	51 - 150	EA	<u>\$5.05</u>
	151 - 300	EA	<u>\$4.90</u>
	301+	EA	<u>\$4.85</u>

**Contract 00212 with Alcohol Monitoring Systems for Electronic Monitoring of Offenders**

Description	Unit	Unit Price
<b>Required: Lost/Damaged/Stolen Equipment Replacement for above single body-worn device for Alcohol Monitoring Transdermal Equipment and Service</b>		
Body-Attached Bracelet Device for Transdermal Alcohol Monitoring: Mfg.: <u>Alcohol Monitoring Systems, Inc.</u> Brand/Model: <u>SCRAMx Bracelet</u>	EA	<u>\$1,100.00</u>
Receiver (Home Unit) – Landline Mfg.: <u>Alcohol Monitoring Systems, Inc.</u> Brand/Model: <u>SCRAMx Base Station</u>	EA	<u>\$400.00</u>
Receiver (Home Unit) – Cellular Mfg.: <u>Alcohol Monitoring Systems, Inc.</u> Brand/Model: <u>SCRAMx Wireless</u>	EA	<u>\$400.00</u>

Description	
<b>Preferred Optional Service: Alcohol Monitoring Transdermal Equipment and Service – Optional Vendor Provided Offender Services</b>	
Vendor may offer and provide an offender funded program for Alcohol Monitoring Transdermal Equipment and Service. Vendor shall provide staff to implement this program and may recoup the costs for their services directly from the Agency and/or Participant. Vendor's administrative fee to administer (including invoicing services) and provide an optional Offender Funded Program shall be an additional <u>\$1.50 - \$3.00</u> per unit/day.	
Vendor shall provide staff to implement this program and may recover the costs for their services at a negotiated amount directly from the Agency and/or Participant.	
<u>Description of Optional Services</u>	<u>Typical Daily Charge</u>
1. Initial offender contact, installation/service calls/removals*, orientation, fee assessment, and	<u>\$1.50/unit/ day additional</u>
2. Collection of fee from offender	<u>\$1.50/unit/ day additional</u>
3. Case management – meeting with clients on a daily/weekly basis	<u>\$1.00/unit/ day additional</u>
*For installation/removal services, there is a one-time additional installation fee for all offenders.	

**Contract 00212 with Alcohol Monitoring Systems for Electronic Monitoring of Offenders**

or MCC, such party agrees to notify the other party in the most expeditious fashion possible following receipt of such subpoena or other legal process. Contractor and MCC further agree to cooperate with the other party in any lawful effort by the other party to contest the legal validity of such subpoena or other legal process commenced by a third party.

**12.5 LIENS, CLAIMS AND ENCUMBRANCES**

All materials, equipment, supplies and/or services shall be free of all liens, claims, or encumbrances of any kind, and if the MCC or the Purchaser requests, a formal release of same shall be delivered to the respective requestor.

**12.6 AUTHORITY TO BIND**

The signatories to this Contract represent that they have the authority to bind their respective organizations to this Contract.

**12.7 COUNTERPARTS**



This Contract may be executed in counterparts or in duplicate originals. Each counterpart or each duplicate shall be deemed an original copy of this Contract signed by each party, for all purposes.

**SIGNATURES**


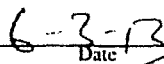


*In Witness Whereof*, the parties hereto, having read this Contract in its entirety, including all attachments, do agree in each and every particular and have thus set their hands hereunto.

**This Contract is effective May 1, 2013, or the date of last signature whichever is later.**

**This is a Partial award for: Contract 00212**

<b>Approved (Lead State)</b>		<b>Approved</b>
State of Washington Department of Enterprise Services Master Contracts & Consulting 1500 Jefferson Street, SE Olympia, WA 98501		Alcohol Monitoring Systems, Inc. 1241 W Mineral Avenue, Suite 200 Littleton, Colorado 80120
		
Signature <i>Robert Paulson, Jr.</i> Date <i>6-3-13</i>		Signature <i>Don White</i> Date <i>4/23/2013</i>
Robert Paulson, Jr., C.P.M.		Don White
Print or Type Name		Print or Type Name
Contract Administrator		Vice President, Field Operations
Title		Title

Contract 00212 with Alcohol Monitoring Systems for Electronic Monitoring of Offenders

	
Signature	Date
Dale Colbert, CPPO	
Print or Type Name	
Unit Manager	
Title	
	
Signature	Date
Christine Warnock, CPPO	
Print or Type Name	
Chief Procurement Officer	
Title	

State of Washington Contracts & Procurement Division Department of Enterprise Services P.O. Box 41411 Olympia, WA 98504-1411	<b>CONTRACT AMENDMENT</b>	
	Contract No.:	00212
<b>Alcohol Monitoring Systems, Inc.</b> <b>Db a: SCRAM Systems</b> 1241 W Mineral Ave, Suite 200 Littleton, CO 80120	Amendment No.:	3
	Effective Date:	October 1, 2018

**THIRD AMENDMENT  
TO  
CONTRACT NO. 00212  
ELECTRONIC MONITORING OF OFFENDERS**

This Third Amendment (“Amendment”) to Contract No. 00212 is made and entered into by and between the State of Washington acting by and through the Department of Enterprise Services, a Washington State governmental agency (“State”) and Alcohol Monitoring Systems, a Delaware corporation (“Contractor”) and is dated as of October 1, 2018.

R E C I T A L S

- A. State and Contractor (collectively the “Parties”) entered into that certain Contract No. 00212 for Electronic Monitoring of Offenders dated effective as of June 3, 2013 (“Contract”).
- B. The Parties previously amended the Contract No. 00212 as follows:
  - a. Amendment One extended the contract term through December 19, 2019.
  - b. Amendment Two added subcontractors for the State of Nebraska:
    - i. Addiction Counseling/Consultation Services
    - ii. DT Monitoring Specialists
    - iii. Counseling Center
- C. The amendment set forth herein is within the scope of the Contract.
- D. The Parties now desire to amend the Contract as set forth herein.

A G R E E M E N T

NOW THEREFORE, in consideration of the mutual covenants and agreements set forth herein, the Parties hereby agree to amend the Contract, as previously amended, as follows:

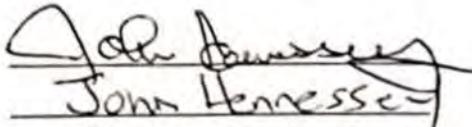
- 1. PRICE SHEETS. Appendix E – Price Sheets is replaced in its entirety effective September 1, 2018 with a new Appendix E as shown below. Appendix E – Price Sheets is hereby amended by deleting the existing Appendix E in its entirety and inserting the attached Appendix E – Price Sheets (dated September 1, 2018).

2. **NO CHANGE OTHER THAN AMENDMENT.** Except as amended herein, the Contract is unaffected and remains in full force and effect.
3. **INTEGRATED AGREEMENT; MODIFICATION.** This Amendment constitutes the entire agreement and understanding of the Parties with respect to the subject matter and supersedes all prior negotiations and representations. In the event of any conflict between this Amendment and the Contract or any earlier amendment, this Amendment shall control and govern. This Amendment may not be modified except in writing signed by the Parties.
4. **AUTHORITY.** Each party to this Amendment, and each individual signing on behalf of each party, hereby represents and warrants to the other that it has full power and authority to enter into this Amendment and that its execution, delivery, and performance of this Amendment has been fully authorized and approved, and that no further approvals or consents are required to bind such party.
5. **ELECTRONIC SIGNATURES.** A signed copy of this Amendment or any other ancillary agreement transmitted by facsimile, email, or other means of electronic transmission shall be deemed to have the same legal effect as delivery of an original executed copy of this Amendment or such other ancillary agreement for all purposes.
6. **COUNTERPARTS.** This Amendment may be executed in one or more counterparts, each of which shall be deemed an original, and all of which counterparts together shall constitute the same instrument which may be sufficiently evidenced by one counterpart. Execution of this Amendment at different times and places by the parties shall not affect the validity thereof so long as all the parties hereto execute a counterpart of this Amendment.

EXECUTED AND EFFECTIVE as of the day and date first above written.

**ALCOHOL MONITORING SYSTEMS, INC.,  
A DELAWARE CORPORATION**

**STATE OF WASHINGTON  
DEPARTMENT OF ENTERPRISE SERVICES**

By:   
 Name: John Hennessey  
 Title: VP of Sales  
 Date: 10-4-18

By: \_\_\_\_\_  
 Name: Scott Smith  
 Title: IT Procurement Manager  
 Date: \_\_\_\_\_





Description	Qty	Unit	Daily Rate*
<b>Alcohol Monitoring Transdermal Equipment and Service</b> (Receiver (Home Unit) - Cellular and Wi-Fi Connectivity )  <b>Body-Attached Device:</b> Mfg.: <u>Alcohol Monitoring Systems, Inc.</u>	<b><u>Equipment/Unit (when in use)</u></b>		
	1 - 50	EA	\$1.94
	51 – 150	EA	\$1.85
	151 – 300	EA	\$1.77
	301+	EA	\$1.67
Brand/Model: SCRAM Bracelet With <b>Receiver/Home Unit</b> with Cellular Connection: Product Bid: Mfg.: <u>Alcohol Monitoring Systems, Inc.</u>	<b><u>Monitoring Services/Unit (when in use)</u></b>		
	1 - 50	EA	\$5.05
	51 – 150	EA	\$5.05
	151 – 300	EA	\$4.90
	301+	EA	\$4.85
Brand/Model: <u>SCRAM Wireless Base Station</u> (Cellular/WiFi) (*Daily rate determined on a per customer basis.)	Active Daily Fee for Purchased Wireless Base Stations		EA \$1.00
<b>Description</b>			<b>Unit</b>
<b>Required: Lost/Damaged/Stolen Equipment Replacement for above single body-worn device for Alcohol Monitoring Transdermal Equipment and Service</b>			<b>Unit Price</b>
Body-Attached Bracelet Device for Transdermal Alcohol Monitoring: Mfg.: Alcohol Monitoring Systems, Inc.			EA <u>\$1,100.00</u>
Brand/Model: SCRAM Bracelet			
Receiver (Home Unit) – Landline Mfg.: Alcohol Monitoring Systems, Inc. Brand/Model: SCRAM Base Station			EA <u>\$400.00</u>
Receiver (Home Unit) – Cellular Mfg.: Alcohol Monitoring Systems, Inc. Brand/Model: SCRAM Wireless			EA <u>\$400.00</u>
Receiver (Home Unit) – Cellular/Wi-Fi Mfg.: <u>Alcohol Monitoring Systems, Inc. Brand/Model: SCRAM Wireless Base Station</u>			EA \$585.00
<b>Description</b>			
<b>Preferred Optional Service: Alcohol Monitoring Transdermal Equipment and Service – Optional Vendor Provided Offender Services</b> Vendor may offer and provide an offender funded program for Alcohol Monitoring Transdermal Equipment and Service. Vendor shall provide staff to implement this program and may recoup the costs for their services directly from the Agency and/or Participant. Vendor’s administrative fee to administer (including invoicing services) and provide an optional Offender Funded Program shall be an additional <u>\$1.50 - \$3.00</u> per unit/day. Vendor shall provide staff to implement this program and may recover the costs for their services at a negotiated amount directly from the Agency and/or Participant.			
<b>Description of Optional Services</b>			<b>Typical Daily Charge</b>
1. Initial offender contact, installation/service calls/removals*, orientation, fee assessment, and			<u>\$1.50/unit/ day</u> additional

2. Collection of fee from offender	\$1.50/unit/ day additional
3. Case management – meeting with clients on a daily/weekly basis	\$1.00/unit/ day additional
*For installation/removal services, there is a one-time additional installation fee for all offenders.	

## Exhibit C

### SCRAM One-Piece GPS, SCRAM GPS Home Base Cellular Unit, SCRAM Remote Breath Pricing

<b>Equipment</b>	
SCRAM One-Piece GPS – Active 1 x 10 rate plan	\$4.40/day
SCRAM Remote Breath Alcohol Monitoring (RB)	\$5.50/day
<b>Additional Products and Services</b>	
SCRAM GPS – Home Base Cellular Units (when active)	\$1.00/day
Shelf fees (all products)	\$0.00
Consumables (all products)	\$0.00
Ethernet/Internet Communications	\$0.00
Unlimited Training	\$0.00
Shipping Cost	\$0.00
<b>Lost/Damaged/Stolen Equipment</b> Replacement costs are as follows:	
SCRAM GPS	\$575.00
SCRAM Remote Breath	\$1,100.00
SCRAM Home Base Cellular Unit	\$400.00
<b>Staff Services</b> Normal Business Hours (M-F 8am-5pm) After hours (5pm-8am) or weekends	
One time Activation Fee	\$50.00
After hours (5pm-8am) or weekends	An additional \$50.00
Daily rate	\$2.75/day
Optional after hours outbound calls (24/7 GPS monitoring center service)	An additional \$1.00/day