

**STATE OF MICHIGAN**  
**DEPARTMENT OF TECHNOLOGY, MANAGEMENT AND BUDGET** December 22, 2011  
**PROCUREMENT**  
**P.O. BOX 30026, LANSING, MI 48909**  
 OR  
**530 W. ALLEGAN, LANSING, MI 48933**

**CHANGE NOTICE NO. 5**  
**TO**  
**CONTRACT NO. 071B9200162**  
**Between**  
**THE STATE OF MICHIGAN**  
**and**

NAME & ADDRESS OF CONTRACTOR <b>Alcohol Monitoring Systems, Inc.</b> <b>1241 West Mineral Avenue, Suite 200</b> <b>Littleton, CO 80120</b>  <p style="text-align: right;">Email: <a href="mailto:cstites@alcoholmonitoring.com">cstites@alcoholmonitoring.com</a></p>	TELEPHONE (303)989-8900 <b>Chris Stites</b>
	CONTRACTOR NUMBER/MAIL CODE
	BUYER/CA (517) 373-3993 <b>Joe Kelly</b>
Contract Compliance Inspector: Kami Pasch <b>MDOC ALCOHOL MONITORING SYSTEM MAINTENANCE</b>	
CONTRACT PERIOD: 1 Year/No option years      From: <b>4/7/2009</b> To: <b>03/01/2012</b>	
TERMS <p style="text-align: center;"><b>N/A</b></p>	SHIPMENT <p style="text-align: center;"><b>N/A</b></p>
F.O.B. <p style="text-align: center;"><b>N/A</b></p>	SHIPPED FROM <p style="text-align: center;"><b>N/A</b></p>
MINIMUM DELIVERY REQUIREMENTS <p style="text-align: center;"><b>N/A</b></p>	
MISCELLANEOUS INFORMATION:	

**NATURE OF CHANGE(S):**

**Effective immediately, this contract is hereby EXTENDED to March 1, 2012 and INCREASED by \$430,000.00. All other terms, conditions and specifications remain the same.**

**AUTHORITY/REASON(S):**

**Per vendor and agency agreement and approval by the State Ad Board on December 20, 2011.**

**INCREASE: \$430,000.00**

**TOTAL REVISED ESTIMATED CONTRACT VALUE: \$3,600,000.00**

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

June 14, 2011

**CHANGE NOTICE NO. 4**  
**TO**  
**CONTRACT NO. 071B9200162**  
**Between**  
**THE STATE OF MICHIGAN**  
**and**

NAME & ADDRESS OF CONTRACTOR <b>Alcohol Monitoring Systems, Inc.</b> <b>1241 West Mineral Avenue, Suite 200</b> <b>Littleton, CO 80120</b>  <b>Email: cstites@alcoholmonitoring.com</b>	TELEPHONE (303)989-8900 <b>Chris Stites</b>
	CONTRACTOR NUMBER/MAIL CODE
	BUYER/CA (517) 373-3993 <b>Joe Kelly</b>
Contract Compliance Inspector: Kami Pasch <b>MDOC ALCOHOL MONITORING SYSTEM MAINTENANCE</b>	
CONTRACT PERIOD: 1 Year/No option years      From: <b>4/7/2009</b> To: <b>12/30/2011</b>	
TERMS <b>N/A</b>	SHIPMENT <b>N/A</b>
F.O.B. <b>N/A</b>	SHIPPED FROM <b>N/A</b>
MINIMUM DELIVERY REQUIREMENTS <b>N/A</b>	
MISCELLANEOUS INFORMATION:	

**NATURE OF CHANGE(S):**

Effective immediately, this contract is hereby **EXTENDED** to December 30, 2011 and **INCREASED** by \$720,000.00. Please also note that the buyer is **CHANGED** to Joe Kelly. All other terms, conditions and specifications remain the same.

**AUTHORITY/REASON(S):**

Per vendor and agency agreement and approval by the State Ad Board on June 21, 2011.

**INCREASE: \$720,000.00**

**TOTAL REVISED ESTIMATED CONTRACT VALUE: \$3,170,000.00**

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

April 8, 2011

**CHANGE NOTICE NO. 3**  
**TO**  
**CONTRACT NO. 071B9200162**  
**Between**  
**THE STATE OF MICHIGAN**  
**and**

NAME & ADDRESS OF CONTRACTOR <b>Alcohol Monitoring Systems, Inc.</b> <b>1241 West Mineral Avenue, Suite 200</b> <b>Littleton, CO 80120</b>  <b>Email: <a href="mailto:dwhite@alcoholmonitoring.com">dwhite@alcoholmonitoring.com</a></b>	TELEPHONE (303)989-8900 <b>Don White</b>
	CONTRACTOR NUMBER/MAIL CODE
	BUYER/CA (517) 373-1455 <b>Laura Gyorkos</b>
Contract Compliance Inspector: Kami Pasch <b>MDOC ALCOHOL MONITORING SYSTEM MAINTENANCE</b>	
CONTRACT PERIOD: 1 Year/No option years From: <b>4/7/2009</b> To: <b>6/30/2011</b>	
TERMS <b>N/A</b>	SHIPMENT <b>N/A</b>
F.O.B. <b>N/A</b>	SHIPPED FROM <b>N/A</b>
MINIMUM DELIVERY REQUIREMENTS <b>N/A</b>	
MISCELLANEOUS INFORMATION:	

**NATURE OF CHANGE(S):**

Effective immediately, this contract is hereby INCREASED by \$800,000.00. All other terms, conditions and specifications remain the same.

**AUTHORITY/REASON(S):**

Per vendor and agency agreement and approval by the State Ad Board on April 5, 2011.

**INCREASE: \$800,000.00**

**TOTAL REVISED ESTIMATED CONTRACT VALUE: \$2,450,000.00**

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

May 19, 2010

**CHANGE NOTICE NO.2**  
**TO**  
**CONTRACT NO. 071B9200162**  
**Between**  
**THE STATE OF MICHIGAN**  
**and**

NAME & ADDRESS OF CONTRACTOR <b>Alcohol Monitoring Systems, Inc.</b> <b>1241 West Mineral Avenue, Suite 200</b> <b>Littleton, CO 80120</b>  <b>Email: <a href="mailto:dwhite@alcoholmonitoring.com">dwhite@alcoholmonitoring.com</a></b>	TELEPHONE (303)989-8900 <b>Don White</b>
	CONTRACTOR NUMBER/MAIL CODE
	BUYER/CA (517)241-7233 <b>Joann Klasko</b>
Contract Compliance Inspector: Kami Pasch <b>MDOC ALCOHOL MONITORING SYSTEM MAINTENANCE</b>	
CONTRACT PERIOD: 1 Year/No option years      From: <b>4/7/2009</b> To: <b>6/30/2011</b>	
TERMS <b>N/A</b>	SHIPMENT <b>N/A</b>
F.O.B. <b>N/A</b>	SHIPPED FROM <b>N/A</b>
MINIMUM DELIVERY REQUIREMENTS <b>N/A</b>	
MISCELLANEOUS INFORMATION:	

**NATURE OF CHANGE(S):**

Effective immediately, this contract is hereby **EXTENDED** to June 30, 2011 and **INCREASED** by \$650,000.00. All other terms, conditions and specifications remain the same.

**AUTHORITY/REASON(S):**

Per vendor and agency agreement and approval by the State Ad Board on May 18, 2010.

**INCREASE: \$650,000.00**

**TOTAL REVISED ESTIMATED CONTRACT VALUE: \$1,650,000.00**

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

April 8, 2009

**CHANGE NOTICE NO.1**  
**TO**  
**CONTRACT NO. 071B9200162**  
**Between**  
**THE STATE OF MICHIGAN**  
**and**

NAME & ADDRESS OF CONTRACTOR <b>Alcohol Monitoring Systems, Inc.</b> <b>1241 West Mineral Avenue, Suite 200</b> <b>Littleton, CO 80120</b>  <b>Email: <a href="mailto:dwhite@alcoholmonitoring.com">dwhite@alcoholmonitoring.com</a></b>	TELEPHONE (303)989-8900 <b>Don White</b>
	CONTRACTOR NUMBER/MAIL CODE
	BUYER/CA (517)241-7233 <b>Joann Klasko</b>
Contract Compliance Inspector: Kami Pasch <b>MDOC ALCOHOL MONITORING SYSTEM MAINTENANCE</b>	
CONTRACT PERIOD: 1 Year/No option years      From: <b>4/7/2009</b> To: <b>6/30/2010</b>	
TERMS <p style="text-align: center;"><b>N/A</b></p>	SHIPMENT <p style="text-align: center;"><b>N/A</b></p>
F.O.B. <p style="text-align: center;"><b>N/A</b></p>	SHIPPED FROM <p style="text-align: center;"><b>N/A</b></p>
MINIMUM DELIVERY REQUIREMENTS <p style="text-align: center;"><b>N/A</b></p>	
MISCELLANEOUS INFORMATION:	

**NATURE OF CHANGE(S):**

Effective immediately, the start date of this contract is being changed from 7/1/2009 to 4/7/2009 to allow the DOC to purchase AMS equipment.

**AUTHORITY/REASON(S):**

Per DMB and DOC approval and vendor concurrence.

**ESTIMATED CONTRACT VALUE REMAINS:    \$1,000,000.00**

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

March 17, 2009

**NOTICE**  
**OF**  
**CONTRACT NO. 071B9200162**  
**Between**  
**THE STATE OF MICHIGAN**  
**and**

NAME & ADDRESS OF CONTRACTOR <b>Alcohol Monitoring Systems, Inc.</b> <b>1241 West Mineral Avenue, Suite 200</b> <b>Littleton, CO 80120</b>  Email: <a href="mailto:dwhite@alcoholmonitoring.com">dwhite@alcoholmonitoring.com</a>	TELEPHONE (303)989-8900 <b>Don White</b> CONTRACTOR NUMBER/MAIL CODE  BUYER/CA (517)241-7233 <b>Joann Klasko</b>
Contract Compliance Inspector: Kami Pasch <b>MDOC ALCOHOL MONITORING SYSTEM MAINTENANCE</b>	
CONTRACT PERIOD: 1 Year/No option years      From: <b>7/1/2009</b> To: <b>6/30/2010</b>	
TERMS <p style="text-align: center;"><b>N/A</b></p>	SHIPMENT <p style="text-align: center;"><b>N/A</b></p>
F.O.B. <p style="text-align: center;"><b>N/A</b></p>	SHIPPED FROM <p style="text-align: center;"><b>N/A</b></p>
MINIMUM DELIVERY REQUIREMENTS <p style="text-align: center;"><b>N/A</b></p>	
MISCELLANEOUS INFORMATION:	

**Estimated Contract Value:    \$1,000,000.00**

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

**CONTRACT NO. 071B9200162  
 Between  
 THE STATE OF MICHIGAN  
 and**

NAME & ADDRESS OF CONTRACTOR <b>Alcohol Monitoring Systems, Inc.</b> <b>1241 West Mineral Avenue, Suite 200</b> <b>Littleton, CO 80120</b>  <p style="text-align: right;"><b>Email: <a href="mailto:dwhite@alcoholmonitoring.com">dwhite@alcoholmonitoring.com</a></b></p>	TELEPHONE (303)989-8900 <b>Don White</b> CONTRACTOR NUMBER/MAIL CODE  BUYER/CA (517)241-7233 <b>Joann Klasko</b>
Contract Compliance Inspector: Kami Pasch	
CONTRACT PERIOD: 1 Year/No option years      From: <b>7/1/2009</b> To: <b>6/30/2010</b>	
TERMS <p style="text-align: center;"><b>N/A</b></p>	SHIPMENT <p style="text-align: center;"><b>N/A</b></p>
F.O.B. <p style="text-align: center;"><b>N/A</b></p>	SHIPPED FROM <p style="text-align: center;"><b>N/A</b></p>
MINIMUM DELIVERY REQUIREMENTS <p style="text-align: center;"><b>N/A</b></p>	
MISCELLANEOUS INFORMATION: <b>The terms and conditions of this Contract are those of ITB #071I9200092, this Contract Agreement and the vendor's quote dated 2/11/2009. In the event of any conflicts between the specifications, and terms and conditions, indicated by the State and those indicated by the vendor, those of the State take precedence.</b>	
<b>Estimated Contract Value: \$1,000,000.00</b>	

**THIS IS NOT AN ORDER: This Contract Agreement is awarded on the basis of our inquiry bearing the ITB No. 071I9200092. Orders for delivery will be issued directly by the Department of MDOC through the issuance of a Purchase Order Form.  
 All terms and conditions of the invitation to bid are made a part hereof.**

<b>FOR THE CONTRACTOR:</b>  _____ Alcohol Monitoring Systems, Inc. Firm Name  _____ Authorized Agent Signature  _____ Authorized Agent (Print or Type)  _____ Date	<b>FOR THE STATE:</b>  _____ Signature Greg Faremouth, Director Name/Title Information Technology Division  _____ 3/17/2009
---	---

## TABLE OF CONTENTS

<b>SECTION I - REQUIREMENTS.....</b>	<b>10</b>
I-A    INTRODUCTION.....	10
I-B    REQUIRED INFORMATION.....	10
A.    PRODUCT QUALITY.....	10
1.    SPECIFICATIONS.....	10
2.    QUALITY ASSURANCE PROGRAM.....	10
3.    WARRANTY/SERVICE.....	11
C.    SERVICE.....	12
1.    ORDERING/CUSTOMER SERVICE.....	12
2.    TRAINING.....	12
3.    REPORTING.....	12
D.    DELIVERY.....	14
1.    TIME FRAMES.....	14
2.    MINIMUM ORDER.....	14
3.    F.O.B. POINT.....	14
4.    PACKAGING.....	14
5.    PALLETIZING.....	14
<b>SECTION II - GENERAL CONTRACT PROVISIONS .....</b>	<b>15</b>
II-A    GENERAL.....	15
II-B    ISSUING OFFICE.....	15
II-C    CONTRACT ADMINISTRATOR.....	15
II-D    CONTRACT TERM.....	15
II-E    PURCHASE ORDERS.....	15
II-F    COST LIABILITY.....	16
II-G    CONTRACTOR RESPONSIBILITIES.....	16
II-H    NEWS RELEASES.....	16
II-I    DISCLOSURE.....	16
II-J    ACCOUNTING RECORDS.....	16
II-K    INDEMNIFICATION.....	16
II-L    NON INFRINGEMENT/COMPLIANCE WITH LAWS.....	17
II-M    WARRANTIES AND REPRESENTATIONS.....	18
II-O    WORK PRODUCT AND OWNERSHIP.....	18
II-P    CONFIDENTIALITY OF DATA AND INFORMATION.....	19
II-Q    REMEDIES FOR BREACH OF CONFIDENTIALITY.....	19
II-R    CONTRACTOR'S LIABILITY INSURANCE.....	19
II-S    NOTICE AND RIGHT TO CURE.....	21
II-T    CANCELLATION.....	21

II-U	RIGHTS AND OBLIGATIONS UPON CANCELLATION .....	22
II-V	EXCUSABLE FAILURE .....	23
II-W	ASSIGNMENT .....	24
II-X	DELEGATION.....	24
II-Y	NON-DISCRIMINATION CLAUSE .....	24
II-Z	WORKPLACE SAFETY AND DISCRIMINATORY HARASSMENT .....	24
II-AA	MODIFICATION OF SERVICE .....	24
II-BB	NOTICES .....	25
II-CC	ENTIRE AGREEMENT .....	26
II-DD	NO WAIVER OF DEFAULT.....	26
II-EE	SEVERABILITY .....	26
II-FF	HEADINGS .....	26
II-GG	RELATIONSHIP OF THE PARTIES.....	26
II-HH	UNFAIR LABOR PRACTICES .....	27
II-II	SURVIVOR .....	27
II-JJ	GOVERNING LAW .....	27
II-KK	CALENDAR WARRANTY .....	27
II-LL	CONTRACT DISTRIBUTION .....	27
II-MM	STATEWIDE CONTRACTS .....	27
II-NN	STATE STANDARDS.....	28
II-OO	TRANSITION ASSISTANCE .....	28
II-PP	ELECTRONIC FUNDS TRANSFER.....	29
II-QQ	DISCLOSURE OF LITIGATION .....	29
II-RR	STOP WORK.....	30
II-SS	PERFORMANCE AND RELIABILITY EVALUATION (PARE) .....	30
II-TT	AUDIT OF CONTRACT COMPLIANCE.....	32
II-QQ	TAXES .....	32
II-RR	PRICE ADJUSTMENTS .....	32
II-SS	ADDITIONAL PRODUCTS/SERVICES.....	33
II-TT	CONTRACT PAYMENT SCHEDULE.....	33

**Attachments:**

- Specifications
- Item Listing
- Preference Certification
- Non-State Agency Statement



**SECTION I - REQUIREMENTS**

**I-A INTRODUCTION**

This contract is for Alcohol Monitoring Equipment.

**I-B REQUIRED INFORMATION**

A. *PRODUCT QUALITY*

1. **SPECIFICATIONS**

Definite Specifications - All commodities and/or services to be furnished hereunder shall conform to the specifications as noted in the "Invitation To Bid" and/or copies of specifications attached.

2. **QUALITY ASSURANCE PROGRAM**

AMS is dedicated to the development, manufacture, sales and service of alcohol monitoring products for the benefit to society, employees and the investors. AMS is dedicated to delivering quality products and services above and beyond the customer's expectations.

The Quality Control Systems at AMS are designed to provide the highest quality products to the customer while working efficiently to manufacture products at the lowest cost for the benefit of the customers and the company. The program encompasses assurance of quality from the product development process through finished product and customer service.

The Quality Control Systems at AMS are designed to provide the highest quality products to the customer while working efficiently to manufacture products at the lowest cost.

The program encompasses assurance of quality from the development process through finished product and customer service.

Product Development

- Complete definition of product requirements
- Product risk analysis
- Product development and testing
- Product testing and qualification
- Product documentation
- Inspection and test requirements
- Customer interface analysis
- Integration Testing

Manufacturing Planning

- Development of manufacturing equipment
- Qualification of manufacturing equipment
- Documentation of Manufacturing Processes
- Process control planning
- Inspection and test requirement documentation
- Manufacturing personnel training program
- Process Qualification
- Quality Metric Monitoring
- Calibration Program for Inspection and Test Equipment

Purchased Material Control

- Receiving Inspection
- Supplier Audit Program



- Supplier Certification Program
- Material Review Board
- Trace ability of critical materials

#### Finished Product Control

- Final inspection and test of product
- Serialized product

#### Field Quality Monitoring

- Corrective and Preventive Action Program (CAPA)
- Product Service Quality Assurance Program
- Product performance monitoring
- Failure Analysis of RMAs
- Continuous improvement program driven on field/customer response.

### 3. **WARRANTY/SERVICE**

When installed according to instructions, AMS warrants to DOC that the SCRAM Sets (including the Software) will function with the SCRAM Network substantially in accordance with the performance parameters specified in the SCRAM System Users Manual. This warranty shall remain in effect for the Service Period applicable to each SCRAM Set, provided that DOC continues to pay to AMS the Daily SCRAM Services and License Fee.

3.2 Exclusions from Warranty. The above warranty does not cover SCRAM Sets that are defective due to:

3.2.1 improper use or installation;

3.2.2 failure to comply with the operating and maintenance instructions set forth in the SCRAM Users Manual;

3.2.3 accident, abuse or alteration;

3.2.4 repair or service by anyone not previously authorized and/or trained by AMS, including without limitation, maintenance or recalibration of a SCRAM Bracelet by anyone other than an AMS certified professional;

3.2.5 failure to provide reasonable and necessary Product maintenance as contemplated under this Agreement; and

3.2.6 damage while in the possession of DOC, or any Agencies or Clients.

If DOC uses parts for the service or repair of Products which are not genuine Parts and Accessories or which have not otherwise been approved in writing by AMS for use in Products, then the above warranty is void, and Service Partner does so at its own risk. AMS will not be responsible to DOC, DOC's Agencies or any third party for any products liability, warranty or other claim, however characterized as a matter of law, which may be caused by or arise as a result of the installation and use of such parts.

3.3 Sole Remedy. In the event of a breach of the above warranty, AMS will, at its sole option, repair or replace the defective Product. If the remedy of repair or replace fails of its essential purpose, AMS shall refund (i) an amount equal to the original purchase price paid for the defective Product, less an amount equal to the depreciated amount that has been pro-rated on a monthly basis over thirty-six (36) months from date of purchase, as well as (ii) any Daily SCRAM Services and License Fees paid by Service Partner to AMS from the time



of failure of the affected SCRAM Set.

3.4 The warranties and remedies expressly stated in this section are exclusive, and AMS disclaims all other warranties, express and implied, including without limitations, implied warranties of merchantability, fitness for a particular purpose and no infringement.

3.5 Warranties to Agencies. DOC will not extend any warranty to any Agency that differs from aforesaid AMS warranties unless DOC expressly informs the Agency in writing that DOC solely provides such warranty and that AMS has no responsibility for such warranty.

## C. SERVICE

### 1. **ORDERING/CUSTOMER SERVICE**

AMS provides its customers with a blank order form template (MS Word or Adobe). Orders can be submitted by attaching the order to email. Additionally orders may be faxed to (800) 557-0861. Orders will be taken via phone call however a completed electronic order (email or fax) will be required to ship.

AMS understands that only authorized DOC personnel can order SCRAM units.

AMS will provide for the maintenance and recalibration of SCRAM Sets to insure that they will remain in good working order. Parties will establish an ongoing and routine maintenance and recalibration program and a schedule that will insure the return of each SCRAM Bracelet to AMS at periodic intervals. AMS will send reminder notices to DOC, no less frequently than monthly.

Customer Service hours are Monday – Friday 7AM –5PM MST. Weekend alert resolution and identification of confirmed violations is provided, however phone support is not.

Your designated AMS Sales Representative is available for timely personal visits to the DOC office.

### 2. **TRAINING**

AMS will provide the DOC with the initial training and support services in the proper use and deployment of SCRAM sets and the proper and efficient use of the SCRAM Network. AMS will provide MIDOC an electronic copy of the current SCRAM System users manual, an electronic copy of the current training materials, and an electronic copy of the AMS suggested training curriculum and syllabus.

AMS will provide the initial 8-hour training at no cost to MIDOC. Any additional training that is needed throughout the life of the contract will require MIDOC to pay for the expenses for AMS training staff.

Training includes certification and DOC is given the right for all training and documentation updates as part of this agreement. DOC has the right to print and distribute all documentation electronically under the same confidentiality agreement that governs this agreement.

### 3. **REPORTING**

The licensed SCRAMNet will give the Agency / Customer the access to several inventory reports including:

- Total Equipment in Service Provider Inventory
- Total in shipment to Service Provider
- Total in shipment to AMS
- Lost
- Damaged



- Assigning to offender
- Pending assignment to offender
- Daily equipment usage history

Offender Reports can be generated with any combination of the following elements for a time period specified by the user.

#### *Graphs*

- Transdermal Alcohol Content
- Temperature
- Distance
- Overlay of the above three

#### *Readings*

- Positives
- All Readings

#### *Alerts*

- Alerts
- Details
- Action Log

#### *Other*

- Readings and Messages
- Communications
- Daily Summary
- Active Notes
- Inactive Notes

Inventory Reports can be generated with the following categories:

#### *Status*

- All Equipment
- Lost
- In Transit to AMS
- In Transit to DOC
- Assigned to Client
- In AMS Inventory
- In DOC Inventory
- Pending Assignment
- Pending Removal
- Attempting Checkout
- Attempting Check in

#### *Location*

- All Locations
- AMS
- DOC

*Type*

- All Types
- Bracelet
- Modem

*Damaged*

- Either
- Damaged
- Not Damaged

*Recall State*

- Either
- Recalled
- Not Recalled

**D. DELIVERY****1. TIME FRAMES**

Normal orders are shipped within 30 days. Shipment is via Federal Express – Express 3 day shipment. AMS absorbs the cost for this type of shipment.

Overnight / Priority overnight shipments are addressed on a case-by-case basis. Rush orders, 2-week delivery will be provided at no charge pending available AMS inventory.

**2. MINIMUM ORDER**

There shall be no minimum order requirement on this proposed contract.

**3. F.O.B. POINT**

Prices shall be quoted "F.O.B. Delivered" with transportation charges prepaid on all orders to the State.

**4. PACKAGING**

Packaging and containers, etc., shall be in accordance with supplier's commercial practice and shall meet the requirements of Department of Transportation (D.O.T.) and rail and motor carrier freight classifications in effect at time of shipment, which will permit application of the lowest freight rate.

**5. PALLETIZING**

Shipments shall be palletized whenever possible and shall conform to the following:

- Manufacturers standard 4-way shipping pallets are acceptable.
- Maximum height: 5'6"; including pallet.
- Maximum weight: 3500 pounds; including pallet.
- Pallets are to be securely banded or shrink-wrapped.
- The cost of palletizing must be included in the unit price



## SECTION II - GENERAL CONTRACT PROVISIONS

### II-A GENERAL

This Contract is for Alcohol Monitoring Equipment for the State of Michigan. Exact quantities to be purchased are unknown, however the Contractor will be required to furnish all such materials and services as may be ordered during the CONTRACT period. Quantities specified if any, are estimates based on prior purchases, and the State is not obligated to purchase in these or any other quantities. Orders for delivery will be issued directly to the Contractor by various State Agencies on the Purchase Order Contract Release Form.

The Contract(s) awarded from this solicitation will be a Unit Price Contract.

Indicated on the Item Listing is the "ship to" address for the participating agency. The "ship to" address on the Item Listing shall not limit participation of additional agencies/locations as the need may develop at the same prices, terms and conditions.

### II-B ISSUING OFFICE

The Contract is issued by Purchasing Operations, State of Michigan, Department of Management and Budget, hereinafter known as Purchasing Operations, for the Michigan Department of Corrections, hereinafter known as DOC. Where actions are a combination of those of Purchasing Operations and the DOC, the authority will be known as the State.

Purchasing Operations is the sole point of contact in the State with regard to all procurement and contractual matters relating to the commodities and/or services described herein. Purchasing Operations is the only office authorized to change, modify, amend, alter, clarify, etc., the specifications, terms, and conditions of the Contract. Purchasing Operations will remain the SOLE POINT OF CONTACT throughout the procurement process. All communications covering this procurement must be addressed to:

Department of Management and Budget  
Purchasing Operations  
Joann Klasko  
2nd Floor, Mason Building  
530 W. Allegan Street  
Lansing, Michigan 48913  
(517) 241.7233  
***KlaskoJ@michigan.gov***

### II-C CONTRACT ADMINISTRATOR

Upon receipt at Purchasing Operations of the properly executed Contract Agreement(s), the State agencies will be allowed to administer the Contract on a day-to-day basis during the term of the Contract. However, administration of the Contract implies no authority to change, modify, clarify, amend, or otherwise alter the terms, conditions, and specifications of such Contract(s). That authority is retained by Purchasing Operations.

### II- CONTRACT TERM

The term of this Contract will be for one (1) year duration and will commence with the issuance of a Contract. This will be July 1, 2009 to June 30, 2010. There are no options to extend in this contract.

### II-E PURCHASE ORDERS

Orders for delivery of commodities and/or services may be issued directly by the State Departments through the issuance of a Purchase Order Form referencing this Contract (Blanket Purchase Order) agreement and the terms and conditions contained herein. Contractor is asked to reference the Purchase Order Number on all invoices for payment.

**II-F COST LIABILITY**

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

**II-G CONTRACTOR RESPONSIBILITIES**

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

**II-H NEWS RELEASES**

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

**II-I DISCLOSURE**

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

**II-J ACCOUNTING RECORDS**

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

**II-K INDEMNIFICATION****A. General Indemnification**

To the fullest extent permitted by law, the Contractor shall indemnify, defend and hold harmless the State, its departments, divisions, agencies, sections, commissions, officers, employees and agents, from and against all losses, liabilities, penalties, fines, damages and claims (including taxes), and all related costs and expenses (including reasonable attorneys' fees and disbursements and costs of investigation, litigation, settlement, judgments, interest and penalties), arising from or in connection with any of the following:

1. any claim, demand, action, citation or legal proceeding against the State, its employees and agents arising out of or resulting from (1) the product provided or (2) performance of the work, duties, responsibilities, actions or omissions of the Contractor or any of its subcontractors under this Contract.
2. any claim, demand, action, citation or legal proceeding against the State, its employees and agents arising out of or resulting from a breach by the Contractor of any representation or warranty made by the Contractor in the Contract;
3. any claim, demand, action, citation or legal proceeding against the State, its employees and agents arising out of or related to occurrences that the Contractor is required to insure against as provided for in this Contract;



4. any claim, demand, action, citation or legal proceeding against the State, its employees and agents arising out of or resulting from the death or bodily injury of any person, or the damage, loss or destruction of any real or tangible personal property, in connection with the performance of services by the Contractor, by any of its subcontractors, by anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable; provided, however, that this indemnification obligation shall not apply to the extent, if any, that such death, bodily injury or property damage is caused solely by the negligence or reckless or intentional wrongful conduct of the State;
5. any claim, demand, action, citation or legal proceeding against the State, its employees and agents which results from an act or omission of the Contractor or any of its subcontractors in its or their capacity as an employer of a person.

**B. Patent/Copyright Infringement Indemnification**

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

**C. Indemnification Obligation Not Limited**

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

**D. Continuation of Indemnification Obligation**

The duty to indemnify will continue in full force and affect not withstanding the expiration or early termination of the Contract with respect to any claims based on facts or conditions, which occurred prior to termination.

**II-L NON INFRINGEMENT/COMPLIANCE WITH LAWS**

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

**II-M WARRANTIES AND REPRESENTATIONS**

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

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

**II-N TIME IS OF THE ESSENCE**

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

**II-O WORK PRODUCT AND OWNERSHIP**

1. Work Products shall be considered works made by the Contractor for hire by the State and shall belong exclusively to the State and its designees, unless specifically provided otherwise by mutual agreement of the Contractor and the State. If by operation of law any of the Work Product, including all related intellectual property rights, is not owned in its entirety by the State automatically upon creation thereof, the Contractor agrees to assign, and hereby assigns to the State and its designees the ownership of such Work Product, including all related intellectual property rights. The Contractor agrees to provide, at no additional charge, any assistance and to execute any action reasonably required for the State to perfect its intellectual property rights with respect to the aforementioned Work Product.
2. Notwithstanding any provision of this Contract to the contrary, any preexisting work or materials including, but not limited to, any routines, libraries, tools, methodologies, processes or technologies



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

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

## **II-P CONFIDENTIALITY OF DATA AND INFORMATION**

1. All financial, statistical, personnel, technical and other data and information relating to the State’s operation which are designated confidential by the State and made available to the Contractor in order to carry out this Contract, or which become available to the Contractor in carrying out this Contract, shall be protected by the Contractor from unauthorized use and disclosure through the observance of the same or more effective procedural requirements as are applicable to the State. The identification of all such confidential data and information as well as the State’s procedural requirements for protection of such data and information from unauthorized use and disclosure shall be provided by the State in writing to the Contractor. If the methods and procedures employed by the Contractor for the protection of the Contractor’s data and information are deemed by the State to be adequate for the protection of the State’s confidential information, such methods and procedures may be used, with the written consent of the State, to carry out the intent of this section.

The Contractor shall not be required under the provisions of this section to keep confidential, (1) information generally available to the public, (2) information released by the State generally, or to the Contractor without restriction, (3) information independently developed or acquired by the Contractor or its personnel without reliance in any way on otherwise protected information of the State. Notwithstanding the foregoing restrictions, the Contractor and its personnel may use and disclose any information which it is otherwise required by law to disclose, but in each case only after the State has been so notified, and has had the opportunity, if possible, to obtain reasonable protection for such information in connection with such disclosure.

## **II-Q REMEDIES FOR BREACH OF CONFIDENTIALITY**

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

## **II-R CONTRACTOR'S LIABILITY INSURANCE**

The Contractor is required to provide proof of the minimum levels of insurance coverage as indicated below. The purpose of this coverage shall be to protect the State from claims which may arise out of or result from the Contractor’s performance of services under the terms of this Contract, whether such services are performed by the Contractor, or by any subcontractor, or by anyone directly or indirectly employed by any of them, or by anyone for whose acts they may be liable.



The Contractor waives all rights against the State of Michigan, its departments, divisions, agencies, offices, commissions, officers, employees and agents for recovery of damages to the extent these damages are covered by the insurance policies the Contractor is required to maintain pursuant to this Contract. The Contractor also agrees to provide evidence that all applicable insurance policies contain a waiver of subrogation by the insurance company.

All insurance coverages provided relative to this Contract/Purchase Order is PRIMARY and NON-CONTRIBUTING to any comparable liability insurance (including self-insurances) carried by the State.

The Insurance shall be written for not less than any minimum coverage herein specified or required by law, whichever is greater. All deductible amounts for any of the required policies are subject to approval by the State.

The State reserves the right to reject insurance written by an insurer the State deems unacceptable.

BEFORE THE CONTRACT IS SIGNED BY BOTH PARTIES OR BEFORE THE PURCHASE ORDER IS ISSUED BY THE STATE, THE CONTRACTOR MUST FURNISH TO THE DIRECTOR OF Purchasing Operations, CERTIFICATE(S) OF INSURANCE VERIFYING INSURANCE COVERAGE. THE CERTIFICATE MUST BE ON THE STANDARD "ACCORD" FORM. THE CONTRACT OR PURCHASE ORDER NO. MUST BE SHOWN ON THE CERTIFICATE OF INSURANCE TO ASSURE CORRECT FILING. All such Certificate(s) are to be prepared and submitted by the Insurance Provider and not by the Contractor. All such Certificate(s) shall contain a provision indicating that coverages afforded under the policies WILL NOT BE CANCELLED, MATERIALLY CHANGED, OR NOT RENEWED without THIRTY (30) days prior written notice, except for 10 days for non-payment of premium, having been given to the Director of Purchasing Operations, Department of Management and Budget. Such NOTICE must include the CONTRACT NUMBER affected and be mailed to: Director, Purchasing Operations, Department of Management and Budget, P.O. Box 30026, Lansing, Michigan 48909.

The Contractor is required to provide the type and amount of insurance checked () below:

- 1. Commercial General Liability with the following minimum coverages:  
 \$2,000,000 General Aggregate Limit other than Products/Completed Operations  
 \$2,000,000 Products/Completed Operations Aggregate Limit  
 \$1,000,000 Personal & Advertising Injury Limit  
 \$1,000,000 Each Occurrence Limit  
 \$500,000 Fire Damage Limit (any one fire)

The Contractor must list the State of Michigan, its departments, divisions, agencies, offices, commissions, officers, employees and agents as ADDITIONAL INSUREDS on the Commercial General Liability policy.

- 2. If a motor vehicle is used to provide services or products under this Contract, the Contractor must have vehicle liability insurance on any auto including owned, hired and non-owned vehicles used in Contractor's business for bodily injury and property damage as required by law.

The Contractor must list the State of Michigan, its departments, divisions, agencies, offices, commissions, officers, employees and agents as ADDITIONAL INSUREDS on the vehicle liability policy.

- 3. Worker's disability compensation, disability benefit or other similar employee benefit act with minimum statutory limits. NOTE: (1) If coverage is provided by a State fund or if Contractor has qualified as a self-insurer, separate certification must be furnished that coverage is in the state fund or that Contractor has approval to be a self-insurer; (2) Any citing of a policy of insurance must include a listing of the States where that policy's coverage is applicable; and (3) Any policy of insurance must contain a provision or endorsement providing that the insurers'



rights of subrogation are waived. This provision shall not be applicable where prohibited or limited by the laws of the jurisdiction in which the work is to be performed.

- 4. For contracts providing temporary staff personnel to the State, the Contractor shall provide an Alternate Employer Endorsement with minimum coverage of \$1,000,000.
- 5. Employers liability insurance with the following minimum limits:
  - \$100,000 each accident
  - \$100,000 each employee by disease
  - \$500,000 aggregate disease

**II-S NOTICE AND RIGHT TO CURE**

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

**II-T CANCELLATION**

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

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

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

In the event the State chooses to partially cancel this Contract for cause charges payable under this Contract will be equitably adjusted to reflect those services that are cancelled.

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



2. Cancellation For Convenience By the State. The State may cancel this Contract for its convenience, in whole or part, if the State determines that such a cancellation is in the State's best interest. Reasons for such cancellation shall be left to the sole discretion of the State and may include, but not limited to (a) the State no longer needs the services or products specified in the Contract, (b) relocation of office, program changes, changes in laws, rules, or regulations make implementation of the Contract services no longer practical or feasible, and (c) unacceptable prices for additional services requested by the State. The State may cancel the Contract for its convenience, in whole or in part, by giving the Contractor written notice 30 days prior to the date of cancellation. If the State chooses to cancel this Contract in part, the charges payable under this Contract shall be equitably adjusted to reflect those services that are cancelled.
3. Non-Appropriation. In the event that funds to enable the State to effect continued payment under this Contract are not appropriated or otherwise made available. The Contractor acknowledges that, if this Contract extends for several fiscal years, continuation of this Contract is subject to appropriation or availability of funds for this project. If funds are not appropriated or otherwise made available, the State shall have the right to cancel this Contract at the end of the last period for which funds have been appropriated or otherwise made available by giving written notice of cancellation to the Contractor. The State shall give the Contractor written notice of such non-appropriation or unavailability within 30 days after it receives notice of such non-appropriation or unavailability.
4. Criminal Conviction. In the event the Contractor, an officer of the Contractor, or an owner of a 25% or greater share of the Contractor, is convicted of a criminal offense incident to the application for or performance of a State, public or private Contract or subcontract; or convicted of a criminal offense including but not limited to any of the following: embezzlement, theft, forgery, bribery, falsification or destruction of records, receiving stolen property, attempting to influence a public employee to breach the ethical conduct standards for State of Michigan employees; convicted under State or federal antitrust statutes; or convicted of any other criminal offense which in the sole discretion of the State, reflects upon the Contractor's business integrity.
5. Approvals Rescinded. The State may terminate this Contract without further liability or penalty in the event any final administrative or judicial decision or adjudication disapproves a previously approved request for purchase of personal services pursuant to Constitution 1963, Article 11, section 5, and Civil Service Rule 7. Termination may be in whole or in part and may be immediate as of the date of the written notice to Contractor or may be effective as of the date stated in such written notice.

## **II-U RIGHTS AND OBLIGATIONS UPON CANCELLATION**

1. If the Contract is canceled by the State for any reason, the Contractor shall, (a) stop all work as specified in the notice of cancellation, (b) take any action that may be necessary, or that the State may direct, for preservation and protection of Work Product or other property derived or resulting from the Contract that may be in the Contractor's possession, (c) return all materials and property provided directly or indirectly to the Contractor by any entity, agent or employee of the State, (d) transfer title and deliver to the State, unless otherwise directed by the Contract Administrator or his or her designee, all Work Product resulting from the Contract, and (e) take any action to mitigate and limit any potential damages, or requests for Contractor adjustment or cancellation settlement costs, to the maximum practical extent, including, but not limited to, canceling or limiting as otherwise applicable, those subcontracts, and outstanding orders for material and supplies resulting from the canceled Contract.



2. In the event the State cancels this Contract prior to its expiration for its own convenience, the State shall pay the Contractor for all charges due for services provided prior to the date of cancellation and if applicable as a separate item of payment pursuant to the Contract, for partially completed Work Product, on a percentage of completion basis. In the event of a cancellation for cause, or any other reason under the Contract, the State will pay, if applicable, as a separate item of payment pursuant to the Contract, for all partially completed Work Products, to the extent that the State requires the Contractor to submit to the State any such deliverables, and for all charges due under the Contract for any cancelled services provided by the Contractor prior to the cancellation date. All completed or partially completed Work Product prepared by the Contractor pursuant to this Contract shall, at the option of the State, become the State's property, and the Contractor shall be entitled to receive just and fair compensation for such Work Product. Regardless of the basis for the cancellation, the State shall not be obligated to pay, or otherwise compensate, the Contractor for any lost expected future profits, costs or expenses incurred with respect to Services not actually performed for the State.
3. If any such cancellation by the State is for cause, the State shall have the right to set-off against any amounts due the Contractor, the amount of any damages for which the Contractor is liable to the State under this Contract or pursuant to law and equity.
4. Upon a good faith cancellation, the State shall have the right to assume, at its option, any and all subcontracts and agreements for services and materials provided under this Contract, and may further pursue completion of the Work Product under this Contract by replacement contract or otherwise as the State may in its sole judgment deem expedient.

#### **II-V EXCUSABLE FAILURE**

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



of the excusable failure condition. Defaults or delays in performance by the Contractor which are caused by acts or omissions of its subcontractors will not relieve the Contractor of its obligations under the Contract except to the extent that a subcontractor is itself subject to any excusable failure condition described above and the Contractor cannot reasonably circumvent the effect of the subcontractor's default or delay in performance through the use of alternate sources, workaround plans or other means.

## **II-W ASSIGNMENT**

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

## **II-X DELEGATION**

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

## **II-Y NON-DISCRIMINATION CLAUSE**

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

## **II-Z WORKPLACE SAFETY AND DISCRIMINATORY HARASSMENT**

In performing services for the State pursuant to this Contract, the Contractor shall comply with Department of Civil Service Rules 2-20 regarding Workplace Safety and 1-8.3 regarding Discriminatory Harassment. In addition, the Contractor shall comply with Civil Service Regulations governing workplace safety and discriminatory harassment and any applicable state agency rules on these matters that the agency provides to the Contractor. Department of Civil Service Rules and Regulations can be found on the Department of Civil Service website at [www.michigan.gov/mdcs](http://www.michigan.gov/mdcs).

## **II-AA MODIFICATION OF SERVICE**

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

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

The State reserves the right to request from time to time, any changes to the requirements and specifications of the Contract and the work to be performed by the Contractor under the Contract. The Contractor shall provide a change order process and all requisite forms. The State reserves the right to



negotiate the process during contract negotiation. At a minimum, the State would like the Contractor to provide a detailed outline of all work to be done, including tasks necessary to accomplish the deliverables, timeframes, listing of key personnel assigned, estimated hours for each individual per task, and a complete and detailed cost justification.

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

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

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

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

## **II-BB NOTICES**

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



For the Contractor: **Don White**  
Vice President of Field Operations  
Alcohol Monitoring Systems, Inc.  
9135 S. Ridgeline Blvd.  
Suite #190  
Highlands Ranch, CO 80129  
E-mail: dwhite@alcoholmonitoring.com  
Phone: (303) 989-8900  
Fax: (303) 791-4262

For the State: **Joann Klasko, Buyer**  
Information Technology Division  
DMB, Purchasing Operations  
2nd Floor, Mason Building  
530 W. Allegan Street  
Lansing, MI 48913  
Email: KlaskoJ@michigan.gov  
Phone: (517) 241.7233  
Fax: (517) 335-0046

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

#### **II-CC ENTIRE AGREEMENT**

The contents of this document and the vendor's proposal will become contractual obligations, if a Contract ensues. Failure of the successful bidder to accept these obligations may result in cancellation of the award.

The Contract resulting from this RFP shall represent the entire agreement between the parties and supersedes all proposals or other prior agreements, oral or written, and all other communications between the parties relating to this subject.

#### **II-DD NO WAIVER OF DEFAULT**

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

#### **II-EE SEVERABILITY**

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

#### **II-FF HEADINGS**

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

#### **II-GG RELATIONSHIP OF THE PARTIES**

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



entirely responsible for its acts and the acts of its agents, employees, servants and subcontractors during the performance of this Contract.

## **II-HH UNFAIR LABOR PRACTICES**

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

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

## **II-II SURVIVOR**

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

## **II-JJ GOVERNING LAW**

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

## **II-KK CALENDAR WARRANTY**

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

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

## **II-LL CONTRACT DISTRIBUTION**

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

## **II-MM STATEWIDE CONTRACTS**

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



## II-NN STATE STANDARDS

- 1. EXISTING TECHNOLOGY STANDARDS.** The Contractor will adhere to all existing standards as described within the comprehensive listing of the State's existing technology standards at <http://michigan.gov/dit>.

**PM METHODOLOGY STANDARDS.** The State has adopted a standard documented Project Management Methodology (PMM) for use on all Information Technology (IT) based projects. This policy is referenced in the document titled "Project Management Methodology" – DMB Administrative Guide Procedure 1380.02 issued June 2000. Vendors may obtain a copy of this procedure, as well as the State of Michigan Project Management Methodology, from the Department of Information Technology's website at <http://www.michigan.gov/projectmanagement>.

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

- 2. ADHERENCE TO PORTAL TECHNOLOGY TOOLS.** The State of Michigan, Department of Information Technology, has adopted the following tools as its Portal Technology development efforts:

- Vignette Content Management and personalization Tool
- Inktomi Search Engine
- e-Pay Payment Processing Module
- Websphere Commerce Suite for e-Store applications

Vendors must use the Portal Technology Tools to implement web content management and deployment efforts for agencies. Tools used for web-based application development must work in conjunction with Vignette and Inktomi. The interaction with Vignette and Inktomi must be coordinated with the Department of Information Technology, Enterprise Application Services Office, e-Michigan Web Development team.

Under special circumstances vendors that are compelled to use alternate tools must submit an exception request to the Department of Information Technology, Enterprise Application Services Office, e-Michigan Web Development team, for evaluation and approval of each alternate tool prior to proposal evaluation by the State.

## II-OO TRANSITION ASSISTANCE

If this Contract is not renewed at the end of this term, or is canceled prior to its expiration, for any reason, the Contractor must provide for up to 90 days after the expiration or cancellation of this Contract, all reasonable transition assistance requested by the State, to allow for the expired or canceled portion of the Services to continue without interruption or adverse effect, and to facilitate the orderly transfer of such services to the State or its designees. Such transition assistance will be deemed by the parties to be governed by the terms and conditions of this Contract, (notwithstanding this expiration or cancellation) except for those Contract terms or conditions that do not reasonably apply to such transition assistance. The State shall pay the Contractor for any resources utilized in performing such transition assistance at the most current rates provided by the Contract for Contract performance. If the State cancels this Contract for cause, then the State will be entitled to off set the cost of paying the Contractor for the additional resources the Contractor utilized in providing transition assistance with any damages the State may have otherwise accrued as a result of said cancellation.



## II-PP ELECTRONIC FUNDS TRANSFER

Electronic transfer of funds is available to State contractors. Vendors are encouraged to register with the State of Michigan Office of Financial Management so the State can make payments related to this Contract electronically at [www.cpexpress.state.mi.us](http://www.cpexpress.state.mi.us).

## II-QQ DISCLOSURE OF LITIGATION

The Contractor shall notify the State in its bid proposal, if it, or any of its subcontractors, or their officers, directors, or key personnel under this Contract, have ever been convicted of a felony, or any crime involving moral turpitude, including, but not limited to fraud, misappropriation or deception. Contractor shall promptly notify the State of any criminal litigation, investigations or proceeding which may have arisen or may arise involving the Contractor or any of the Contractor's subcontractor, or any of the foregoing entities' then current officers or directors during the term of this Contract and three years thereafter.

The Contractor shall notify the State in its bid proposal, and promptly thereafter as otherwise applicable, of any civil litigation, arbitration, proceeding, or judgments that may have arisen against it or its subcontractors during the five years proceeding its bid proposal, or which may occur during the term of this Contract or three years thereafter, which involve (1) products or services similar to those provided to the State under this Contract and which either involve a claim in excess of \$250,000 or which otherwise may affect the viability or financial stability of the Contractor, or (2) a claim or written allegation of fraud by the Contractor or any subcontractor hereunder, arising out of their business activities, or (3) a claim or written allegation that the Contractor or any subcontractor hereunder violated any federal, state or local statute, regulation or ordinance. Multiple lawsuits and or judgments against the Contractor or subcontractor, in any an amount less than \$250,000 shall be disclosed to the State to the extent they affect the financial solvency and integrity of the Contractor or subcontractor.

All notices under subsection 1 and 2 herein shall be provided in writing to the State within fifteen business days after the Contractor learns about any such criminal or civil investigations and within fifteen days after the commencement of any proceeding, litigation, or arbitration, as otherwise applicable. Details of settlements which are prevented from disclosure by the terms of the settlement shall be annotated as such. Semi-annually, during the term of the Contract, and thereafter for three years, Contractor shall certify that it is in compliance with this Section. Contractor may rely on similar good faith certifications of its subcontractors, which certifications shall be available for inspection at the option of the State.

Assurances - In the event that such investigation, litigation, arbitration or other proceedings disclosed to the State pursuant to this Section, or of which the State otherwise becomes aware, during the term of this Contract, causes the State to be reasonably concerned about:

- a. the ability of the Contractor or its subcontractor to continue to perform this Contract in accordance with its terms and conditions, or
- b. whether the Contractor or its subcontractor in performing services is engaged in conduct which is similar in nature to conduct alleged in such investigation, litigation, arbitration or other proceedings, which conduct would constitute a breach of this Contract or violation of Michigan or Federal law, regulation or public policy, then

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



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

## **II-RR STOP WORK**

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

## **II-SS PERFORMANCE AND RELIABILITY EVALUATION (PARE)**

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

In the event that the PARE is for components only, all references to systems (processors) should be changed to components.

The Performance and Reliability Evaluation will consist of two phases.

### **1. PHASE I**

The first phase shall be comprised of a specification compliance review of the equipment listed on the ordering documents. Such equipment shall be checked for total compliance with all required specifications of the RFQ. In the event that the State determines that any component or feature of



the delivered equipment or software does not comply with the mandatory specifications of the RFQ, the State shall so notify the Contractor, allowing 14 calendar days for rectification by the Contractor. Should the Contractor be unable to rectify the deficiency, the State reserves the right to cancel the ordering document. Should the equipment and software pass the specification conformance review, the equipment shall enter Phase II of the PARE.

## 2. PHASE II

### a. Determination of System Readiness

- 1) Prior to the PARE, a committee of three persons will be formed to evaluate the system's performance on a daily basis. The committee will consist of one Contractor representative and two State personnel.
- 2) The PARE will begin on the installation dates when the Contractor certifies that the equipment is ready for use by the State.

### b. During the PARE:

All rerun times resulting from equipment failure and preventive maintenance shall be excluded from the performance hours.

- 1) All reconfiguration and reload time shall be excluded from the performance hours.
- 2) If files are destroyed as a result of a problem with Contractor equipment and must be rebuilt, the time required to rebuild the files will be considered "down-time" for the system.
- 3) If the Contractor requests access to failed equipment and the State refuses, then such maintenance will be deferred to a mutually agreeable time and the intervening time will not count against the PARE.
- 4) A functional benchmark demonstration will be run for the PARE Committee to confirm that the installed system is capable of performing the same functions that were demonstrated. This run must be completed to the satisfaction of the PARE Committee.

## 3. STANDARD OF PERFORMANCE

- a. The performance period (a period of thirty consecutive calendar days) shall commence on the installation date, at which time the operational control becomes the responsibility of the State. It is not required that one thirty day period expire in order for another performance period to begin.
- b. If each component operates at an average level of effectiveness of 95 percent or more for a period of 30 consecutive days from the commencement date of the performance period, it shall be deemed to have met the State's standard of performance period. The State shall notify the Contractor in writing of the successful completion of the performance period. The average effectiveness level is a percentage figure determined by dividing the total operational use time by the total operational use time plus associated down-time. In addition, the equipment shall operate in substantial conformance with the Contractor's published specifications applicable to such equipment on the date of this Agreement. Equipment added by amendment to this contract shall operate in conformance with the Contractor's published specifications applicable to such equipment at the time of such amendment.
- c. During the successful performance period, all rerun time resulting from equipment failure and preventive maintenance time shall be excluded from the performance period hours. All reconfigurations and reload time shall be excluded from the performance hours. Equipment failure down-time shall be measured by those intervals during the performance period between the time that the Contractor is notified of equipment failure and the time that the equipment is returned to the State in operating condition.



- d. During the successful performance period, a minimum of 80 hours of operational use time on each component will be required as a basis for computation of the average effectiveness level. However, in computing the effectiveness level, the actual number of operational use hours shall be used when in excess of the minimum stated above.
- e. No more than one hour will accrue to the performance hours during any one wall clock hour.
- f. Equipment shall not be accepted by the State and no charges will be paid by the State until the standard of performance is met.
- g. When a system involves on-line machines which are remote to the basic installation, the required effectiveness level shall apply separately to each component in the system.
- h. Promptly upon successful completion of the performance period, the State shall notify the Contractor in writing of acceptance of the equipment and authorize the monthly payments to begin on the first day of the successful performance period.
- i. If successful completion of the performance period is not attained within 90 days of the installation date, the State shall have the option of terminating the Contract, or continuing the performance tests. The State's option to terminate the contract shall remain in effect until such time as a successful completion of the performance period is attained. The Contractor shall be liable for all outbound preparation and shipping costs for contracted items returned under this clause.
- j. The PARE will be complete when the equipment has met the required effectiveness level for the prescribed time period.

## **II- TT AUDIT OF CONTRACT COMPLIANCE**

The Contractor agrees that the State may, upon 24-hour notice, perform an audit at Contractor's location(s) to determine if the Contractor is complying with the requirements of the Contract. The Contractor agrees to cooperate with the State during the audit and produce all records and documentation that verifies compliance with the Contract requirements.

## **II- QQ TAXES**

- A. **Sales Tax:** For purchases made directly by the State of Michigan, the State is exempt from State and Local Sales Tax. Prices shall not include such taxes. Exemption Certificates for State Sales Tax will be furnished upon request.
- B. **Federal Excise Tax:** The State of Michigan may be exempt for Federal Excise Tax, or such taxes may be reimbursable, if articles purchased under this Contract are used for the State's exclusive use. Certificates exclusive use for the purposes of substantiating a tax-free, or tax-reimbursable sale will be sent to the Contractor upon request. If a sale is tax exempt or tax reimbursable under the Internal Revenue Code, prices shall not include the Federal Excise Tax.
- C. Contractors are expected to collect and pay all applicable federal, state, and local employment taxes for all persons involved in the resulting Contract. Also, bidders shall maintain appropriate payroll information on a system that can produce any reports that may be needed by Purchasing Operations.

## **II-RR PRICE ADJUSTMENTS**

Prices quoted are the maximum for a period of 365 days from the date the Contract becomes effective.



Prices are subject to change at the end of each 365-day period. Such changes shall be based on changes in actual costs incurred. Documentation of such changes must be provided with the request for price change in order to substantiate any requested change. Purchasing Operations reserves the right to consider various pertinent information sources to evaluate price increase requests (such as the CPI and PPI, US City Average, as published by the US Department of Labor, Bureau of Labor Statistics). Purchasing Operations also reserves the right to consider other information related to special economic and/or industry circumstances, when evaluating a price change request. Changes may be either increases or decreases, and may be requested by either party. Approved changes shall be firm for the remainder of the contract period unless further revised at the end of the next 365-day period.

Requests for price changes shall be RECEIVED IN WRITING AT LEAST TEN DAYS PRIOR TO THEIR EFFECTIVE DATE, and are subject to written acceptance before becoming effective. In the event new prices are not acceptable, the CONTRACT may be cancelled. The continued payment of any charges due after September 30th of any fiscal year will be subject to the availability of an appropriation for this purpose.

## **II-SS ADDITIONAL PRODUCTS/SERVICES**

The State reserves the right to add an item(s) that is not described on the item listing and is available from the Contract vendor. The item(s) may be included on the Contract, only if prior written approval has been granted by Purchasing Operations.

## **II-TT CONTRACT PAYMENT SCHEDULE**

The specific payment schedule for the Contract(s) will be mutually agreed upon by the State and the Contractor(s). The schedule should show payment amount and should reflect actual work done by the payment dates, less any penalty cost charges accrued by those dates. As a general policy statements shall be forwarded to the designated representative by the 15th day of the following month



## STATEMENT OF WORK

### **SPECIFIC REQUIREMENTS**

The proposed contractor is required to provide alcohol monitoring equipment, monitoring service, and result data for offenders of the State of Michigan. This system is to provide secure continuous remote control alcohol monitoring. The proposed contractor must meet with the State contact person prior to starting monitoring services.

### **SERVICE SPECIFICATIONS**

The proposed contractor shall provide all personnel, equipment, tools, materials, supervision, and other items and services necessary to perform the alcohol monitoring services as described in the specifications detailed herein. The required result is to maintain the current level of monitoring service in such a manner as to provide the State with 24-hour, seven day a week information on an offenders alcohol use which does not require any active participation by the offender. The specifications contained in this document have been developed to establish the minimum level of equipment and monitoring services required to be operated by the State.

### **BACKGROUND**

The proposed contractor shall provide an electronic system and software designed to remotely and continuously monitor, measure, record and communicate blood alcohol levels by the direct measurement of transdermal ethanol concentration of an individual's insensible perspiration, such hardware components and software program comprising the remote alcohol monitoring system.

The system shall consist of three integrated hardware components and associated software, including: (i) an ankle bracelet which houses the transdermal testing sensor, tamper detection and data collection, analysis, storage and transmission circuitry; (ii) a modem which provides for bi-directional radio frequency communications with the bracelet and for bi-directional secure telephone connectivity with the system network server; and (iii) the device network, which communicates bi-directionally with the system modem, and using information received from the system modem, compiles, analyzes and records the system bracelet information and, in turn, presents that information to the State through a specialized Web-based software application program.

The bracelet will at pre-programmed intervals test a client for the presence of ethanol in the body that is being emitted as vapors through the skin. When the bracelet detects the presence of ethanol, it will record a positive reading and the date and time that the positive reading occurred (an "alcohol detection alert"). Upon recording a positive ethanol reading, the bracelet will attempt to transmit an alcohol detection alert to the system modem and will make such attempts at regular intervals until the alcohol detection alert has been successfully transmitted to the system modem. Positive ethanol readings will be stored on the system bracelet and will not be available at the system network until the system bracelet is within transmission distance of the system modem. The system shall also detect certain types of interference or tampering with or the removal of the system bracelet and will alert the system network in the event of any such interference or tampering (a "tamper detection alert").

Upon request from the State, the proposed contractor shall provide the State with personnel training and certification in the proper use and deployment of the system and the proper and efficient use of the system network. In conjunction with the training, the proposed contractor shall provide the STATE with: (i) a reasonable number of copies of its System Users Manual, (ii) a reasonable number of copies of its printed training materials, and (iii) a copy of the manufacturer's training curriculum and syllabus. Travel, lodging and reasonable expenses incurred by the proposed contractor's personnel for purposes of training, personnel certification, and training support services may be billed to the State. Travel reimbursement shall be allowed solely in compliance with the State of Michigan standardized travel regulations.



## SERVICES AND SUPPORT

General Scope of Services. The proposed contractor shall provide the State services consisting of: (i) the remote collection and compilation of reports and data from the system via the network; (ii) the provision of additional training and certifications for the State personnel in addition to that already specified in above; (iii) the provision of certain types of technical support and access to and telephone assistance from the proposed contractor professionals; (iv) the scheduled maintenance and recalibration of the system sets (including the cost of collection and shipping); (v) the provision of certain disaster recovery and backup Services for the State data stored on the system network.

The proposed contractor will provide for the maintenance and recalibration of system sets to insure that they will remain in good repair and working order and will continue to meet or exceed published specifications. To this end, the parties will establish an ongoing and routine maintenance and recalibration program and a schedule that will insure the return of each system bracelet to the proposed contractor at predetermined periodic intervals. The proposed contractor will send reminder notices to The State, no less frequently than monthly, indicating, by serial number, which system bracelets are, scheduled for periodic maintenance and recalibration Services within the following thirty (30) days. The STATE shall be responsible for collecting these identified system bracelets from clients and for shipping them to the proposed contractor, at the proposed contractor's expense, by a delivery Services that tracks receipt of shipments by destination party and makes such tracking information available via the Internet. Notwithstanding the foregoing, the maintenance and recalibration program shall not cover system sets damaged or rendered inoperative for any cause not due to defects covered by warranty.

As a part of the Services, the proposed contractor will provide Web application hosting for the system network and Web-based access to the system network by the State on a twenty-four (24) hours a day, year-round, basis. In this regard, the State will have access via a toll-free telephone from anywhere in the continental United States for both the uploading of information from the system modem to the system network and for direct access by the State to the system network. Additionally, the proposed contractor will provide support Services to the State for the system application software and database management during normal working hours defined as 8:00 a.m. to 5:00 p.m., EST, Monday through Friday, excluding holidays. Said Services to include bug-fixes, workaround, code rewrites, documentation updates, etc. the proposed contractor will also provide regular off-site data storage and backup Services for the State.

**ITEM LISTING****Manufacturer: Alcohol Monitoring Systems, Inc.**

Alcohol monitoring system equipment in accordance with the attached terms conditions. The unit price quoted shall pertain to all of the necessary equipment (i.e. the complete system).

Model: SCRAM System

**Included with every shipment for a new bracelet order, the cost is \$1500/Scram Kit Rental Kits are available at \$68/month with a three month minimum rental.**

Complete SCRAM Kit

Includes:

SCRAM II Bracelet (1)

Battery/Faceplate Kit (2)

Modem (1)

Phone Cord (1)

Modem Power Supply (1)

**One field service kit is provided free of charge for every Field Servicing Locations set up within SCRAMnet. If additional kits are needed, the cost is \$40 per additional kit.**

Customer Field Kit

Includes:

Tool Kit (2)

Torx Screw (20)

Tamper Clip (20)

Exhaust Cap (20)

Disinfectant Spray (22oz.)

Nitril Gloves – (1) Box of 40

**To drive efficiency in field operations, AMS recommends that each servicing location has at least one Direct Connect Device. These are \$600 per DC device.**

Direct Connect Kit

Includes:

Direct Connect Device (1)

USB Cable (1)

Direct Connect Quick Guide (1)

**For every 60 monitored days one Battery/Faceplate Kit is shipped each month. This equates to about 50% of the clients being monitored on a monthly basis. If more battery/faceplate kits are needed above the monthly allocation, the cost is \$8 per kit.**

Battery/Faceplate Kit

Includes:

Faceplate (1)

Battery (1)

Tamper Clip (1)

Exhaust Cap (1)



**Strap replacement kits are sent at a 10% allocation rate per month of clients being monitored. If more strap replacement kits are needed above the monthly allocation, the cost is \$15 per strap replacement kit.**

Strap Replacement Kit

Includes:

Fixed Strap (1)

Adjustable Strap (1)

Torx Screw (2)

Left Hand Strap Cover (1)

Right Hand Strap Cover (1)

Exhaust Cap (1)

**Daily monitoring and maintenance - \$3.60/monitored day**

**Upgrade and maintenance policy**

As part of the daily fee the State will receive upgraded equipment which will integrate curfew monitoring functionality at no additional cost. This upgrade will be available mid 2009 and be supplied under the standard AMS replacement policy.