SECURITIES AND EXCHANGE COMMISSION

FORM 10-K

Annual report pursuant to section 13 and 15(d)

Filing Date: **1996-12-30** | Period of Report: **1996-09-30**
SEC Accession No. 0000912057-96-030491

(HTML Version on secdatabase.com)

FILER

ENVIROTEST SYSTEMS CORP /DE/

CIK:**896267**| IRS No.: **060914220** | State of Incorp.:**DE** | Fiscal Year End: **0930**
Type: **10-K** | Act: **34** | File No.: **000-21454** | Film No.: **96688167**
SIC: **7500** Automotive repair, services & parking

Mailing Address
6903 ROCKLEDGE RD STE 214
BETHESDA MD 20817

Business Address
6903 ROCKLEDGE RD STE 214
BETHESDA MD 20817
3015308110

Copyright © 2012 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

---

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549

FORM 10-K
ANNUAL REPORT PURSUANT TO SECTION 13 OR 15(D)
OF THE SECURITIES EXCHANGE ACT OF 1934
FOR THE FISCAL YEAR ENDED SEPTEMBER 30, 1996

Commission file number 0-21454

ENVIROTEST SYSTEMS CORP.
(Exact name of registrant as specified in its charter)

Delaware	06-0914220
(State or other jurisdiction of incorporation or organization)	(I.R.S. Employer Identification Number)

Commission file numbers 33-57384-01 and 33-75406-01

ENVIROTEST TECHNOLOGIES, INC.
(Exact name of registrant as specified in its charter)

Delaware	36-2680300
(State or other jurisdiction of incorporation or organization)	(I.R.S. Employer Identification Number)
246 Sobrante Way, Sunnyvale, California (Address of registrants' principal executive offices)	94086 (zip code)

Registrants' telephone number, including area code: (408) 774-6300

SECURITIES REGISTERED PURSUANT TO SECTION 12(B) OF THE ACT:

None

SECURITIES REGISTERED PURSUANT TO SECTION 12(G) OF THE ACT:
Class A Common Stock, $.01 par value per share, of Envirotest Systems Corp.

Indicate by check mark whether the registrants (1) have filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrants were required to file such reports), and (2) have been subject to such filing requirements for the past 90 days. Yes /X/ No / /

Indicate by check mark if disclosure of delinquent filers pursuant to Item 405 of Regulation S-K is not contained herein, and will not be contained, to the best of the registrants' knowledge, in any definitive proxy or information statements incorporated by reference in Part III of this Form 10-K or any amendment to this Form 10-K. / /

As of November 30, 1996, 13,204,396 shares of Envirotest Systems Corp. Class A Common Stock were outstanding, and the aggregate market value (based upon the last reported sale price on the NASDAQ National Market System on December 22, 1996) of the shares of Class A Common Stock held by non-affiliates was approximately $17,989,283 (for purposes of calculating the preceding amount only, all directors and executive officers of the registrant are assumed to be affiliates). As of such date, 1,389,749 shares of Envirotest Systems Corp. Class B Common Stock were outstanding, all of which were held by affiliates, and 2,026,111 shares of Envirotest Systems Corp. Class C Common Stock (which do not have ordinary voting rights) were outstanding.

DOCUMENTS INCORPORATED BY REFERENCE

Portions of Envirotest Systems Corp.'s definitive Proxy Statement for the 1997 annual meeting of its stockholders are incorporated by reference into Part III of this report, and portions of Envirotest Systems Corp.'s Registration Statement No. 33-57384 filed on January 25, 1993, Amendments No. 1, No. 2 and No. 3 thereto, filed on March 12, 1993, March 25, 1993 and March 30, 1993, Amendment No. 2 to Envirotest Systems Corp.'s Registration Statement No. 33-75406 filed on March 8, 1994, Form 10-K for the year ended September 30, 1993, 1994 and 1995 and Forms 10-Q for the quarterly periods ended December 31, 1994, and 1995, March 31, 1993, 1994, 1995 and 1996 and June 30, 1994, 1995 and 1996 are incorporated by reference into Part IV of

Copyright © 2012 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

this report.

TABLE OF CONTENTS

PART I

ITEM 1. BUSINESS

ORGANIZATION; ACQUISITION HISTORY

Envirotest Systems Corp., a Delaware Corporation was organized in 1990 for the purpose of acquiring Hamilton Test Systems, Inc. ("HTS") from United Technologies Corporation in December 1990 . Envirotest Systems Corp. acquired Envirotest Technologies, Inc., a Delaware corporation ("ETI"), formerly Systems Control, Inc. ("SC"), in April 1992 from SD-Scicon Plc, a British subsidiary of Electronic Data Systems . In March 1993, Envirotest Systems Corp. was merged into HTS, and HTS' name was changed to "Envirotest Systems Corp." (the "Company" or "Envirotest"). In January 1996, Envirotest purchased the Washington State subsidiary of SC, all of SC's intellectual property rights and an option to purchase SC's Indiana vehicle emissions testing contract and related assets. Envirotest exercised the option in June 1996.

The Company conducts its operations directly and through its principal wholly owned subsidiary, ETI, and through Envirotest Wisconsin Inc. and Systems Controls, Inc.(a Washington corporation). The Company's British Columbia, Canada operations are conducted through a British Columbia partnership, Ebco-Hamilton Partners ("EHP"), which is controlled by wholly owned subsidiaries of the Company.

Copyright © 2012 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

The Company's principal offices are located at 246 Sobrante Way, Sunnyvale, California 94086 (telephone (408) 774-6300).

GENERAL

Envirotest is the leading provider of centralized vehicle emissions testing programs for states and municipalities. These programs are established in accordance with federal regulations to test motor vehicle emissions for compliance with air pollution standards. As of December 1, 1996, the Company operated 14 of the 22 currently existing contractor-operated centralized programs in North America, and in fiscal 1996 performed nearly 11 million of the approximately 16.6 million tests conducted in these programs. Envirotest is the most experienced operator in the industry, having performed more than 140 million tests since its inception in 1974. In addition, the Company is the only domestic provider of contractor-operated centralized testing services outside the United States.

Envirotest provides governmental authorities an all-inclusive service whereby it designs, constructs, and operates centralized vehicle emissions programs. In a centralized program, vehicles are inspected in high volume, test-only facilities, operated either by a private contractor or a governmental authority. A program network generally consists of 6 or more facilities, each of which contains multiple testing lanes. In a decentralized program, vehicles are tested at numerous privately-owned facilities, such as gas stations and repair shops, which typically also perform emissions repair work. Some states have considered programs that contain elements of both a centralized and decentralized program.

The Company's services include: designing a network that provides convenience to motorists; identifying and procuring adequate inspection sites; constructing emissions facilities with multiple test lanes; designing and installing a vehicle emissions inspection system and computer network to collect and process emissions testing data; and managing and operating the inspection program using sophisticated software and equipment developed by the Company.

The Company enters into exclusive, long-term contracts that typically have an initial term of five to ten years. These contracts may contain options permitting the governmental authority to extend the contract on similar terms and conditions for one or more extension periods of one to three years each.

Envirotest believes that it will continue to be a leading provider of centralized vehicle testing services because of the experience of its management and its advanced software and systems integration capabilities.

SIGNIFICANT DEVELOPMENTS

On December 11, 1996, the Company sold its right to receive the two remaining installment payments totaling $80 million in principal amount (the "Receivable Assets") due under the General Release and Settlement Agreement dated December 15, 1995 ("Settlement Agreement"), with the Commonwealth of Pennsylvania for approximately $79,405,000. The Company retained the right to receive accrued interest due on the date of closing of approximately $1,749,000. The interest will be paid on July 31, 1997.

The transaction was effected through a sale of the Receivables Assets from Envirotest Partners, a Pennsylvania general partnership owned by Envirotest and ETI, to a newly formed wholly owned subsidiary of the Company, ES Funding Corp. ("Funding"). Funding, in turn, transferred the Receivables Assets to an affiliate of a Pennsylvania bank. Funding and Partners provided certain representations in connection with the transaction, including representations as to enforceability of the Settlement Agreement against the Commonwealth, and agreed to repurchase the Receivables Assets if Partners fails to comply with its obligations under the Settlement Agreement.

The Settlement Agreement requires the Company to use its best efforts to dispose of the assets it acquired to perform emissions testing services in Pennsylvania. If the net proceeds received by the Company from the sale of the assets is less than $55 million, Pennsylvania is obligated to pay the Company fifty percent of the difference up to $11 million no later than July 31, 1998. The amount of this contingent payment was reduced from $15 million in an amendment to the Settlement Agreement that permitted the Company to complete the sale transaction. The Company has retained its right to receive proceeds upon the sale of the assets.

Copyright © 2012 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

In November of 1996, the Company was awarded a contract by the State of Connecticut to assume responsibility for performing safety inspections of all vehicles registered in the state for the first time and all vehicles 10 years old or older undergoing a change of ownership. Under Connecticut law, motorists are required to obtain a safety inspection of their vehicles upon a change of ownership. Safety inspections will be performed at 11 of the Company's stations in 15 specially equipped lanes. Approximately 160,000 vehicles are expected to receive safety inspections each year providing annual revenues of approximately $2.1 million to the Company. The program will commence in early 1997.

The Company signed a purchase agreement, dated August 26, 1996 (the "Agreement"), with MARTA Technologies, Inc. ("MARTA"), a wholly-owned subsidiary of The Allen Group Inc., to acquire the centralized emissions testing programs operated by MARTA in the State of Maryland, Jacksonville, Florida and Cincinnati, Ohio. The current term of the Maryland program extends through April 1998, during which it is expected to generate revenues of approximately $9 million. The Jacksonville program extends through March 1998 and is expected to generate annual revenues of $3 million. Effective August 21, 1996, the Ohio Environmental Protection Agency suspended MARTA's Cincinnati program, which is scheduled to run through 2005. The suspension was subsequently found invalid by a court, and resolution of the matter is pending. Consummation of the transaction contemplated by the Agreement is subject to completion of due diligence and board approvals.

The Company purchased the Washington State subsidiary of SC, and all of SC's intellectual property rights on January 30, 1996. The subsidiary has operated the Washington State vehicle emissions testing program since 1982 and currently performs approximately 1.1 million tests annually. In June 1996, the Company acquired SC's contract with the State of Indiana to perform vehicle emissions testing services and related program assets. The Indiana contract has a ten-year term and is scheduled to test approximately 260,000 vehicles annually, starting in January 1997. In addition, all of the key executives of SC have joined the Company including F. Robert Miller, formerly President and Chief Executive Officer of SC, who has become President and Chief Executive Officer of the Company.

INDUSTRY

HISTORY. The vehicle emissions testing industry developed in response to the Clean Air Act of 1970 (the "Clean Air Act") and subsequent amendments thereto. In 1974, Arizona became the first state to adopt a contractor-operated centralized program when it awarded an emissions testing contract to Envirotest. The Clean Air Act Amendments of 1977 required, for the first time, the implementation of rudimentary inspection and maintenance ("I/M") programs in certain metropolitan areas and was responsible for the implementation of I/M programs by the District of Columbia and most of the 35 states that currently have such programs. The 1990 Amendments of the Clean Air Act classified U.S. metropolitan areas by the degree of air pollution and required the U.S. Environmental Protection Agency ("EPA") to review and revise its regulations on I/M

programs. On November 5, 1992, the EPA adopted regulations (the "Regulations") that required 179 metropolitan areas in 38 states and the District of Columbia, with a total of approximately 87 million vehicles, to have either a basic or enhanced I/M program in place by specified dates. The number of areas requiring basic and enhanced I/M is continuously updated by the EPA, and, in February 1995, the EPA published a report indicating that a total of 179 areas required I/M, 84 areas with approximately 57 million vehicles requiring enhanced testing programs and 95 areas with approximately 30 million vehicles requiring basic testing programs.

The initial emphasis of the Clean Air Act was to reduce air pollution by requiring factories and other stationary sources of pollution to incorporate anti-pollution technologies and by requiring automobile manufacturers to equip vehicles with emissions control devices. An EPA study, however, has found that, due to equipment deterioration and improper maintenance, an average vehicle still emits two to four times the pollutants that it was designed to emit. Vehicle emissions produce approximately 50% of the ozone air pollution and nearly all of the carbon monoxide air pollution in metropolitan areas. The EPA has estimated that enhanced I/M testing is approximately 10 times more cost-effective in providing emission reductions than the imposition of additional controls on stationary pollution sources, and, as a result, has made it an integral part of the EPA's overall effort to reduce air pollution by ensuring that vehicles meet emissions standards throughout their useful lives.

Under the Clean Air Act as amended in 1990, and the Regulations, states that have geographic areas with the worst nonattainment problems must adopt

Copyright © 2012 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

I/M programs meeting at least the "low enhanced" performance standard and whose performance, in combination with other air quality improvement programs, will meet the overall Clean Air Act attainment requirements. This standard establishes, among other things, the type of network and testing procedures that must be utilized.

NETWORK TYPES. The EPA has allowed governmental authorities to determine how best to establish and operate a network of emissions testing facilities, with the result that two principal types of I/M programs have emerged: centralized and decentralized. In a centralized I/M program, vehicles are inspected in high-volume, multi-lane, highly automated test-only facilities, operated either by private contractors or governmental authorities. These facilities do not perform any repair work. In decentralized I/M programs, vehicles are tested at licensed, privately owned facilities, such as gas stations and repair shops, which typically also perform emissions repair work. From time to time, some state officials have discussed a third type of program (generally referred to as a "hybrid" program) containing both centralized and decentralized components, generally requiring that a significant percentage of the vehicle population obtain emissions testing in test-only or centralized facilities, and allowing other vehicle owners the option of obtaining testing at test-only facilities or at decentralized test and repair facilities such as gas stations or repair shops.

In the preamble to the Regulations, the EPA stated that decentralized programs, all of which currently allow emissions testing stations to also perform repair work ("test-and-repair" programs), give rise to inherent conflicts of interest that contribute to making them significantly less effective

than "test-only" programs. The only test-only programs in use are provided through centralized networks, such as those operated by the Company.

In the past, the design of I/M programs, and the need for I/M testing services, was largely driven by statutory and regulatory requirements that dictated when and where a particular type of I/M program had to be implemented. The Clean Air Act and the Regulations continue to require basic and enhanced I/M programs in certain areas, and also establish the type of network and testing procedures that must be adopted by affected states. The existing statutory and regulatory requirements have, however, been supplemented by additional legislative and regulatory enactments that give states more flexibility in designing their I/M programs.

Today, the impetus for states to adopt centralized, test-only I/M programs, utilizing the most sophisticated testing methods, is as much the need to obtain the significant emissions reductions necessary for many states to meet the health-based clean air standards established by EPA, as it is specific statutory or regulatory I/M-related requirements. In general, states may receive significantly greater emission reduction credits (used by EPA to measure the efficacy of a particular pollution control mechanism adopted by a state to achieve the applicable standards) for the adoption of a centralized, test-only I/M system utilizing the most rigorous testing methods.

In November of 1996, EPA announced plans to change the current health based standards for ozone and particulate pollution to better protect public health. The proposed new standards would result in a significant increase in the number of areas that would be classified as non-attainment areas for these two pollutants. I/M programs will likely be required in many of these new non-attainment areas to achieve the new standards. Many of the current non-attainment areas which were able to demonstrate attainment with the use of a low-enhanced or basic type I/M program may now have to upgrade to the enhanced I/M programs to meet the new standards. Therefore, the Company believes that the size of the market opportunities for both centralized and decentralized enhanced and basic I/M programs will increase if these new more strict ozone and particulate national ambient air quality standards are adopted.

CURRENT MARKET SIZE. As of February 1995 (the date of the last EPA publication containing information on the number of I/M programs), there were 44 I/M programs in operation in 33 states and the District of Columbia, covering a total of 142 metropolitan areas and testing a total of approximately 75 million vehicles. Of the currently existing I/M programs, 26 are centralized programs, testing approximately 30 million vehicles on an annual or biennial basis, and 18 are decentralized programs, testing approximately 45 million vehicles on an annual or biennial basis. The 1990 Amendments and Regulations require that I/M programs be implemented by January 1, 1996 in 37 additional metropolitan areas, with a total of approximately 12 million vehicles on an annual or biennial basis. While it is possible that certain areas with rural populations may be relieved of the requirement to implement an I/M program, the Company believes that the states

Copyright © 2012 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

general desire to achieve the maximum emissions reduction credits possible in the most efficient manner will be the principal factor influencing program design decisions in the future.

MARKET OVERVIEW. The following table identifies, as of December 1996, the vehicle populations that are currently being tested in a centralized or decentralized I/M program, the provider of centralized testing services, and the vehicle populations that are subject to the basic and enhanced (including low enhanced) testing requirements under the Regulations.

<TABLE>
<CAPTION>

	Existing Network Data			EPA Classification Under Regulations(a)	
State	Decentralized Program	Centralized Program	Centralized Provider	Basic Areas	Enhanced Areas
	(# vehicles, millions)			(# vehicles, millions)	
<S>	<C>	<C>	<C>	<C>	<C>
Alaska	0.2			0.2	
Arizona (opted up to enhanced)		1.8	Gordon-Darby, Inc.	1.8	
California	17.2			7.3	9.9

Copyright © 2012 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

Colorado	1.8		Envirotest	0.6	1.5
Connecticut		2.0	Envirotest		2.0
Delaware		0.4	State Run		0.4
Florida					
Broward/Pinellas		2.2	Gordon-Darby, Inc.	2.2	
Dade/Palm Beach		1.9	Envirotest	1.9	
Duval (b)		0.5	Marta	0.5	
Georgia	1.0				2.0
Idaho	0.1			0.1	
Illinois		4.5	Envirotest		4.7
Indiana		0.5	Envirotest		0.5
Kentucky				0.5	0.2
Louisville		0.4	Gordon-Darby, Inc.		
Louisiana	0.5				0.2
Maine					0.6
Maryland (b)		1.4	Marta		1.4
Massachusetts	3.9	--			3.9
Michigan				0.6	
Minnesota		0.9	Envirotest	0.9	
Missouri	1.2			1.2	
Nevada	0.5			0.2	0.6
New Hampshire	0.2				0.6
New Jersey (hybrid program)	1.0	3.8	State Run		4.8
New Mexico	0.5			0.5	
New York	4.4				9.9
North Carolina	1.5			1.5	
Ohio				3.5	
Cuyahoga County		0.8	Envirotest		
Cleveland-Akron		1.0	Envirotest		
Dayton-Springfield		0.6	Envirotest		
Cincinnati (b)		1.1	Marta		
Oregon		0.7	State Run	0.8	
Pennsylvania	3.2				5.9
Rhode Island	0.6				0.7
Tennessee					
Nashville		0.6	Envirotest	0.6	
Memphis		0.2	City Run	0.2	
Texas	6.5			3.4	3.1
Utah	0.7			0.8	
Vermont					0.1
Virginia	1.0			0.6	1.2

Copyright © 2012 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

Washington State	1.6	Envirotest	1.6		
Washington, D.C.	0.3	District Run	0.3		
West Virginia			0.1		
Wisconsin	0.9	Envirotest	0.9		
TOTAL	46.0	28.1		30.0	57.0

</TABLE>

(a) The EPA classifies metropolitan areas as basic or enhanced. Information is provided by state for convenience.

(b) Envirotest has entered into a purchase agreement to acquire the right to operate each of these programs . The purchase agreement is subject to completion of due diligence and board approvals.

MARKET GROWTH OPPORTUNITIES. The 1990 Amendments and the Regulations have resulted in a substantial increase in the size of the market for contractor-operated centralized testing programs. Since November 1992, 12 states have instituted or contracted for programs involving a total of 15 new or upgraded existing emissions testing programs, covering approximately 14.1 million vehicles. The Company believes that the most significant growth in contractor-operated centralized

programs will occur in metropolitan areas that are required to implement enhanced testing, especially the 9 states, containing an estimated 47.9 million vehicles, that have not enacted legislation or final I/M regulations in response to the Regulations, or have enacted legislation for a contractor-operated centralized program but have not yet announced the selection of a contractor. This belief is based upon the greater cost-effectiveness and efficiency of centralized programs over existing decentralized programs, and the Regulations' use of centralized programs as a standard for testing. The EPA has estimated that the average cost of an enhanced test in a centralized program will be substantially less than that in a decentralized program. In addition, recent efforts to allow states greater flexibility in designing their programs have resulted in an increased interest in I/M program ancillary services and on-road testing as states examine various ways to tailor programs to meet the needs of their local interests groups and achieve more pollution credits. An example of the developments in this area is one state that recently selected a contractor to design, build and operate a data handling system that would connect the participants in its decentralized program to a central data system; perform a quality assurance and control program on its decentralized operators; perform field audits of the participating stations; establish and conduct a public information program; perform inspector training and station and inspector licensing; issue waivers, exemptions and extensions to motorists; and manage the program. All of these services have been performed by the Company either in its centralized testing or quality assurance programs. The Company believes that other states will consider the addition of these types of services and features as part of their future I/M programs.

Additional growth opportunities may result from expansion of existing centralized programs and privatization of state-run programs in enhanced areas.

PENDING PROGRAM SELECTION

The Company is currently engaged in negotiations with the State of Illinois to implement and operate its centralized enhanced I/M program under a long-term contract. The Company has operated the State's basic program since May 1986. The Company believes that the negotiations will be completed during the first quarter of calendar 1997.

EMISSIONS TESTING CONTRACTS

The Company conducts its business under exclusive, long-term contracts with governmental authorities. Under these contracts, the Company provides all services needed to design, install, operate, and maintain an I/M program. These services include: designing a network that provides convenience to motorists; identifying and procuring adequate inspection sites; constructing inspection facilities with multiple test lanes; designing and installing a computer network to provide emission testing data to the appropriate

Copyright © 2012 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

governmental authority (and, if necessary, to allow access to vehicle registration data); and operating and maintaining the program. Envirotest's I/M contracts have an initial term that generally ranges from five to ten years, and may contain options

permitting the governmental authority to extend the contract under similar terms and conditions for one or more extension periods of up to two year periods under one contract (which can be renewed). A governmental authority may negotiate renewals or extensions on terms different from those in the initial contract or expand the program to include additional counties or services.

The table below describes certain contract terms, operating data, and fiscal 1996 revenue data for each of the Company's existing emissions programs.

<TABLE>
<CAPTION>

State/Jurisdiction	Commencement of Initial Contract	Commencement of Current Contract	Stated Expiration of Current Term	Current Extension Options	Number of Facilities/ Lanes	Number of Paid Tests in Fiscal 1996	Fiscal 1996 Contract Revenues
<S>	<C>	<C>	<C>	<C>	<C>	<C>	<C>
Colorado	1/1/95	1/1/95	12/31/01	None	15/77	855,000	$19,878,000
Connecticut	1/1/83	1/1/95	6/30/02	None	25/87	1,212,290	16,472,000
Florida							
- Dade County	4/1/91	4/1/91	3/31/98	Two 1-year	7/31	1,279,000	10,524,000
- Palm Beach County	4/1/91	4/1/91	3/31/98	Two 1-year	5/24	697,000	5,934,000
Illinois	5/1/86	1/1/96	6/30/97	None	22/92	1,552,247	12,013,000
Minnesota	7/1/91	7/1/91	6/30/98	None	9/38	961,625	7,407,000
Ohio	1/1/91	1/1/96	12/31/05	None	31/124	1,166,287	18,625,000
Tennessee	1/1/91	1/1/96	12/31/98	None	11/24	701,717	4,210,000
Wisconsin	4/1/84	12/1/95	11/30/02	None	12/44	744,124	8,682,000
Washington	1/2/82	6/1/93	12/31/99	None	20/84	776,852	6,157,000
British Columbia	9/1/92	9/1/92	8/31/99	None	12/42	646,752	10,147,000
Totals					169/667	10,592,894	$120,049,000

</TABLE>

In December of 1996, the Company was notified that it has been selected by the City of Anchorage, Alaska to operate its decentralized I/M program quality assurance and refuse services contract for 1997. This contract is valued at approximately $270,000.

In November 1996, the Company was awarded a contract by the State of Connecticut to assume responsibility for performing safety inspections of all vehicles registered in the state for the first time and all vehicles 10 years old or older undergoing a change of ownership. Under Connecticut law, motorists are required to obtain a safety inspection of their vehicles upon a change of ownership. Safety inspections will be performed at 11 of the Company's stations in 15 specially equipped lanes. Approximately 160,000 vehicles are expected to receive safety inspections each year providing annual revenues of $2.1 million to the Company. The program will commence in early 1997.

For the fiscal year ended September 30, 1996, approximately 96% of the Company's contract revenues were derived from its 11 emissions testing contracts with governmental authorities. The Company's five largest contracts generated approximately 62% of its total contract revenues during the period, with Colorado accounting for 16%, Ohio for 15%, Connecticut for 13%, Illinois for 10%, and Dade County, Florida for 8%. The termination or failure to renew any of the Company's significant emissions testing contracts could have a material adverse effect on the

Copyright © 2012 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

Company's financial condition, business, or prospects.

At September 30, 1996, the Company had a revenue backlog of approximately $660 million for its contracts which extend through 2006, compared to approximately $724 million at September 30, 1995. Approximately $140 million of the backlog is expected to be realized during fiscal 1997.

The Company's revenue backlog per contract is calculated by multiplying (i) the average annual test volume, (ii) the fee per vehicle tested, and (iii) the remaining number of years in the contract term, excluding optional extension periods. No assurances can be given that the Company will be able to fully realize all of its revenue backlog.

The Company believes that, as the incumbent operator in its existing programs, it generally has a competitive advantage when the programs are rebid, primarily because the Company has already incurred the costs of establishing the program network and has gained valuable experience in operating the program. Each of the Company's emission testing contracts that allowed for renewal or extension (and as to which the initial term expired) has been renewed or extended beyond its initial term. There can be no assurance, however, that existing options to extend contract terms will be exercised, or that the Company will be awarded a new contract when its existing I/M contracts are rebid.

The Company's contracts generally set the fee the Company will receive for each vehicle tested, which is established at the time the contract is awarded. The Company's fee is based on a number of factors, including the type of test performed under the program, the vehicle population of a test area, the number of test lanes installed, and the cost of labor and real estate. The governmental authority sets the frequency at which vehicles must be tested, typically annually or biennially, and imposes penalties on motorists for noncompliance, usually denial or suspension of vehicle registration. A governmental entity may, during the term of a contract, request that the Company change the scope of work specified in the contract. These changes may include an expansion of the geographic area covered by the contract or program enhancements, and generally result in the negotiation of an additional fee to be paid to the Company.

Under most of the Company's contracts, the governmental authority has the right, and in some cases may be obligated, to purchase the Company's program facilities upon termination of the contract, at a price generally determined by applying specified criteria set forth in the contract. This price is usually based on fair market value or book value of, or actual cost to the Company for, the program sites and facilities, and the Company believes that such prices would provide the Company adequate consideration for the value of the assets purchased. The Company's contracts also permit the governmental authority to terminate the contract for cause, generally after specified grace periods. Most of these contracts also expressly provide for termination if the legislation authorizing the I/M program is repealed or if sufficient funds for the program are not appropriated by the relevant governmental authority. More than half of the Company's contracts also allow the

governmental authority to terminate the contract without cause, upon giving advance written notice of not less than 30 days. The Company believes that it is generally entitled, either under the express terms of the contract or under applicable law, to equitable or reasonable compensation for certain costs associated with the termination of the contract without cause.

In addition, under most of the Company's I/M contracts, the Company is required to pay liquidated damages as a penalty for failure to meet specified start-up dates or performance requirements, in many cases after a specified grace period. Liquidated damages provisions are customary in emissions testing contracts. Liquidated damages provisions require payments of up to $10,000 a day for late system start-up, up to $5,000 per day for inaccurate reports submitted by the Company, up to ten percent of the fee due to the Company for the tests performed for submitting incomplete, incorrect, or illegible reports, or up to $10,000 per day for failing to allow access to the Company's program facility or emissions testing data. At least one contract requires the Company to pay the state liquidated damages in the amount of $1.0 million if the contract is terminated for cause. The Company is also required to post performance bonds once the contract is awarded. Those bonds, which range in amount from $100,000 to $1,500,000, protect the governmental authority for the cost of replacing the existing operator if the governmental authority terminates the contract for cause prior to expiration.

OTHER I/M PROGRAM CONTRACTS

QUALITY ASSURANCE SERVICES. Envirotest has provided quality assurance services in the largest and most comprehensive decentralized test-and-repair

Copyright © 2012 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

system in the United States. Under the contract, the Company employed more than 15 inspectors to perform trimester audits at the more than 8,700 "smog" stations. During the audit, the inspectors ensured that the equipment was properly calibrated, the appropriate testing procedures followed, and the required paperwork completed. The Company also certified testing personnel and maintained a current list of the identity and station affiliation of licensed mechanics. The contract commenced in July 1990 and ended at the end of September 1996.

REFEREE SERVICES. The Company has a contract with the Municipality of Anchorage to provide referee services. Under the referee program, the Company resolves disputes between motorists and private garages, which conduct emissions tests for the Municipality. This contract commenced in January 1992, and has been renewed through December 1997.

REMOTE SENSING TECHNOLOGY. In July 1995, the Company's wholly-owned subsidiary, Remote Sensing Technology, Inc. ("RST") entered into a three year contract with the State of California to monitor vehicle emissions. RST uses high speed, high resolution video camera technology and automatic license plate recognition software to record emissions levels and vehicle identification information on a color video image of passing vehicles without the need to stop the vehicles. This technology is designed to measure, from a road-side location, vehicle emissions from as many as 1,000 vehicles per hour, and will supplement regular test lane programs. There

has been increasing interest in this technology, and in the past year RST has signed contracts to perform pilot programs in New York, Texas and Virginia.

CONTRACT AWARD PROCESS

PRE-BID MARKETING. The Company considers its participation in the legislative and regulatory authorization process for emission testing programs to be an important initial step in marketing its services. To coordinate this effort, the Company's marketing staff divides the United States into the Northeast, Midwest, Southeast and Western regions. Each regional manager reports to Envirotest's Vice President of Marketing and is responsible for monitoring the authorization process in each of the states and municipalities within a particular region. With the help of legislative consultants, the Company's marketing staff educates states and municipalities on the environmental and operational benefits associated with contractor-operated centralized programs, and attempts to build support for adoption of such a program among environmental and health organizations as well as other interested parties that might benefit from implementation of the most effective I/M program. Once legislation authorizing a centralized contractor-operated program is enacted, interested parties (including the Company and its competitors) are often asked to assist the appropriate governmental authority in drafting the technical aspects of a bid request. This effort often includes reviewing bid criteria and recommending specified test programs. Once drafted, the bid request is typically revised several times as a result of input provided by potential bidders and other interested members of the public. Generally, the bid request establishes several convenience factors such as the maximum average waiting time and driving distance to a testing station, and specifies the technical requirements of the program.

BID REQUESTS. Typically, bid requests are solicited through either a "request for proposals" ("RFP") or an "invitation to bid" ("ITB"). In the more commonly used RFP process, bids are evaluated on the following criteria: (i) the operating experience, reputation, and financial capability of the bidder; (ii) the bidder's ability to install and operate a technically sophisticated testing system in terms of both hardware and software; (iii) the bidder's ability to integrate testing results with vehicle registration information in state computer data systems; (iv) the bidder's ability to provide additional services (such as safety inspections, enhanced I/M diagnostic tests, and mobile testing); (v) the bidder's ability to meet specified performance requirements; and (vi) price. Because several factors are considered in the RFP process, the contract is not necessarily awarded to the lowest qualified bidder. In the ITB process, the governmental authority generally conducts a limited review of a bid to determine if it meets a minimally acceptable technical standard, and generally awards the contract to the lowest qualified bidder. To date, the Company knows of only four states that have conducted bids through an ITB process, two of which awarded a contract to the Company and a third was acquired by the Company. Although no assurance can be given, the Company believes that the complexity of the services required for enhanced programs under the Regulations generally will discourage the use of ITBs in enhanced areas in the future.

BID PREPARATION PROCESS. The Company has developed a sophisticated network

Copyright © 2012 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

optimization model that it uses to design the most efficient program network for any given region and set of program parameters, which are detailed in the bid request. These program parameters include: (i) the expected number of vehicles to be tested annually; (ii) the amount of time required to conduct an emissions test; (iii) the convenience factors to be met, such as average waiting time and maximum driving distance to a testing location; and (iv) the vehicle density of various geographical areas in the program region. The Company's optimization model assists the Company in designing a network that provides the greatest convenience and highest vehicle throughput with the fewest number of testing locations.

As a part of the process of preparing a bid, the Company identifies particular real estate parcels in a region that meet the criteria contained in the network optimization model. The Company may secure options prior to submitting its bid on certain parcels of real estate that it considers to be important to the construction of an efficient program. The Company has also developed a sophisticated costing model, which assists the Company in predicting the engineering, development, construction, and operating costs of a proposed program. In utilizing the costing model, the Company takes into account the real estate, construction, labor, equipment, and other costs which may be particular to a specific geographic region or program.

CONTRACTOR SELECTION. After bid proposals have been received, the governmental authority will often invite several candidates to make oral presentations discussing their proposals. The governmental authority then selects one contractor (the "selected contractor"), and begins negotiating a contract with respect to the program, usually after a public announcement of the selection. The principal contract terms are contained in or derived from the RFP and the proposal submitted by the bidder. The Company has entered into all such contracts on terms substantially similar to those contained in its bid, including a test fee no lower than that contained in the bid. There can be no assurance, however, that the Company will enter into a contract after becoming the selected contractor with respect to any program.

PROGRAM IMPLEMENTATION. Once the Company and the governmental authority enter into a contract, the Company begins the process of purchasing or leasing real estate, constructing the program facilities, and developing and installing the necessary hardware and software. This process generally takes six months to two years to complete, depending on the size of the network. Approximately six months prior to the anticipated commencement of testing, the Company begins a media campaign to educate the public about the new program. At the same time, the Company will also begin to hire and train its workers. Each program is implemented by a start-up team consisting of a program manager, who is responsible for communicating with the governmental authority and for managing the Company's operations under the contract, station managers, who are responsible for the individual operation of each station, and other support staff. Once implemented, the operation of the program is also monitored by the Company's senior management on an ongoing basis.

During the contract term, the Company discusses with the governmental authority the

exercise of extension options, if any, or the renewal of the contract. Depending upon the program's enabling legislation, the governmental authority may either extend the contract or commence a new competitive bidding process.

SOFTWARE AND RELATED TESTING EQUIPMENT

The Company has developed sophisticated computer software and hardware that is essential to the efficient operation of its I/M program facilities. Central mainframe computers and various peripheral devices located at the Company's program headquarters monitor each of the Company's inspection lanes and process and permanently store complete vehicle test histories.

SOFTWARE. The Company believes that its ability to develop program-specific software for the essential operations of a program are important to the efficient operation of its testing facilities. The Company has devoted significant efforts to its development of software systems, which enable it to conduct highly automated tests and to achieve high throughput rates. The Company's software has allowed it to automate most of the important functions of the testing process, including setting the appropriate emissions standards against which vehicles are tested (these standards vary

Copyright © 2012 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

by manufacturer, model, and year). The Company's lane operators are prompted with step-by-step instructions for performing the tests and processing the results. The Company's expertise in this area is utilized to develop new software systems for its enhanced programs.

The Company has also developed a system that provides the inspector with a computer-generated image of the particular vehicle's engine. This image highlights those areas where pollution control devices are installed in order to facilitate the inspection of these devices. The system is highly automated in order to minimize operator input error and can be easily upgraded to include new operational test standards and procedures.

TESTING EQUIPMENT. Envirotest's computer-managed inspection systems control the automated inspection of a motor vehicle, based upon identifying characteristics such as make, model, year, and engine size. The inspection process is usually divided into multiple test positions that are designed for specialized functions and are serviced by computers, specialized test equipment, and associated applications software. The Company also utilizes a variety of data entry devices such as optical-code and bar-code readers, and various test equipment such as dynamometers and emissions measurement systems. The Company chooses from a number of equipment suppliers to meet the requirements of a specific system design, depending on applicable specifications and pricing.

Specialized hardware, software and engineering are combined to provide a highly automated inspection system with a design and operational emphasis on test data integrity and high-throughput operation. The Company acts as a systems integrator and does not manufacture any hardware. However, specialized hardware is designed and engineered as needed.

ADDITIONAL GROWTH OPPORTUNITIES

The Company offers a variety of program enhancements, including on-road testing, safety inspection, and vehicle registration services, although presently there is only a limited market for these services. These program enhancements offer governmental authorities and motorists the convenience of multiple vehicle certification services at a single location. Once its network of emissions testing facilities are in place, the Company is able to offer these additional services for an additional fee without incurring significant incremental capital expenditures. The Company anticipates that the privatization of services traditionally provided by governmental authorities will increase the market for these services.

ANCILLARY SERVICES. Recent efforts to allow states greater flexibility in designing their programs has resulted in an increased interest in I/M program ancillary services and on-road testing as states examine various ways to add features to their programs and achieve more pollution credits. One state has recently selected a contractor to design, build and operate a data handling system that would connect the participants in its decentralized program to a central data system; perform a quality assurance and control program on its decentralized operators; perform field audits of the participating stations; establish and conduct a public information program; perform inspector training and station and inspector licensing; issue waivers, exemptions and extensions to motorists; and manage the program. All of these services are performed by the Company either in its centralized testing or in quality assurance programs previously operated by the Company. The Company believes there will be a desire on the part of other states to consider these types of services and features as part of their I/M program.

ON-ROAD EMISSIONS TESTING: REMOTE SENSING DEVICES. The Regulations require that programs in enhanced areas conduct on-road emissions tests, using either remote sensing devices or roadside pullovers, to evaluate the emissions of at least 0.5% of the vehicle fleet required to be tested or 20,000 vehicles, whichever is less. On-road emissions testing randomly tests vehicles for compliance with emissions requirements, principally to deter motorists from tampering with emissions control devices after passing the mandatory test. The use of the remote sensing device is substantially less expensive and less disruptive to the consumer than roadside pullovers. The statutory timetable for implementation of on-road testing is the same as that for implementation of enhanced I/M programs.

In 1991, Envirotest entered into a Development and Exclusive License Agreement (the "License Agreement") with the University of Denver and two University of Denver research scientists pursuant to which the Company acquired the exclusive right to manufacture and market a remote sensing device system ("RSD") used to monitor the carbon monoxide, carbon dioxide, and hydrocarbons emitted from a moving vehicle. The RSD is designed to measure from a roadside location vehicle emissions from as many as 1,000

Copyright © 2012 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

vehicles per hour, and photographs the subject vehicle to record its license plate number. RSD technology is intended to supplement, and not replace, regular test lane programs, since it is only capable of identifying gross tailpipe emitters.

The Company is aware of at least one competitor that currently has in development a product similar to RSD.

The Company is currently expanding its initial marketing of its RSD technology, and signed contracts during fiscal 1996 to perform pilot study programs in New York, Texas and Virginia. The system has been tested successfully by a number of independent research scientists who have concluded that it accurately and reliably detects emissions violations. In addition, the Company is developing several testing enhancements that could contribute to the commercial utility of the RSD system, some of which are subject to pending patent applications. Also, the Company has conducted a review of the fundamental technology of the RSD system and filed for patent applications or protections that it believes will enhance its competitive position.

In 1996, EPA issued draft guidance that provides for the possibility of receiving substantial additional emission reduction credits for those states that choose to implement significant remote sensing programs covering large percentages of eligible vehicles. EPA is currently in the process of working with interested states to help them translate this draft guidance into specific RSD programs. The Company believes that the results of this effort, as well as any additional credits that the EPA may assign to utilization of this technology, will be the principal factors in determining the market for remote sensing. The Company cannot predict the extent to which the EPA will assign credits to remote sensing technology or the ultimate size of the market for this technology.

The Company also believes that the EPA's policy of allowing states greater flexibility in designing their I/M programs will result in increased interest in the use of remote sensing technology.

DECENTRALIZED SERVICE PROVIDER. Recent changes to I/M program legislation have resulted in increased interest in hybrid programs by the states. Some of the concepts discussed by certain states would require that vehicles with certain model years be directed to test-only stations, and that those with different model years be allowed to go to decentralized test and repair facilities which would be required to purchase new equipment and submit to increased oversight on the part of the state. The Company has considered entering the decentralized provider market. This could take any one of several different forms, including forming a relationship with a third party having a significant real estate presence in one or more jurisdictions and operations that attract a significant number of vehicles. Because of its experience in the vehicle testing business and its technological expertise, the Company believes that it will have meaningful opportunities in the decentralized market if it chooses to explore them.

SAFETY INSPECTION SERVICES. The Company believes it is a leader in safety inspection technology, and currently offers fully-automated safety inspection services at its testing facilities in Connecticut, and Florida. The Company has recently signed a contract with the State of Connecticut significantly expanding its safety inspection services in the State to an estimated

160,000 vehicles annually. In addition, the Company has designed and currently maintains a state-of-the-art turnkey facility for inspection of New York City taxicabs and limousines. The Company also inspects the taxicab fleet in the City of Miami on behalf of Dade County. The Company believes that its existing centralized testing infrastructure, as well as its expertise in safety inspection testing equipment and procedures put it in a favorable competitive position if centralized safety inspections are mandated in the future in states in which it conducts centralized testing. The National Highway Transportation Safety Administration has stated that it favors the adoption of periodic safety inspections programs. The recent award by Connecticut of a safety inspection contract to the Company demonstrates growing interest on the part of states to be able to provide their residents with the convenience of safety and emission testing services in one location.

VEHICLE REGISTRATION SERVICES. The Company has the capability to offer

Copyright © 2012 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

the convenience of vehicle registration during an emissions testing visit through the use of its internally-developed software packages to access motor vehicle records. Wisconsin and certain other states required bidders for their I/M programs to include a proposal for conducting vehicle registration services in the emission inspection lanes. Of these states, Wisconsin has asked the Company to provide registration services at 12 facilities commencing in the first quarter of calendar 1997. Although no assurances can be given as to whether other states will include vehicle registration services in their programs, the Company anticipates that there will be increasing state interest in the performance of registration services in the test lanes.

OPPORTUNITIES IN FOREIGN JURISDICTIONS. Although the Company's current focus is on expansion in domestic markets, management believes that there may be future opportunities for its services in foreign jurisdictions. The Company currently operates Canada's only centralized I/M program through its Canadian subsidiary, Ebco-Hamilton Partners. This program, which operates in Vancouver, British Columbia, represented the most technologically advanced emissions testing program in North America prior to the commencement of I/M 240 testing in the United States. The Company is also seeing an emerging market for safety and BAR90 emission testing services in South and Central America and Asia-Pacific, and is currently evaluating bid opportunities with local joint venture partners in several of these areas. In addition, the Company designed and sold to the Republic of Taiwan a turnkey test system that is operated by the government to test passenger car and truck emissions. In November 1994, the Company entered into a contract with Mexico City, Mexico for the construction of an I/M 240 test lane. In December 1993, Envirotest entered into a contract with the Government of India to provide four turnkey heavy duty vehicle emissions and safety lanes in four different cities in the country. The Company continues to actively monitor developments in mobile source pollution regulation in foreign jurisdictions, although only a few countries other than the United States have implemented centralized vehicle emissions testing. There can be no assurance that foreign jurisdictions will institute contractor-operated centralized I/M programs, or that the Company will be awarded I/M contracts by any that may institute such programs.

INTELLECTUAL PROPERTY

Envirotest has a number of patents, trademarks, and copyrights relating to the computer hardware and software programs developed for use in its test lanes. In addition, as mentioned above, the Company has entered into a License Agreement under which it has the right to manufacture and market RSD, and, in connection with the acquisition of SC's Washington program, purchased the right to all intellectual property of SC. Although the Company believes that its intellectual property rights are important to the marketing of its services, it does not believe that they are material to its business.

PERSONNEL

As of November 30, 1996, the Company had 3,124 employees, of which 1,079 are full-time and 2,045 are part-time employees. None of the Company's domestic employees is represented by a labor union. Of the 290 employees employed (through EHP) in the British Columbia program, 270 are represented by a labor union under the terms of a collective bargaining agreement that expires on August 31, 1999 (the termination date of the Company's contract in British Columbia). The Company believes that its employee relations are satisfactory.

COMPETITION

The market for contractor-operated I/M programs is highly competitive. Generally, governmental entities consider a number of criteria in selecting a contractor, including: the operating experience, reputation, and financial capability of the bidder; the bidder's ability to install and operate a technically sophisticated testing system in terms of both hardware and software; the bidder's ability to integrate testing results with vehicle registration information in state computer data systems; the bidder's ability to provide supplemental services; the bidder's ability to meet specified performance requirements; and price. The Company typically competes against numerous bidders for new or renewal contracts. In addition, the Company also potentially competes against decentralized program operators when a governmental authority considers what type of I/M network to adopt.

The Company's principal domestic competitors include Gordon-Darby, Inc. ("Gordon-Darby") and MARTA. Gordon-Darby operates four programs, testing approximately 3.9 million vehicles per year. MARTA has contracts to operate three programs, testing approximately 3.0 million vehicles annually, and is wholly owned by The Allen Group. The Company is engaged in negotiations with

Copyright © 2012 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

MARTA to acquire its operating programs. The Company also competes with several other domestic and foreign companies who choose to bid from time to time on select programs. Also, the Company may compete with test providers in decentralized markets depending upon the format of any particular program.

GOVERNMENT REGULATION

The market for the Company's services is substantially dependent upon state and federal legislation and regulations mandating air pollution controls and vehicle emissions testing. The availability of new emissions testing contracts depends largely on the manner by which governmental authorities choose to implement emissions testing programs to comply with the Clean Air Act and the regulations thereunder. Specifically, governmental authorities may, with certain limitations, implement decentralized or state-run programs, as opposed to centralized contractor-operated programs. State legislatures and environmental protection and transportation agencies, the Congress, and the EPA may adopt new, or modify existing laws, regulations, and policies regarding a wide variety of matters that could, directly or indirectly, adversely affect the emissions testing industry.

The motor vehicle I/M industry in the United States developed as a result of the Clean Air Act of 1970, as amended, and EPA regulations promulgated thereunder. The Clean Air Act has been the driving force behind the Nation's effort to reduce ambient mobile and stationary source pollution.

THE CLEAN AIR ACT OF 1970. The Clean Air Act required EPA to establish national ambient air quality standards ("NAAQS") for certain pollutants (including ground level ozone pollution or "smog") to protect the public health. Each state was required to develop and adopt a "State Implementation Plan" or "SIP," to assure that all applicable NAAQS were achieved by the statutory deadlines, and maintained thereafter. Under the Act, stationary source polluters were required to incorporate antipollution technologies and automobile manufacturers were required to equip motor vehicles with new emissions control devices, in order to reduce the discharge of ambient pollutants. Although not required by the Clean Air Act, a few states adopted I/M programs in the early to mid- 1970s in order to ensure that vehicle emission control devices continued properly to operate, in order to meet applicable emissions standards. In 1974, Arizona became the first state to adopt a contractor operated centralized program when it awarded its contract to Hamilton Test Systems.

THE CLEAN AIR ACT AMENDMENTS OF 1977. The Clean Air Act was amended in 1977, after it had become clear that the NAAQS would not be achieved by the statutory deadlines in all areas. These amendments required, for the first time, the implementation of basic I/M programs in metropolitan areas that could not demonstrate compliance with the applicable NAAQS by 1982. The 1977 Amendments required the implementation of I/M programs by the District of Columbia and most of the 34 states that currently have such programs. States were permitted to select the program network type, which historically have been either centralized or decentralized, and to select the test procedures to be utilized in the program from among three models approved by the EPA.

THE CLEAN AIR ACT AMENDMENTS OF 1990 AND REGULATIONS ADOPTED THEREUNDER. By the

late 1980's it again had become clear that the Clean Air Act's deadlines for achieving NAAQS would not be met, and the Act was again amended in 1990. These amendments emphasized the need for effective I/M programs. The 1990 amendments required the EPA to review, revise, and republish its guidance on I/M programs. This resulted in a thorough review by the EPA of I/M testing programs and procedures and their effectiveness in ensuring the proper, continuous operation of vehicle emission control equipment, thus reducing vehicle emissions. EPA promulgated final regulations governing I/M programs on November 5, 1992 (the "Regulations").

The 1990 Amendments required, among other things, that the most seriously polluted metropolitan areas in the United States achieve a 24% reduction in total vehicle emissions by November 15, 1999. Many areas also were required to adopt "enhanced" I/M programs.

Under the statute and EPA's Regulations, I/M programs are required in 179 geographic areas, 39 of which did not have any I/M program as of July 1995 (the last date for which EPA date is available). The 1990 Amendments create a rating scale to indicate the degree of an area's failure to attain the applicable NAAQS. For ozone, the classifications are "extreme," "severe," "serious," "moderate," and "marginal." Under the current ozone NAAQS, 95

Copyright © 2012 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

non-attainment areas are required to implement programs that meet the "basic" performance standard established by the Regulations. Programs that meet the "enhanced" performance standard established by the Regulations will be required in the 84 areas that: (i) have serious, severe or extreme ozone non-attainment and urbanized area populations of 200,000 or more; (ii) have moderate or serious carbon monoxide non-attainment with a design value exceeding 12.7 parts per million and urbanized area populations of 200,000 or more; and (iii) have a population of 100,000 or more in the Northeast Ozone Transport Region (an area covering most of the northeastern United States from Virginia to Maine).

In September 1995, the EPA adopted an amendment to the Regulations that created a new "low enhanced" performance standard. The low enhanced standard is intended to provide greater flexibility for those metropolitan areas that do not need all the emissions reduction credits from a full enhanced I/M program to meet the "reasonable further progress" and attainment requirements. Emission reduction "credits" are used by the EPA to measure the ability of a particular pollution control mechanism, such as I/M vehicle testing or stationary-source technologies, to enable a state to meet the overall air pollution reductions mandated by the 1990 Amendments. The EPA, however, has maintained that significantly more credits will be awarded to enhanced programs than to basic programs. To the extent that a state is able to earn additional credits through a stricter I/M program, it will be required to earn fewer credits through emissions reductions in other sources, primarily stationary sources such as factories, thereby potentially permitting industrial growth that might otherwise have been limited by the Clean Air Act.

The low enhanced performance standard primarily differs from the high enhanced

standard in that it allows for idle testing of all covered vehicles. Under the high enhanced standard, idle testing is allowable only for pre-1981 vehicles. Vehicle model years beginning with 1986 must meet the I/M 240 test (described under "Test Procedures") or an equivalent enhanced test. (Vehicles in model years 1981-1985 must meet two-speed testing under a high enhanced system). Significantly, the low enhanced performance standard is based upon a centralized testing network type, as is the high enhanced standard, although a decentralized, test-and-repair system, with certain additional features can qualify under the standard. EPA made clear in its September 18, 1995, final rule that the low enhanced standard was designed only for those areas "which either do not have a major mobile source component to their air pollution problem or which do not require I/M programs which achieve substantial reductions in automotive emissions to achieve air quality goals."

NETWORK TYPE. The EPA's performance standards in the Regulations for basic, low enhanced and enhanced programs were modeled on a centralized test-only network conducting annual inspections. However, the Regulations allow governmental entities a limited degree of latitude in designing alternative programs. Both centralized and decentralized "test-only" programs are presumed to achieve the applicable performance standards. A program is defined by the Regulations to be "test-only" if it consists of stations that only perform official I/M testing (which may include safety-related inspections) and in which owners and employees of these stations, or companies owning these stations, are contractually or legally barred from engaging in motor vehicle repairs or service, motor vehicle parts sales, and motor vehicle sale and leasing, either directly or indirectly, and are barred from referring vehicle owners to particular providers of motor vehicle repair services. A decentralized test and repair program is permissible in basic areas. In enhanced areas, however, it is acceptable only if the governmental authority can demonstrate to the EPA that the program, with required improvements and all other emission reduction programs, is sufficient to achieve the total amount of emission reductions that is required to meet the "reasonable further progress and attainment" requirements of the Clean Air Act. In the preamble to the Regulations, the EPA stated that it could not accept any of the currently operating decentralized test-and-repair programs as equally effective as centralized due to their inherent flaws. (The Regulations also permit the use of a combination of decentralized test-only and decentralized test-and-repair stations, subject to the limitations described above applicable to decentralized test-and-repair stations.)

Copyright © 2012 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

In that regard, the Regulations provide that, if a decentralized test-and-repair program is implemented in either a basic or enhanced area, the pollution credits awarded to the program will be assumed to be 50% less for some test procedures, and 75% less for other test procedures, than for the same tests conducted through centralized or decentralized test-only programs. This reflects EPA's careful assessment of the inherent problems associated with test-and-repair networks. However, these discounts for test-and-repair programs were only rebuttable presumptions and could be reduced if a state can demonstrate to the satisfaction of the EPA that its test-and-repair system will exceed the 50% or 75% levels, as applicable, based upon past performance with the specific test-type and inspection standards employed.

In any case, EPA's more recent practice has been to depart from the automatic imposition of these presumptive discounts and, instead consider carefully all the relevant facts and circumstances in determining how a given test and repair network is to be scored for air quality credit purposes.

In this respect, EPA's practice was subsequently codified in the National Highway System Designation Act of 1995 (NHSDA). The NHSDA made two important changes to EPA's authority regarding the establishment of I/M programs. In particular, it provided that EPA may no longer require states to adopt a test only, I/M 240 enhanced inspection and maintenance program as a means of compliance with the Clean Air Act (although EPA is free to approve such programs if a state chooses to adopt one). In addition, the NHSDA provided that EPA may not automatically discount the air emission reduction credit states receive if they adopt a decentralized, test-and-repair system.

However, the NHSDA affirmed that the burden of proof remains with the states, and gave states only 120 days after enactment of the statute (in November, 1995) to submit revisions to the I/M programs in their SIPs. As part of these submissions, a state must make a good faith estimate of the actual emissions reductions associated with the proposed I/M system. EPA must approve proposed programs on an interim basis, granting the full emission reductions credit claimed by a state, so long as such claims reflect a "good faith" estimate of the reductions associated with the proposed program. EPA must grant final approval to the program if, after the statutorily required 18-month interim approval period, the "data collected on the operation of the state program demonstrates that the credits are appropriate and the revision is otherwise in compliance with the Clean Air Act." According to EPA, ten states and the District of Columbia submitted proposals under the NHSDA to revise their I/M program requirements. These ten states were: Alaska, California, Georgia, Massachusetts, New Jersey, New York, Pennsylvania, Texas, Utah, and Virginia.

EPA issued for public comment proposed conditional interim rules in October 1996, after receiving recommendations on a methodology for reviewing the SIPS. This methodology includes both a quantitative and qualitative evaluation of the effectiveness of the programs over both the short term and long term operation of the programs.

TESTING PROCEDURES: NEW EMISSIONS TESTS IN ENHANCED AREAS. Today, three principal types of EPA-approved tests are generally performed: idle, two-speed idle, and loaded/idle. EPA and state audits have indicated that the simple idle and the two-speed idle tests used in most I/M programs have serious shortcomings. These styles of tests worked well for pre-1981, non-computerized vehicles containing carburetors because typical emission control problems involved "rich" airfield mixtures that affected idle as well as cruising emissions. However, today's high tech vehicles are more effectively tested with procedures that include cycles of acceleration, deceleration, and cruising under loaded conditions.

The EPA's performance standard for high enhanced programs requires the implementation of a new, more sophisticated emissions test, called the "I/M

Copyright © 2012 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

240" transient test (or an equivalent enhanced test approved by EPA), which is a shorter version of the test procedure used by the federal government to certify new vehicle compliance with emissions control equipment design standards. The I/M 240 test, so named because it is estimated to take 240 seconds to perform the test, is conducted on a dynamometer, a treadmill-type device that simulates actual driving conditions, including periods of acceleration and deceleration. The I/M 240 test measures tailpipe emissions more accurately than existing tests. The test is required to be performed on all 1986 and later model year vehicles for programs with annual testing, and on all 1984 and later model year vehicles for programs with biennial testing. The two-speed idle test is permitted to be utilized for 1981 to 1985 model year vehicles, and the idle test is permitted to be utilized for 1968 to 1981 model year vehicles. Testing must be performed on all 1968 and newer model year light duty vehicles and light duty trucks rated up to 8,500 pounds gross vehicle weight.

The Regulations also require enhanced programs to use a pressure check to identify evaporative emissions leaks in the fuel system and a "purge" check to ensure that fuel vapors stored in the vehicle evaporative canister are routed to the engine and burned as fuel. Historically, I/M programs have been designed to reduce only emissions of volatile organic compounds and carbon monoxide. The high-tech test procedures required by the EPA, which are also designed to reduce the levels of nitrogen oxide released into the air, reflect the EPA's stated belief that reducing these pollutants is increasingly important to air quality.

To date, most emission testing has been conducted annually. The EPA has stated, however, that if high-tech tests are used and certain other conditions are met, it will permit, and is now encouraging states to adopt, biennial testing in order to reduce the cost to the motorist.

The EPA has stated that it plans to continue to assess alternatives to the I/M 240 test, some of which may be less costly, such as the Acceleration Simulation Mode ("ASM") test cycle which is a compromise between previous steady state load mode testing procedures and the I/M 240. It attempts to simulate acceleration conditions by applying a higher load to the drive wheels of

a vehicle which is intended to simulate the load or strain a vehicle would experience while accelerating. However, the test is performed under constant speed conditions of 15 or 25 miles per hour. It is, therefore, a less accurate test procedure, but the equipment required to perform it is far less expensive than the I/M 240 test; but is more expensive than that currently used in decentralized facilities. In a centralized high volume testing program, where one equipment set may test 20,000 or more vehicles per year, the cost of the I/M 240 versus the ASM test equipment may amount to less than $1.00 per test. In decentralized test-only or test-and-repair programs, the cost differential between the two equipment sets can be substantial because of the low volume of vehicles tested at these facilities (typically 1,000 per year).

TESTING PROCEDURES: IN BASIC AREAS. Although the EPA has stated that states classified by the EPA as basic I/M areas should consider utilizing the high-tech tests, the performance standard for basic and low enhanced programs allows states to use the idle test. Testing must be performed on all 1968 and later model year light duty vehicles. States implementing a basic or low enhanced program are not required to utilize a purge or pressure test, but they will be required to demonstrate that their programs do not result in an increase in nitrogen oxide.

IMPLEMENTATION DEADLINES. Basic I/M programs were required to have been implemented as quickly as possible, with full implementation of decentralized programs by January 1, 1994 and centralized programs were required to have been implemented by July 1, 1994. The Regulations mandated that all requirements related to enhanced I/M programs be implemented by January 1, 1995 subject to certain exceptions allowing for the phase-in of I/M 240 testing. States required to adopt enhanced program were also required to begin high-tech testing by January 1, 1995, at which time their programs had to cover at least 30% of the vehicle model years subject to high-tech testing. All affected vehicles were required to be tested using high-tech testing by January 1, 1996. Because existing I/M contracts (including all of the Company's contracts) typically cover only a specified scope of work, which is almost always patterned on the state emissions testing law in place at the time the contract was signed, existing I/M contracts that extend beyond these deadlines for implementing stricter testing standards will have to be renegotiated to provide for the necessary expansion of equipment and services to meet the new testing standards.

States failing to submit I/M SIPs, or failing to implement I/M programs by the prescribed deadlines, are subject to sanction under the Clean Air Act. Eighteen months after missing a deadline, EPA can impose a construction ban or

Copyright © 2012 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

withhold federal highway funding from a state. Delay in implementing I/M programs could also affect states under the federal transportation conformity rule. The Clean Air Act forbids the federal government from engaging in, supporting, or providing financial assistance to any activity that does not conform to an approved SIP. Under the transportation conformity rule, federally funded highway or transit projects must be consistent with state air pollution control plans before they can receive federal funding. To date, the EPA has not exercised its ability to sanction states failing to

implement I/M programs by the prescribed deadlines. The EPA's stated policy has been to offer the states additional flexibility in designing their programs to meet their individual needs, while at the same time encouraging states to develop effective I/M programs.

EPA'S PROPOSED DECISION TO ADOPT MORE STRINGENT NAAQS. As explained above, the Clean Air Act's regulatory structure is largely built upon and driven by the need to achieve and maintain the NAAQS established by EPA for various pollutants. On November 27, 1996, EPA Administrator Browner signed notices of a proposed decision that would make the NAAQS for ground level ozone and particulate matter (PM) significantly more stringent. In particular, EPA has proposed the following: (1) adding an annual fine particulate matter standard (PM(2.5) standard) of 15 g/m(3) and a daily PM(2.5) standard of 50 g/m(3) to the already existing PM(10) standards; (2) changing the existing ozone ambient standard from a .12ppm, one-hour standard to a .08 ppm, eight-hour standard based on a three-year average of the annual third-highest daily eight-hour concentrations; and (3) establishing an interim policy that would, for the most part, preserve existing standards during the period following promulgation of the revised standards until those standards are implemented.

If adopted, these proposed standards would put many additional areas of the country into nonattainment with the Clean Air Act, and make it more difficult for areas already classified as nonattainment to meet the NAAQS on time. At this time estimates vary, but it appears that dozens of areas classified as attainment or maintenance will be reclassified as nonattainment if the new standards are adopted. Depending upon the seriousness of their nonattainment, such areas would likely be required to adopt new measures to reduce air emissions, such as inspection and maintenance programs.

EPA is under a court order to publish final regulations for PM by June 28, 1997, and EPA has explained that it will issue final regulations for ozone and PM simultaneously. A public hearing likely will be held in early January and the anticipated deadline for filing comments is February 18, 1997. Considerable public involvement is expected during the rulemaking process. Efforts to enlist Congress in preventing the issuance of these regulations also can be expected. There probably will be congressional opposition to these proposals, but it is difficult to predict at this time the breath or depth of this opposition. The Company is unable to predict whether the regulations revising the NAAQS will be adopted in their current form or whether any NAAQS regulations will be adopted.

While it is difficult to predict the definitive outcome of any regulatory process, given the scope of the already existing attainment-related control programs imposed on existing mobile and stationary sources, as well as fuel-related regulations, it can reasonably be expected that the new standards will prompt at least some additional areas to seriously consider I/M programs, and areas that already have I/M programs to consider tightening their testing regimes.

OZONE TRANSPORT ASSESSMENT GROUP. The Clean Air Act required certain states to submit a plan for the attainment of the ozone NAAQS by November 15, 1994. Many states failed to meet this deadline. As a consequence, EPA established an alternative planning process allowing the states until mid-1997 to submit a final attainment plan, based on the results of a two year assessment to be conducted by the affected states (generally those located east of the Rocky Mountains) through the Ozone Transport Assessment Group (OTAG). OTAG was to make recommendations to EPA by the close of 1996 regarding the levels of regional emission reductions needed to eliminate ozone transport as an obstacle to attainment. It now appears that OTAG will not meet this deadline, although it expects to make these recommendations early in 1997.

Copyright © 2012 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

EPA has determined to begin the process to require the affected states to take action to obtain the necessary emission reductions. EPA plans to begin this process in December 1996, and plans to issue a notice of proposed rulemaking proposing an overall amount of NOx and VOC emission reductions that each state must achieve. A final "SIP call" notice (indicating how the SIPs of the affected states will be revised to secure the additional needed emission reductions) is expected to be issued in summer, 1997.

RECENT CONGRESSIONAL ACTIVITY. Early in the last Congress, which convened in January, 1995, more than two dozen bills were introduced in both the House of Representatives and in the Senate that would have revised the Clean Air Act, and many of these would have been more unfavorable than current law with respect to the I/M program. These attempts failed, however, and the Clean Air Act was not reopened in the 104th Congress. It is impossible to predict at this time whether the 105th Congress will attempt to revise the Clean Air Act.

The Company is subject to federal, state, local and foreign laws, regulations and ordinances governing activities or operations that may have adverse environmental effects. The Company also is generally subject to environmental laws that impose liability for environmental contamination that is or comes to be located on properties that are or have been owned or operated by the Company. From time to time, the Company's operations have resulted or may result in certain noncompliance with applicable requirements. The Company believes that it currently conducts its operations in substantial compliance with all such laws.

Certain sections of this Form 10-K, including "Business" and "Management's Discussion and Analysis of Financial Condition and Results of Operations", contain various forward looking statements within the meaning of Section 21E of the Securities Exchange Act of 1934, which represent the Company's expectations or beliefs concerning future events. The Company cautions that these statements are further qualified by important factors that could cause actual results to differ materially from those in the forward looking statements. The forward looking statements include, without limitation, statements regarding the commencement of operations for a particular test site or of a particular program, the number of annual tests, the types of I/M testing programs to be adopted by states, regulatory and market changes, the growth in markets in which the Company

operates, the areas of potential growth that the Company has identified, the value of contracts, renewals of contracts, expected realizations of backlog, the success of RSD technology and its utilization in the future, the Company's success in foreign jurisdictions, and the Company's success as a decentralized service provider. The Company in the preparation of its financial statements, also makes various estimates and assumptions that are forward looking statements. See Note 2 to the "Notes to Consolidated Financial Statements."

Copyright © 2012 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

EXECUTIVE OFFICERS OF THE COMPANY

The following table sets forth information concerning the executive officers of the Company as of November 15, 1996:*

Name	Age	Current Position and Business Experience
Chester C. Davenport...	56	Chairman of the Board of Directors since September 1990; Managing Director of Georgetown Partners Limited Partnership, a merchant banking firm ("Georgetown Partners"), since September 1988; Senior partner in Washington, D.C. law firm of Davenport and Seay from 1979 to 1987 and from 1973 to 1976; Managing General partner of First City Properties, an investment partnership, from 1979 to 1985; Assistant Secretary of Transportation for Policy and International Affairs from 1977 to 1979.
F. Robert Miller.....	54	President, Chief Executive Officer and director since 1996; President, Chief Executive Officer and director of Systems Control, Inc. and its predecessors from 1987 to 1995.
Raj Modi.....	44	Vice President, Chief Financial Officer, Treasurer and Assistant Secretary since January 1993; Controller from July 1992 to January 1993; Controller of ETI from December 1986 to July 1992.
C. Michael Alston.....	38	Vice President, General Counsel and Secretary since September 1992; Executive Vice President and General Counsel of Horne Engineering Services, Inc., an environmental engineering firm, from March to September 1992; Attorney at Fulbright & Jaworski, specializing in corporate and securities law, from October 1985 to March 1992.
Lawrence H. Taylor.....	52	Vice President of Marketing since January 1994; divisional Vice President of Marketing and Sales of the Company from April 1992 to January 1994 and of ETI from 1989 to April 1992.

Laura E. Baker.....	42	Vice President of Corporate Communications since January 1996; Vice President of Corporate Communications of SC from

Copyright © 2012 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

		September 1994 to January 1996; Director of Corporate Communications from April 1992 to September 1994; Manager of Marketing Services of SC from 1985 to April 1992.
Mark D. Frost.....	38	Vice President of Engineering since January 1996; Vice President of Engineering of SC from September 1994 to January 1996; Director of Engineering of SC from 1985 to September 1994.
Perry J. Ludy.....	46	Vice President of Operations since February 1996; Vice President of SC from December 1994 to February 1996; President of U.S. Auto Glass, Inc. from December 1990 to December 1994.
Richard M. Tucker.....	49	Vice President of Program Development since January 1996; Vice President of Program Development of SC from March 1992 to January 1996; Director of International Marketing of SC from August 1991 to March 1992.
James Burley.....	48	Vice President of Administration since July 1996; Human Resources Manager for the Hughes Research Laboratories from January 1992 to July 1996; Manager of Human Resources Administration for the Electron Dynamics Division of Hughes Electronics from July 1984 to January 1992.

* The employment contract of Ronald M. Lancaster, Executive Vice President, expired on December 31, 1995, and he is no longer employed by the Company, and John R. Wallauch, Vice President of Operations, is no longer employed by the Company.

All officers are elected annually and serve at the discretion of the Board of Directors.

ITEM 2. PROPERTIES

Envirotest designs, builds and equips its testing sites to meet each program's specific

requirements. The Company's testing sites typically range from one to three acres, depending on the number of testing lanes, specific equipment requirements, and lot configuration. The Company currently owns 128 testing stations and leases 48 testing stations totaling in excess of 871,000 square feet. Envirotest also maintains a program headquarters in each of the states in which it operates. The Company's senior administrative and marketing staff were relocated from Phoenix, Arizona to Sunnyvale, California in January 1996, and occupy approximately 21,000 square feet of office space that are leased by the Company. The Company's engineering staff occupies 40,000 square feet of leased space in Tucson. The Company also has corporate offices of approximately 3,000 square feet of leased space in Bethesda, Maryland.

ITEM 3. LEGAL PROCEEDINGS

As previously disclosed, the Company's new contract with the state of Connecticut began January 1, 1995, with enhanced testing scheduled to begin on April 3, 1995. Just prior to the startup of enhanced testing,

the State decided to continue the old testing procedure and phase in the

Copyright © 2012 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

enhanced testing. Additionally, the Company was unable to build two facilities, one due to the State's inability to provide the land the contract required and the other due to the inability to obtain zoning. The State claimed that it was entitled to be paid for the cost savings to the Company for not having performed the enhanced test and not having built the facilities. The Company claimed additional costs incurred when the State unilaterally changed the test. After unsuccessful settlement negotiations, the Commissioner of Department of Motor Vehicles rendered a decision on February 9, 1996 that the Company owed the State $2.4 million plus other non quantified amounts for 1995 and additional accruing amounts until the enhanced test was performed and the facilities built. In accordance with the contract and to protect its rights, the Company appealed the Commissioner's decision to binding arbitration at the American Arbitration Association. On May 1, 1996, prior to the appointment of the arbitrators, the State filed a complaint in the Superior Court at Hartford to enjoin the arbitration from going forward claiming that the American Arbitration Association had no power to administer hearings in this matter. The State has taken no further action on this matter and no hearing date with regard to the State's complaint has been scheduled.

The Company is a defendant in GRENDELL, ET AL. V. OHIO EPA, ET AL., a taxpayers class action originally filed on October 3, 1996 in Geauga County Court of Common Pleas, State of Ohio, and now pending in the U.S. District Court sitting in Columbus, Ohio. Plaintiffs are political opponents to Ohio's motor vehicle emission inspection program, known as "E Check," and seek to enjoin the program and Envirotest's contracts as invalid and void based on three Ohio constitutional provisions. Plaintiffs principally challenge Envirotest's statutory right to compensation upon termination or suspension of E Check by the Ohio legislature. They claim that such a right "lends" the state's credit to a private company. They also claim that such right creates a future obligation without a specific appropriation in the state budget approved for the current biennium. Plaintiffs also challenge the allocation of inspection fees between Envirotest and Ohio as evidence of an impermissible "public-private" partnership.

On October 18, 1996, the court transferred the case to the Franklin County Court of Common Pleas. The Company removed the matter to federal court on the basis of diversity of citizenship. On December 13, 1996 the Ohio EPA and Plaintiffs filed motions to dismiss or remand to return the case to the Ohio state court. The Company believes that it has valid defenses to the claims contained in the complaint and intends to defend the matter vigorously.

The Company is a party to various other legal proceedings and claims in the ordinary course of business. The Company does not believe that the outcome of any pending matters will materially adversely affect its consolidated financial position or results of operations.

ITEM 4. SUBMISSION OF MATTERS TO A VOTE OF SECURITY HOLDERS

At the annual meeting of shareholders held on September 24, 1996, the Company's shareholders approved the following:

a) Election of Richard L. Gelford, Edward Dugger, III, and Robert W. Kasten, Jr., as the three Class A directors to serve for a term of one year and until their successors are duly elected and qualified. The results of the votes were 11,521,418 votes for the proposal and 663,411 votes withheld.

b) Election of Chester C. Davenport, Cleveland A. Christophe, Craig M. Cogut and F. Robert Miller as the four Class B directors to serve for a term of one year and until their successors are duly elected and qualified. The results of the vote were 2,432,060 votes for the proposal and none withheld.

c) Selection of Coopers & Lybrand L.L.P. as the Company's independent public accountants for fiscal year 1996. The results of the vote were 14,442,641 votes for the proposal, 73,783 votes against and 100,465 votes abstain.

d) An amendment to the Company's 1993 Stock Option Plan to increase the number of shares of Class A Common Stock reserved for issuance thereunder by 400,000. The results of the vote were 12,387,589 votes for the proposal, 1,953,812 votes against and 101,915 votes abstain.

Under the Company's Articles of Incorporation, the holders of Class A Common Stock of the Company are entitled to one vote for each share of Class

Copyright © 2012 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

A Common Stock so held and holders of the Class B Common Stock are entitled to 1.75 votes for each votes for each share of Class B Common Stock so held.

PART II

ITEM 5. MARKET FOR REGISTRANT'S COMMON EQUITY AND RELATED STOCKHOLDER MATTERS

The Class A Common Stock, par value $0.01 per share (the "Class A Common Stock") of Envirotest has traded on the NASDAQ National Market System under the symbol ENVI since the Company's initial public offering on April 1, 1993. At November 15, 1996, the Company estimates that it had 282 holders of record of the Class A Common Stock. A substantial number of the outstanding shares of the Company's Class A Common Stock are held in nominee name. On December 23, 1996, the last sales price of the Company's Class A Common Stock, as reported by the NASDAQ National Market System, was $2.50.

The following table sets forth for fiscal 1996 and 1995 the range of high and low sale prices for the Company's Class A Common Stock as reported by NASDAQ for the periods indicated. The quotations are derived from data supplied by NASDAQ Stock Market Inc., and represent prices between dealers without retail markdowns or commissions and may not necessarily present actual transactions.

Fiscal 1996	Dec. 31	Mar. 31	June 30	Sept. 30
High	$4.25	$4.00	$3.125	$3.875
Low	$2.25	$2.50	$2.50	$1.625

Fiscal 1995	Dec. 31	Mar. 31	June 30	Sept. 30
High	$14.5	$6.875	$6.625	$6.375
Low	$ 6.5	$4.5	$3.125	$3.0

There is no established public trading market for the Company's Class B Common Stock, par value $0.01 per share (the "Class B Common Stock") or the Company's Class C Common Stock, par value $0.01 per share (the "Class C Common Stock"). The principal difference among the Company's three classes of stock is voting rights. Each share of Class B Common Stock and Class C Common Stock are convertible at any time at the option of the holder into an equal number of shares of Class A Common Stock, subject to certain limitations in the case of the Class C Common Stock. As of November 15, 1996, the number of record holders of Class B Common Stock was two, and the number of record holders of Class C Common Stock was one.

The Company has never declared or paid cash dividends on its capital stock and does not anticipate paying cash dividends in the foreseeable future. The payment of cash dividends by the Company is restricted by the terms of the Indentures governing the Company's 9 1/8% Senior Notes due 2001 and 9 5/8% Senior Subordinated Notes due 2003, respectively (in each case under a formula based upon the consolidated net income of the Company plus proceeds of equity offerings, and subject to the maintenance of a consolidated fixed charge coverage ratio of at least 3.0 to 1.0).

Item 6. SELECTED FINANCIAL DATA

The selected financial data at September 30, 1996, and 1995 and for the periods ended September 30, 1996, 1995, and 1994, have been derived from, and should be read in connection with, the audited Consolidated Financial Statements of the Company, and related notes thereto, included in this report. The selected consolidated financial data at September 30, 1994, 1993 and 1992 and for the period ended September 30, 1993 and 1992, have been derived from audited consolidated financial statements of the Company.

The Company has never declared or paid cash dividends on its common stock.

Financial data at September 30, 1992 and for the fiscal year ended

Copyright © 2012 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

September 30, 1992 and all subsequent financial data, reflect the ETI acquisition on April 10, 1992.

The following information should be read in conjunction with the "Management's Discussion and Analysis of Financial Condition and Results of Operations" included in this report.

SELECTED FINANCIAL DATA

<TABLE>
<CAPTION>

	THE COMPANY				
(Amounts in thousands, except per share and other operating data)	Fiscal Year Ended September 30, 1996	Fiscal Year Ended September 30, 1995	Fiscal Year Ended September 30, 1994	Fiscal Year Ended September 30, 1993	Fiscal Year Ended September 30, 1992(a)
<S>	<C>	<C>	<C>	<C>	<C>
STATEMENT OF OPERATIONS DATA:					
Contact revenues	124,472	$104,757	$96,395	$88,534	$53,301
Gross profit	22,323	31,660	44,343	39,043	23,898
Selling, general and administrative expenses	21,782	24,911	19,104	13,297	6,319
Amortization expense	3,427	4,017	4,390	3,500	2,389
Reserve for surplus properties	-	892	-	-	-
Non-recurring expense	1,850(e)	-	-	-	2,500(b)
Gain on Pennsylvania settlement	(15,307)	-			
Operating Income	10,571	1,840	20,849	22,246	12,690
Interest (income)	(8,943)	(4,318)	(6,671)	(1,220)	(212)
Interest expense	38,940	21,315	23,567	13,370	9,274
Other expense (income)	-	63	(26)	446	141
Monthly interest(c)	-	284	393	(1,754)	(30)
Income (loss) before income taxes and extraordinary item	(19,426)	(15,504)	3,586	11,404	3,517
Income tax expenses (benefit)	5,638	(643)	1,412	4,651	(739)
Income (loss) before extraordinary item	(25,064)	(14,861)	2,174	6,753	4,256
Extraordinary item, net	-	-	-	(11,411)	(1,752)
Net income (loss)	$(25,064)	$(14,861)	$2,174	$(4,658)	$2,504
Earnings (loss) per common and common equivalent share:					
Income (loss) before extraordinary item	$(1.51)	$(0.93)	$0.12	$0.40	$0.32
Net income (loss)	$(1.51)	$(0.93)	$0.12	$(0.28)	$0.19
Weighted average common shares and common equivalent shares	16,552	16,059	17,546	16,714	13,357
Earnings (loss) per common shares - assuming full dilution					
Income (loss) before extraordinary item	$(1.51)	$(0.93)	$0.12	$0.40	$0.32
Net income (loss)	$(1.51)	$(0.93)	$0.12	$(0.28)	$0.19
Weighted average common shares and common equivalent shares	16,552	16,059	17,546	16,718	13,357
BALANCE SHEET DATA: (AT END OF PERIOD)					
Total assets	$480,784	$457,273	$418,205	$200,656	$144,485
Long-term debt	420,476	386,906	328,048	129,751	96,937
Stockholders' equity (deficit)	13,154	38,045	52,910	49,470	13,160
OTHER OPERATING DATA:					
Number of facilities at end of period	169	126	113	112	112

</TABLE>

<TABLE>
<CAPTION>

	THE COMPANY

Copyright © 2012 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

(Amounts in thousands, except per share and other operating data)	Fiscal Year Ended September 30, 1996	Fiscal Year Ended September 30, 1995	Fiscal Year Ended September 30, 1994	Fiscal Year Ended September 30, 1993	Fiscal Year Ended September 30, 1992(a)
<S>	<C>	<C>	<C>	<C>	<C>
Number of testing lanes at end of period	667	479	407	405	403
Number of paid tests during period	10,592,894	11,042,077	12,342,165	11,525,956	7,489,656(d)

</TABLE>

(a) Includes results of operations of ETI from April 10, 1992 (date of acquisition) to September 30, 1992.

(b) Relates to the cost of closing the headquarters office of ETI in California in 1992.

(c) Represents the minority stockholder's proportionate share of the operating income (loss) of Ebco-Hamilton Partners, which operates the British Columbia program. The minority stockholder's interest was purchased by the Company on July 24, 1995.

(d) The Company's fiscal 1992 annualized test volume was approximately 11.6 million. The difference between the actual paid tests and annualized paid tests is due to the acquisition of ETI on April 10, 1992 and the commencement of the British Columbia program on September 1, 1992.

(e) Relates to the cost of closing the headquarters office in Phoenix, Arizona in fiscal year 1996.

ITEM 7. MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS

GENERAL

The Company conducts its current operations directly and through its principal wholly owned subsidiaries, Envirotest Technologies, Inc. ("ETI"), Envirotest Wisconsin, Inc. and Systems Control, Inc., a Washington corporation. The Company's British Columbia, Canada operations are conducted through a British Columbia partnership, Ebco-Hamilton Partners ("EHP"), which is wholly owned by the Company (through its subsidiaries).

RESULTS OF OPERATIONS

FISCAL YEAR ENDED SEPTEMBER 30, 1996 (FISCAL 1996) COMPARED TO FISCAL YEAR ENDED SEPTEMBER 30, 1995 (FISCAL 1995)

Contract revenues increased to $124.5 million in fiscal 1996 from $104.8 million in fiscal 1995, an increase of $19.7 million or 18.8%. The increase is primarily attributable to the increase in revenues of $13.0 million generated from the new contracts with the State of Ohio, $6.4 million from the Washington State program acquired on January 30, 1996, and $5.0 million from the Colorado program which commenced in January 1995 and has been operational for the full year during fiscal 1996, and $2.5 million from the Connecticut program due to higher fees in the new program which commenced in January 1995. These increases were partially offset by decreases in revenue of $2.1 million in the British Columbia program due to an employee strike during the period, $1.3 million in the Illinois program attributable to the reduced test fee under the January 1996 contract extension, $2.0 million in the Minnesota program due to legislature changes during fiscal 1995 exempting vehicle model years emissions testing, and $1.6 million from the Maryland program which ceased operations as of December 31, 1994. The Company is currently engaged in negotiations with the government in British Columbia pursuant to the terms of its contract to obtain an adjustment in the fees to offset the loss in revenue experienced during the period of the strike.

Gross profit decreased to $22.3 million in fiscal 1996 from $31.7 million in 1995, a decrease of $9.4 million, or 29.7%. As a percentage of contract revenues, gross profit decreased to 17.9% in fiscal 1996 from 30.2% in fiscal 1995, an absolute decrease of 12.3% The decrease in gross profit resulted from higher than anticipated costs associated with the new Wisconsin and Ohio programs, decreased revenue in the Minnesota program discussed above and the absence of contribution from the Maryland program.

Copyright © 2012 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

Selling, general and administrative ("SG&A") expenses decreased to $21.8 million in fiscal 1996 from $24.9 million in fiscal 1995, a decrease of $3.1 million or 12.5%. As a percentage of contract revenues, SG&A expenses decreased to 17.5% in fiscal 1996 from 23.8% in fiscal 1995 , an absolute decrease of 6.3%. The decrease in SG&A expenses is primarily due to decreased marketing expenses and the absence of costs associated with seeking a resolution of the Pennsylvania contractual issues which were incurred during fiscal 1995. In addition, the decrease in SG&A as a percentage of contract revenues is due to the increase in contract revenues discussed above.

Amortization expense decreased to $3.4 million in fiscal 1996 from $4.0 million in fiscal 1995, a decrease of $0.6 million. The decrease is attributable to expiration of the Maryland program contract and full amortization of certain other intangible assets.

Consolidation expense was $1.9 million for the fiscal 1996, primarily representing the costs associated with the closing of the Phoenix Corporate headquarters.

Gain on Pennsylvania settlement for fiscal 1996 was $15.3 million net of certain related costs including the write down of related property, plant and equipment. Gross proceeds were $156 million (including contingent payment up to $11 million) in accordance with the settlement agreement with Commonwealth of Pennsylvania.

Income from operations increased to $10.6 million in fiscal 1996 compared to $1.8 million in fiscal 1995. Income from operations as a percentage of contract revenues increased to 8.5% in fiscal 1996 compared to 1.7% in fiscal 1995, an absolute increase of 6.8%. The increase is due to the gain on Pennsylvania settlement, the decrease in selling, general and administrative expenses, offset by the reduction in the gross profit and consolidation expense, as discussed above.

Interest expense increased to $38.9 million in fiscal 1996 from $21.3 million in fiscal 1995, an increase of $17.6 million. The increase is primarily attributable to a $13.0 million decrease in capitalized interest as programs under implementation became operational, and $4.1 million interest expense on the capital lease and long-term debt issued in June 1995 to finance the Company's emissions testing network in Ohio.

Interest income increased to $8.9 million in fiscal 1996 from $4.3 million in fiscal 1995, an increase of $4.6 million. The increase is primarily attributable to the interest income on the funds received and due from the Pennsylvania settlement.

Minority interest represents the minority partner's proportionate share of the income of the British Columbia program through July 1995 at which time the Company, through its wholly owned subsidiary, Envirotest Holdings, Inc., purchased the third party interest in the program.

Income tax expense was $5.6 million on the pretax loss of $19.4 million in fiscal 1996 as the Company increased a valuation allowance by $12.8 million, to fully reserve the deferred tax asset. In fiscal 1995, income tax benefit was $0.6 million on pre-tax loss of $15.5 million which was lower than the combined federal and state effective tax rate of approximately 39% as a result of increasing a valuation allowance by $5.4 million to reduce the deferred tax asset to an amount estimated to be realized. The estimate on the amount of deferred tax asset to be realized is reviewed quarterly and the valuation allowance adjusted accordingly.

Net loss was $25.1 million in fiscal 1996 compared to $14.9 million in fiscal 1995, an increase of $10.2 million.

FISCAL YEAR ENDED SEPTEMBER 30, 1995 (FISCAL 1995) COMPARED TO FISCAL YEAR ENDED SEPTEMBER 30, 1994 (FISCAL 1994)

Contract revenues increased to $104.8 million in fiscal 1995 from $96.4 million in fiscal 1994, an increase of $8.4 million or 8.7%. This increase is primarily attributable to the contract revenues contributed by the Company's Colorado vehicle emissions testing program of $15.3 million which began operations in January 1995, offset by the decrease of revenue of $6.7 million from the Maryland program which ceased operations as of December 31, 1994.

Copyright © 2012 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

Gross profit decreased to $31.7 million in fiscal 1995 from $44.3 million in fiscal 1994, a decrease of $12.6 million or 28.4%. This decrease was attributable to the decrease in contribution from the Connecticut program due to higher costs associated with the start-up of the enhanced testing together with accelerated amortization of deferred charges, the decrease in contribution from the Maryland program and the absence of contribution from the Colorado program due to higher than anticipated costs associated with start-up of the program together with accelerated amortization of deferred charges. As a percentage of contract revenues, gross profit decreased to 30.2% in fiscal 1995 from 46.0% in fiscal 1994, an absolute decrease of 15.8%. This decrease was primarily attributable to the factors noted above.

The Minnesota state legislature passed a bill, effective July 1995, exempting vehicles five years and newer from vehicle emissions testing, an approximate 33% reduction in anticipated test volume. The State negotiated several changes to the contract with the Company which will result in a reduction in operating expenses and a larger portion of the test fee previously paid to the State being paid to the Company.

SG & A expenses increased to $24.9 million in fiscal 1995 from $19.1 million in fiscal 1994, an increase of $5.8 million or 30.4%. As a percentage of contract revenues, SG & A expenses increased to 23.8% in fiscal 1995 from 19.8% in fiscal 1994, an absolute increase of 4.0%. The dollar increase in fiscal 1995 was primarily due to incremental expenditures of $4.3 million associated with maintaining the Pennsylvania program assets during the suspension of

operations of the program and costs associated with negotiating a resolution. These expenditures have been recovered as part of the settlement agreement reached with the Commonwealth of Pennsylvania after the end of fiscal 1995 and will be reflected in the results of fiscal first quarter 1996. See "Signficant Developments". Also, the Company incurred additional administrative costs in order to support the expanded operations resulting from recent program awards and certain reorganizational changes. The increase as a percentage of contract revenues in fiscal 1995 was due to the costs associated with seeking a resolution of the Pennsylvania contractual issues coupled with the absence of revenues from that program.

Amortization expense decreased to $4.0 million in fiscal 1995 from $4.4 million in fiscal 1994, decrease of $0.4 million. The decrease was attributable to the Maryland program.

Income from operations decreased to $1.8 million in fiscal 1995 from $20.8 million in fiscal 1994, a decrease of $19.0 million or 91.3%. Income from operations as a percentage of contract revenues decreased to 1.8% in fiscal 1995 compared to 21.6% in fiscal 1994, an absolute decrease of 19.8%. The decrease was due to the factors discussed above.

Interest expense decreased to $21.3 million in fiscal 1995 from $23.6 million in fiscal 1994, a decrease of $2.3 million. The decrease was primarily attributable to the increase in capitalized interest expense of $13.1 million for construction relating to new contracts, offset by increased interest expense of $10.8 million on the Senior Notes issued in March 1994, the capital lease and long-term debt issued in June 1995 to finance the Company's emissions testing network in Ohio and fees for an expired credit facility. Interest expense of $2.8 million recorded in fiscal 1995 relates to the Pennsylvania program and was recovered as part of the settlement agreement reached with the Commonwealth of Pennsylvania after the end of fiscal 1995 and will be reflected in the results of fiscal first quarter 1996. See "Significant Developments".

Interest income decreased to $4.3 million in fiscal 1995 compared to $6.7 million in fiscal 1994, a decrease of $2.4 million. The decrease was primarily attributable to decreased cash and cash equivalents and short-term investments balances as funds are spent on construction and equipment for new emissions testing facilities, partially offset by increased interest rates.

Minority interest represents the minority partner's proportionate share of the income and losses of the British Columbia program through July 1995, at which time the Company, through its wholly owned subsidiary, Envirotest Holdings, Inc., purchased the third party interest in the program. This expense amounted to $0.3 million for fiscal 1995 and $0.4 million for fiscal 1994.

Income tax benefit was $0.6 million on pre-tax loss of $15.5 million in fiscal 1995. The benefit was lower than the combined federal and state effective tax rate of approximately 39% as a result of increasing a valuation allowance by $5.4 million to reduce the deferred tax asset to an amount currently estimated to be realized. This estimate on the amount of deferred

Copyright © 2012 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

tax asset to be realized is done quarterly and the valuation allowance adjusted accordingly. Income tax expense

was $1.4 million on pre-tax income of $3.6 million in fiscal 1994 based on a combined federal and state effective tax rate of approximately 39.4%.

Net loss was $14.9 million in fiscal 1995 compared to a net profit of $2.2 million in fiscal 1994, a decrease of $17.1 million.

The Company incurs significant deferred charges in bringing new emissions testing programs into operation. These charges are amortized over the initial twelve month period of operations of these new programs. The Company expects that its results of operations during any fiscal period that includes the commencement of a program will be adversely impacted by this accelerated amortization.

LIQUIDITY, CAPITAL RESOURCES AND COMMITMENTS

Cash and cash equivalents, short-term investments and restricted cash increased to $82.2 million at September 30, 1996 from $49.9 million at September 30, 1995. The increase of $32.3 million was primarily a result of the $69.5 million (including interest) received from the Commonwealth of Pennsylvania, the proceeds of $17 million from the bonds issued by the Company's wholly owned subsidiary, Envirotest Wisconsin, Inc., in December 1995 and proceeds of $14.3 million from the bonds issued by the Company in June 1996 for the Indiana program; partially offset by the expenditure of $49.7 million for property, plant and equipment primarily relating to the Ohio, Wisconsin and Indiana programs, cash used in operating activities of approximately $12.4 million, and the purchase of the Washington State subsidiary of Systems Control; Inc. (including the assets of SC's Indiana subsidiary).

The Company's primary uses of cash are the funding of the Company's capital expenditure requirements, payments on capital and operating leases, interest payments and other working capital needs. The Company's capital and operating leases currently require minimum lease payments of approximately $15.7 million in 1997, decreasing to approximately $14.3 million through 1999 and further decreasing thereafter as certain leases are scheduled to expire.

The Company's capital expenditures include maintenance capital expenditures for existing

facilities, and development and construction expenditures for new emissions facilities. The Company's development and construction capital expenditures are dependent on the number of contracts it is awarded, and are only incurred after the contract has been signed. After signing a contract, the Company may incur significant development and construction expenditures, which the Company expects to finance with existing cash resources, internally generated funds, additional borrowings and alternative financing sources, including leasing alternatives. It generally takes one to two years after a contract has been signed for a program to begin operations and generate revenues, depending on the size of the program.

The Company's principal commitments at September 30, 1996, consist of capital expenditure requirements for the completion of implementation of the Indiana program estimated at $5.7 million. Also, in fiscal 1997, the Company intends to spend approximately $1.2 million on maintenance capital expenditures.

The Company believes that its existing cash resources including approximately $79.4 million received by the Company in December 1996 for the sale of its right to receive the two remaining installments totalling $80 million under the settlement agreement with the Commonwealth of Pennsylvania, (see "Significant Developments") cash generated from operations and alternative financing sources, including leasing alternatives, will be sufficient to complete implementation of the Indiana program and to meet its liquidity requirements for the foreseeable future.

Accrued expenses and other current liabilities increased to $27.1 million at September 30, 1996 from $13.5 million at September 30, 1995. The increase was primarily attributable to the accrual of Pennsylvania settlement

Copyright © 2012 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

reserves totaling $10.1 million which represents reserves for claims and closing expenses including legal expenses.

RECENT ACCOUNTING PRONOUNCEMENT

Statement of Financial Accounting Standards No. 123 - Accounting for Stock-Based Compensation will be effective for the Company's 1997 fiscal year. This statement introduces a fair-value based method of accounting for stock-based compensation. It encourages, but does not require, companies to recognize compensation expense for grants of stock, stock options and other equity instruments to employees based on the new fair-value accounting rules. Companies that choose not to adopt the new fair-value accounting rules will be required to disclose pro forma net income and earnings per share under the new method. The Company has not yet determined which method it will adopt.

INFLATION AND INTEREST RATES

While the Company's business is not generally sensitive to inflation, there can be no assurance that a high rate of inflation in the future would have an adverse effect on the Company's results of operations.

ITEM 8. FINANCIAL STATEMENTS AND SUPPLEMENTARY DATA

REPORT OF INDEPENDENT ACCOUNTANTS

To the Board of Directors and Stockholders
Envirotest Systems Corp. and Subsidiaries

We have audited the accompanying consolidated balance sheets of Envirotest Systems Corp. and its Subsidiaries as of September 30, 1996 and 1995, and the related consolidated statements of operations, stockholders' equity and cash flows for each of the three years in the period ended September 30, 1996. These financial statements are the responsibility of the Company's management. Our responsibility is to express an opinion on these financial statements based on our audits.

We conducted our audits in accordance with generally accepted auditing standards. Those standards require that we plan and perform the audits to obtain reasonable assurance about whether the financial statements are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audits provide a reasonable basis for our opinion.

In our opinion, the financial statements referred to above present fairly, in all material respects, the consolidated financial position of Envirotest Systems Corp. and its Subsidiaries as of September 30, 1996 and 1995, and the consolidated results of its operations and its cash flows for each of the three years in the period ended September 30, 1996, in conformity with generally accepted accounting principles.

/s/ Coopers & Lybrand L.L.P.
San Jose, California
December 13, 1996

ENVIROTEST SYSTEMS CORP. AND SUBSIDIARIES
CONSOLIDATED BALANCE SHEETS
September 30, 1996 and 1995
(AMOUNTS IN THOUSANDS, EXCEPT SHARES AND PER SHARE DATA)

ASSETS	1996	1995
Current assets:		
Cash and cash equivalents	$ 53,104	$ 17,079
Short-term investments	7,991	1,347
Settlement due from Commonwealth of Pennsylvania	80,000	--
Contract receivables, net of allowance for doubtful accounts of $449 and $375, respectively	10,969	8,208
Prepaid expenses	2,131	1,967
Deferred income taxes	--	1,376
Other	4,301	1,613

Copyright © 2012 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

Total current assets	158,496	31,590
Restricted cash	21,108	31,497
Property, plant and equipment, net	192,400	173,507
Assets held under capital leases, net	46,108	27,138
Assets held for sale, net	32,246	5,209
Assets subject to settlement	--	149,629
Intangible assets, net	14,927	17,752
Deferred debt acquisition costs, net of accumulated amortization of $5,720 and $3,378, respectively	13,159	13,412
Deferred charges, net of accumulated amortization of $7,407 and $3,217, respectively	1,189	3,178
Deferred income taxes	--	4,100
Other	1,151	261
Total assets	$480,784	$457,273

THE ACCOMPANYING NOTES ARE AN INTEGRAL PART OF THE CONSOLIDATED FINANCIAL STATEMENTS.

ENVIROTEST SYSTEMS CORP. AND SUBSIDIARIES
CONSOLIDATED BALANCE SHEETS
September 30, 1996 and 1995
(AMOUNTS IN THOUSANDS, EXCEPT SHARES AND PER SHARE DATA)

LIABILITIES AND STOCKHOLDERS' EQUITY	1996	1995
Current liabilities:		
Accounts payable	$ 3,825	$ 12,742
Accrued interest	1,689	1,499
Accrued expenses and other current liabilities	27,080	13,499
Current portion of capital lease and long-term debt	4,740	1,485
Current portion of other long-term debt	3,880	--
Income taxes payable	674	595
Total current liabilities	41,888	29,820
Senior subordinated debt	125,000	125,000
Senior long-term debt, net of discount of $808 and $989, respectively	199,192	199,011
Capital lease and long-term debt, net of current portion	58,155	62,895
Other long-term debt, net of current portion	38,129	--
Other	5,266	2,502
Total liabilities	467,630	419,228
Commitments and contingencies (Note 19).		
Stockholders' equity:		
Common stock, $0.01 per share par value; Class A Common stock, 40,000,000 shares authorized, 13,204,396 and 12,883,571 shares issued and outstanding at September 30, 1996 and 1995, respectively; Class B Common stock, 5,000,000 shares authorized, 1,389,749 and 1,248,249 shares issued and outstanding at September 30, 1996 and 1995, respectively; Class C Common stock, 5,000,000 shares authorized, 2,026,111 shares issued and outstanding	166	162
Additional paid-in capital	60,172	60,028
Cumulative currency adjustment	(96)	(121)
Accumulated deficit	(41,510)	(16,446)
	18,732	43,623
Less predecessor carry-over basis	(5,578)	(5,578)
Total stockholders' equity	13,154	38,045
Total liabilities and stockholders' equity	$480,784	$457,273

THE ACCOMPANYING NOTES ARE AN INTEGRAL PART OF THE CONSOLIDATED FINANCIAL STATEMENTS.

ENVIROTEST SYSTEMS CORP.
CONSOLIDATED STATEMENTS OF OPERATIONS
For the Years Ended September 30, 1996, 1995 and 1994
(AMOUNTS IN THOUSANDS, EXCEPT SHARES AND PER SHARE DATA)

	1996	1995	1994
Contract revenues	$ 124,472	$ 104,757	$ 96,395

Copyright © 2012 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

Costs of services	102,149	73,097	52,052
Gross profit	22,323	31,660	44,343
Operating costs and expenses:			
General and administrative	18,619	18,683	13,883
Selling	3,163	6,228	5,221
Consolidation expense	1,850		
Amortization	3,427	4,017	4,390
Reserve for surplus properties	--	892	--
Gain on Pennsylvania settlement	(15,307)	--	--
Income from operations	10,571	1,840	20,849
Other expense (income):			
Interest expense	38,940	21,315	23,567
Interest income	(3,259)	(4,255)	(6,697)
Interest income from Pennsylvania settlement	(5,684)	--	--
Minority interest	--	284	393
Income (loss) before income taxes	(19,426)	(15,504)	3,586
Income tax expense (benefit)	5,638	(643)	1,412
Net income (loss)	$ (25,064)	$ (14,861)	$ 2,174
Earnings (loss) per common and common equivalent share	$ (1.51)	$ (0.93)	$ 0.12
Weighted average common and common equivalent shares	16,552,497	16,059,165	17,546,495
Earnings (loss) per common share - assuming full dilution	$ (1.51)	$ (0.93)	$ 0.12
Weighted average common and common equivalent shares	16,552,497	16,059,165	17,546,495

THE ACCOMPANYING NOTES ARE AN INTEGRAL PART OF THE CONSOLIDATED FINANCIAL STATEMENTS.

ENVIROTEST SYSTEMS CORP. AND SUBSIDIARIES
CONSOLIDATED STATEMENTS OF STOCKHOLDERS' EQUITY
For the Years Ended September 30, 1996, 1995 and 1994
(AMOUNTS IN THOUSANDS, EXCEPT SHARE DATA)

<TABLE>
<CAPTION>

	Common Shares	Stock Amount	Additional Paid-In Capital	Cumulative Currency Adjustment	Accumulated Deficit	Predecessor Carry-over Basis	Total
<S>	<C>	<C>	<C>	<C>	<C>	<C>	<C>
Balances, October 1, 1993	15,891,178	$159	$58,852	$(204)	$(3,759)	$(5,578)	$49,470
Appreciation in warrant value			(564)				(564)
Exercise of warrants	80,598	1	1,692				1,693
Foreign currency translation adjustment				137			137
Net income					2,174		2,174
Balances, September 30, 1994	15,971,776	160	59,980	(67)	(1,585)	(5,578)	52,910
Issuance of common stock upon exercise of stock options	186,155	2	48				50
Foreign currency translation adjustment				(54)			(54)
Net loss					(14,861)		(14,861)
Balances, September 30, 1995	16,157,931	162	60,028	(121)	(16,446)	(5,578)	38,045
Issuance of common stock upon exercise of stock options	462,325	4	144				148
Foreign currency translation adjustment				25			25
Net loss					(25,064)		(25,064)
Balances, September 30, 1996	16,620,256	$166	$60,172	$(96)	$(41,510)	$(5,578)	$13,154

</TABLE>

THE ACCOMPANYING NOTES ARE AN INTEGRAL PART OF THE CONSOLIDATED FINANCIAL

Copyright © 2012 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

STATEMENTS.

ENVIROTEST SYSTEMS CORP. AND SUBSIDIARIES
CONSOLIDATED STATEMENTS OF CASH FLOWS
For the Years Ended September 30, 1996, 1995 and 1994
(AMOUNTS IN THOUSANDS)

<TABLE>
<CAPTION>

	1996	1995	1994
<S>	<C>	<C>	<C>
Cash flows from operating activities:			
Net income (loss)	$(25,064)	$(14,861)	$2,174
Adjustments to reconcile net income (loss) to net cash provided by (used in) operating activities:			
Depreciation and amortization	24,538	16,800	10,612
Amortization of loan discount and deferred debt acquisition costs	2,516	3,384	1,578
Reserve for surplus properties	--	892	--
Minority interest in net income of consolidated subsidiary	--	284	393
Gain on sale of property, plant and equipment and assets held for sale	(114)	--	--
Gain on Pennsylvania settlement	(15,307)	--	--
Deferred taxes	5,476	(863)	681
Other	18	584	--
Changes in assets and liabilities:			
Contract receivables	(2,511)	(11)	(686)
Prepaid and other current assets	(1,793)	(493)	(1,507)
Deferred charges	(2,200)	(5,034)	(2,099)
Other long-term assets	(813)	514	727
Accounts payable	470	(4,212)	6,492
Accrued interest	190	(5,536)	1,120
Accrued expenses and other current liabilities	1,358	2,222	1,239
Advances from customers	--	--	(712)
Income taxes payable	79	(369)	446
Other long-term liabilities	731	1,178	(159)
Net cash provided by (used in) operating activities	$(12,426)	$(5,521)	$20,299

</TABLE>

THE ACCOMPANYING NOTES ARE AN INTEGRAL PART OF THE CONSOLIDATED FINANCIAL STATEMENTS.

ENVIROTEST SYSTEMS CORP. AND SUBSIDIARIES
CONSOLIDATED STATEMENTS OF CASH FLOWS (CONTINUED)
For the Years Ended September 30, 1996, 1995 and 1994
(AMOUNTS IN THOUSANDS)

<TABLE>
<CAPTION>

	1996	1995	1994
<S>	<C>	<C>	<C>
Cash flows from investing activities:			
(Purchase) maturity of short-term investments	$(6,644)	$23,199	$(24,546)
Purchases of property, plant and equipment	(49,724)	(118,895)	(69,350)
Proceeds from sale of property, plant and equipment	3,835	2,656	--
Proceeds from Pennsylvania settlement	65,000	--	--
Proceeds from sale of Pennsylvania assets	2,362	--	--
Pennsylvania assets subject to settlement	--	(88,963)	--
Payment for purchase of Systems Control, Inc., net of cash acquired	(2,560)	--	--
Purchase of minority interest in consolidated subsidiary	--	(1,247)	--

Copyright © 2012 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

(DOLLAR AMOUNTS IN THOUSANDS)

Purchase of intangible assets	--	--	(6,068)
Other	--	6	(5)
Net cash provided by (used in) investing activities	12,269	(183,244)	(99,969)
Cash flows from financing activities:			
Repayment of senior long-term debt	(2,457)	--	--
Repayment of capital lease obligations	(1,485)	(4,751)	(469)
Capitalization of loan fees	(1,765)	(2,749)	(9,609)
Proceeds from debt offering	31,345	--	--
Proceeds from issuance of common stock	148	50	--
Proceeds from borrowings of senior long-term debt	--	--	198,732
Proceeds from capital lease and long-term debt	--	64,380	--
Decrease (increase) in restricted cash	10,389	(31,497)	--
Net cash provided by financing activities	36,175	25,433	188,654
Effect of exchange rate on cash and cash equivalents	7	196	137
Net increase (decrease) in cash and cash equivalents	36,025	(163,136)	109,121
Cash and cash equivalents, beginning of year	17,079	180,215	71,094
Cash and cash equivalents, end of year	$53,104	17,079	180,215

</TABLE>

Supplemental cash flow information:

Cash paid for interest and income taxes for the years ended September 30, 1996, 1995 and 1994 was as follows:

<TABLE>

<S>	<C>	<C>	<C>
Interest net of capitalized interest	$38,751	$26,851	$21,184
Income taxes	245	332	299

</TABLE>

THE ACCOMPANYING NOTES ARE AN INTEGRAL PART OF THE CONSOLIDATED FINANCIAL STATEMENTS.

ENVIROTEST SYSTEMS CORP. AND SUBSIDIARIES
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS

1. ORGANIZATION:

Envirotest Systems Corp. ("Envirotest" or the "Company") markets, installs and operates centralized vehicle emissions testing programs under contracts entered into with state and municipal governments within the United States and a program in British Columbia, Canada. The Company also offers states and municipalities services in a variety of sophisticated data management and vehicle identification capabilities.

The Company's services include: designing a network that provides convenience to motorists, identifying and procuring adequate inspection systems; constructing emission facilities with multiple test lanes; designing and installing a vehicle emissions inspection sites and computer network to collect and process emissions testing data; and managing and operating the inspection program using computer software and equipment developed by the Company.

2. SIGNIFICANT ACCOUNTING POLICIES:

PRINCIPLES OF CONSOLIDATION
The consolidated financial statements include the accounts of Envirotest Systems Corp. and all of its domestic and foreign subsidiary companies. All material intercompany balances and transactions have been eliminated.

Minority interest in equity of subsidiary represents the minority partner's

Copyright © 2012 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

proportionate share of the equity of Ebco-Hamilton Partners ("EHP"). At September 30, 1994, the Company owned 50.0000006% of EHP. On July 24, 1995, the Company, through its wholly owned subsidiary, Envirotest Holdings Inc., purchased the third party interest in Ebco-Hamilton Partners ("EHP"), the partnership which operates the Company's British Columbia, Canada centralized vehicle emissions testing program. The purchase price of $1,200 was paid in cash. The acquisition was accounted for as a purchase. The results of the acquired interest in EHP have been combined with the results of the Company since the date of acquisition.

In January 1996, the Company purchased from Systems Control, Inc. ("SC") Systems Control, Inc., a State of Washington corporation, and operator of the State of Washington centralized emissions testing program, intellectual property of SC and an option to purchase the stock or assets of SC's Indiana subsidiary. The option was exercised in June 1996 and the Company acquired the contract with the State of Indiana to operate its centralized emissions testing contract and the related assets. The total purchase price was $4,700. If the acquisitions had occurred on October 1, 1995, the Company's results of operations for the year ended September 30, 1996 would not have been materially different.

USE OF ESTIMATES
The preparation of financial statements in conformity with generally accepted accounting principles requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities at the date of the financial statements and the reported amounts of revenues and expenses during the reporting period. Actual results could differ from those estimates.

CASH AND CASH EQUIVALENTS
For purposes of the Statement of Cash Flows, the Company considers all highly liquid debt instruments with an original maturity of three months or less to be cash equivalents. Cash and cash equivalents are stated at cost which approximates market value. Included in the Company's cash and cash equivalents are approximately $52,500 and $16,500 primarily in commercial paper invested through registered broker/dealers at September 30, 1996 and 1995, respectively. The Company intends to hold these investments until maturity.

SHORT-TERM INVESTMENTS Short-term investments have an initial maturity of greater than three months and are carried at cost which approximates market value. Short term investments of $7,991 as of September 30, 1996, consisted of commercial papers having the highest rating obtainable from either Moody's Investor Service, Inc. or Standard & Poor's Corporation Inc. with maturity dates ranging from December 1996 through February 1997. Short term investments of $1,347 as of September 30, 1995 consisted of certificates of deposit with a financial institution, which collateralize letters of credit.

CONTRACT RECEIVABLES
The Company's contract revenues and receivables consist of uncollateralized amounts due from state, municipal and foreign governments.

RESEARCH AND DEVELOPMENT
Research and development costs are charged to expense as incurred. Research and development expense for the periods ended September 30, 1996, 1995, and 1994 were approximately $44, $33 and $245 respectively, and are included in general and administrative expenses.

RESTRICTED CASH Restricted cash of $21,108 at September 30, 1996 primarily consisted of cash collaterals provided to banks for the Company's financing and performance bonds related to the emissions testing contracts with state governments. Included in this amount is $6,438, $2,137, $1,700, and $600 cash collaterals required under credit agreements for the financing of Ohio, Indiana, Wisconsin, and Washington programs, respectively. Also, $8,651 in proceeds from bonds issued by the Indiana Development Finance Authority for the Indiana program which is under construction are being held in trust pending use of the fund.

PROPERTY, PLANT, EQUIPMENT AND CAPITAL LEASE

Copyright © 2012 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

(DOLLAR AMOUNTS IN THOUSANDS)

Property, plant and equipment are recorded at cost. The capital lease is recorded at the present value of the future lease principal payments. Depreciation and amortization are provided on the straight-line method over the estimated useful lives of the assets as follows:

Buildings and site improvements	30 years
Machinery and equipment	2-10 years
Leasehold improvements	Lease term

Buildings and site improvements are depreciated on a straight line basis over the estimated useful life, generally 30 years. Quarterly, the Company prepares an analysis to compare the estimated book value of the buildings, site improvements and land at the estimated completion date of individual contracts (assuming certain renewals, if any) to the estimated residual value. Adjustments to depreciable lives are made accordingly.

It is possible, given the political, legislative and competitive environment in which the Company operates, that the estimates discussed above could change and may result in accelerated depreciation charges. Also, the actual values realized on disposal could differ from the amounts used in estimating the residual values of these properties.

Interest costs relating to the acquisition and construction of major projects are capitalized and depreciated over the estimated useful lives of the related assets. Interest expense capitalized for the years ended September 30, 1996, 1995 and 1994 was $981, $14,027 and $1,533, respectively.

The cost of maintenance and repairs is charged to expense in the year incurred. Expenditures which increase the useful lives of property and equipment are capitalized.

When items are retired or disposed of, the cost and accumulated depreciation are removed from the accounts and any gain or loss is included in income.

INTANGIBLE ASSETS
Intangible assets are amortized on a straight-line basis over their estimated useful lives as follows:

Goodwill	12 years
Government contracts	12 years
Computer software	5 years
License agreement	10-17 years
Covenants not-to-compete	5 years

Beneficial ground lease	12 years
Copyrights	12 years

It is the Company's policy to re-evaluate the estimated useful life of each of its intangible assets on a quarterly basis and may adjust the estimated useful life accordingly. It is possible, given the political, legislative and competitive environment in which the Company operates, that the estimates discussed above could change and may result in accelerated amortization charges.

DEFERRED DEBT ACQUISITION COSTS
Costs associated with obtaining long-term debt financing have been capitalized and are amortized over the repayment term of the related debt.

DEFERRED CHARGES
Significant expenses incurred in bringing new emissions testing programs into operation including, staff recruitment, staff training, public information and similar pre-operating costs are deferred and amortized over a twelve-month period commencing with the start of the program operations.

CONTRACT REVENUES
For vehicle emissions inspection contracts, revenue is based upon the fees that are collectible for the tests that have been performed.

Copyright © 2012 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

The Company's contract revenues from five major customers, which individually account for in excess of 10% of the Company's total contract revenue, were $20,300, $18,700, $17,000, $16,500 and $12,000 for the year ended September 30, 1996; $16,500, $15,300, $14,500, $13,300 and $12,300 for the year ended September 30, 1995; and $16,100, $13,600, $13,500, $13,400, and $10,300 for the year ended September 30, 1994.

INCOME TAXES
Deferred tax liabilities and assets are recognized for the expected future tax consequences of events that have been included in the financial statements or tax returns. Deferred tax liabilities and assets are determined based on the difference between the financial statement and tax bases of assets and liabilities using enacted tax rates in effect for the year in which the differences are

expected to reverse. Valuation allowances are established when necessary to reduce deferred tax assets to the amount expected to be realized.

FOREIGN CURRENCY TRANSLATION
The Company has determined that the local currency of its international subsidiary is the functional currency. In accordance with Statement of Financial Accounting Standard No. 52, "Foreign Currency Translation", the assets and liabilities denominated in foreign currency are translated into U.S. dollars at the current rate of exchange existing at period-end and revenues and expenses are translated at average monthly exchange rates. Related translation adjustments are reported as a separate component of stockholders' equity, whereas, gains or losses resulting from foreign currency transactions are included in results of operations.

NET INCOME (LOSS) PER COMMON SHARE
Income (loss) per share is based upon the weighted average number of shares of common stock and common stock equivalents outstanding during the period. Common stock equivalents are included in the per share calculation where the effect of their inclusion would be dilutive. The treasury method is used in computing incremental common stock equivalents which would result from exercise of outstanding dilutive stock options and warrants.

FAIR VALUE OF FINANCIAL INSTRUMENTS
The carrying amounts of cash and cash equivalents, other receivables and accrued liabilities are a reasonable estimate of their fair value due to their short term nature. The estimated values of the Company's long term debt and are based on interest rates at September 30, for issues with similar remaining maturities.

The estimated fair value amounts of the Company's financial instruments have been determined by the Company, using appropriate market information and valuation methodologies. Considerable judgment is required to develop the estimates of fair value, thus, the estimates provided herein are not necessarily indicative of the amounts that could be realized in a current market exchange.

The Company calculates the fair value of financial instruments and includes this additional information in the notes to financial statements when the fair value is different than the book

value of those financial instruments. When the fair value is equal to the book value no additional disclosure is made. The Company uses quoted market prices whenever available to calculate these fair values. When quoted market prices are not available, the Company uses standard pricing models for various types of financial instruments which take into account the present value of estimated future cash flows. The effect of using different market assumptions and/or estimation methodologies may be material to the estimated fair value amounts.

RECENT PRONOUNCEMENTS
During October 1995, the Financial Accounting Standards Board issued Statement No. 123, "Accounting for Stock-Based Compensation (SFAS No. 123),"

Copyright © 2012 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

(DOLLAR AMOUNTS IN THOUSANDS)

which establishes a fair value based method of accounting for stock-based compensation plans and requires additional disclosures for those companies who elect not to adopt the new method of accounting. While the Company studies the impact of the pronouncement, it continues to account for employees' stock options under Accounting Principles Board(APB) Opinion No. 25, "Accounting for Stock Issued to Employees." SFAS No. 123 will be effective for the Company's 1997 fiscal year.

CONCENTRATIONS OF CREDIT RISK As of September 30, 1996, the Company's cash and cash equivalents and short-term investments, which consist principally of demand deposits and commercial paper, were on deposit with a number of commercial banks and an investment house. In addition, receivables include $80,000 due from the Commonwealth of Pennsylvania. (See Note 6.) The Company maintains allowances for potential credit losses and such losses have been within management's expectations. Financial instruments that potentially subject the Company to concentrations of credit risk principally comprise, cash and cash equivalents, short-term investments, accounts receivable (including amounts due from governments due on settlement of contract issues) and long-term debt.

3. PROPERTY, PLANT AND EQUIPMENT:

Property, plant and equipment consisted of the following at September 30, 1996 and 1995:

	1996	1995
Property, plant and equipment:		
Land	$30,805	$24,828

Buildings and site improvements	96,945	82,334
Machinery and equipment	90,300	53,539
Leasehold improvements	3,792	4,147
	221,842	164,848
Construction in progress	10,787	33,398
	232,629	198,246
Less accumulated depreciation	(40,229)	(24,739)
	$192,400	$173,507

4. ASSETS HELD UNDER CAPITAL LEASES:

Assets held under capital leases consisted of the following at September 30, 1996 and 1995:

	1996	1995
Land	$ 5,667	$ 3,185
Buildings and site improvements	41,545	6,503
	47,212	9,688
Construction in progress	-	17,504
	47,212	27,192
Less accumulated amortization	(1,104)	(54)
	$46,108	$27,138

At September 30, 1995, construction in progress includes $2,467 for land and $15,037 for buildings and site improvements which are leased assets under construction, respectively.

5. ASSETS HELD FOR SALE:

Assets held for sale represent property, plant and equipment at testing sites formerly operated under the Maryland program which terminated December 31, 1994, and 74 sites in Pennsylvania. These properties are currently being marketed for sale.

At September 30, 1996 and 1995, an estimated loss on sale of properties of $109,495 and $892 has been recognized. The estimated loss is based on management's estimates of the amounts

Copyright © 2012 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

(DOLLAR AMOUNTS IN THOUSANDS)

expected to be realized on the sale of these assets, net of disposal costs. The amounts the Company will ultimately realize may differ materially from the amounts assumed in arriving at the estimated loss. $109,402 of the loss relates to the write down of the Pennsylvania assets. This amount has been included in the calculation of the Gain on Pennsylvania Settlement (see Note 6).

Assets held for sale consisted of the following at September 30, 1996 and 1995:

	1996	1995
Land, buildings and site improvements	$30,773	$5,440
Machinery and equipment	2,074	593
	32,847	6,033
Less accumulated depreciation	(601)	(824)
	$32,246	$5,209

6. GAIN ON PENNSYLVANIA SETTLEMENT:

Legislation adopted by the Commonwealth of Pennsylvania General Assembly directed the Pennsylvania Department of Transportation ("PennDOT") to delay implementation of the Pennsylvania emissions testing program until March 31, 1995, and to design and submit to the federal Environmental Protection Agency by March 1, 1995, an alternative emissions testing program that consisted of decentralized test-and-repair facilities or a hybrid of decentralized test-and-repair and centralized test-only components and that complied with federal law. On February 28, 1995, the Governor announced an indefinite suspension of the implementation of any program until the Commonwealth receives clarification regarding the elements of a testing program that the federal EPA would find acceptable.

On December 15, 1995, the Company entered into a General Release and Settlement Agreement ("Agreement") with The Commonwealth of Pennsylvania which resolves the issues related to the Company's contract with PennDOT. Under the terms of the Agreement, the Company was paid $25,000 on December 29, 1995 and $40,000 on July 31, 1996 and will be paid $40,000 on each of July 1997, and 1998 plus interest at 6% from December 15, 1995. In addition, the Company will sell the assets and retain the proceeds and the Commonwealth will pay the Company (in July

1998) 50% of the amount by which the net proceeds from the sale of the assets (as defined by the Agreement, as amended December 1996) are less than $55,000 up to a maximum of $11,000 plus interest at 6% from December 15, 1995. Should the net proceeds from the sale of the assets exceed $55,000, the Company will pay the Commonwealth 75% of the amount by which the net proceeds exceed $55,000. The Company is of the opinion that sufficient reserves have been recognized and that upon final disposition of properties no additional loss will be recognized.

The gain on the Pennsylvania Settlement has been calculated as follows:

Proceeds (excluding contingent payment)	$145,000
Property, plant and equipment write down	(109,402)
Other assets write down	(7,732)

Copyright © 2012 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

(DOLLAR AMOUNTS IN THOUSANDS)

Additional reserves	(12,559)
	$15,307

On December 11, 1996, the Company sold its right to receive the two remaining installment payments totaling $80,000 in principal amount under the Agreement for approximately $79,405. The Company retained the right to receive accrued interest of approximately $1,749 payable on July 31, 1997.

The transaction was effected through a sale of the Receivables Assets from Envirotest Partners, a Pennsylvania general partnership owned by Envirotest and ETI, to a newly formed wholly owned subsidiary of the Company, ES Funding Corp. ("Funding"). Funding, in turn, transferred the Receivables Assets to an affiliate of a Pennsylvania bank. Funding and Envirotest Partners provided certain representations in connection with the transaction, including representations as to enforceability of the Agreement against the Commonwealth, and agreed to repurchase the Receivables Assets if Envirotest Partners fails to comply with its obligations under the Agreement.

7. INTANGIBLE ASSETS:

Intangible assets consisted of the following at September 30, 1996 and 1995:

	1996	1995
Government contracts	$21,921	$21,294
Covenants not-to-compete	3,988	3,988
Computer software	2,521	2,521
Goodwill	2,415	2,415
License agreement	1,903	1,903
Copyrights	1,000	1,000
Beneficial ground lease	-	153
	33,748	33,274
Less accumulated amortization	(18,821)	(15,522)
	$14,927	$17,752

8. ACCRUED EXPENSES AND OTHER CURRENT LIABILITIES:

Accrued expenses and other current liabilities consisted of the following at September 30, 1996 and 1995:

	1996	1995
Accrued employee-related expenses	$ 5,693	$ 5,134
Accrued real and personal property taxes	2,238	2,077
Pennsylvania settlement and reserves	10,123	-
Accrued interest	1,689	1,499
Corporation relocation reserve	1,500	-
Deferred revenue of Washington program	1,499	-
Other	4,338	4,789
	$27,080	$13,499

Pennsylvania settlement reserves represents reserves for claims related to construction contract and closing costs of the program.

9. SENIOR SUBORDINATED DEBT:

Senior subordinated debt consisted of the following at September 30, 1996 and 1995:

	1996	1995
Senior Subordinated Notes, due April 1, 2003;		

Copyright © 2012 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

(DOLLAR AMOUNTS IN THOUSANDS)

interest at 9 5/8%, payable semi-annually	$125,000	$125,000

The Senior Subordinated Notes ("Notes") are not redeemable by the Company prior to April 1998. Thereafter, the Notes will be redeemable at any time at the option of the Company, in whole or in part, at the redemption prices beginning at 103.609% of the principal amount for the period beginning April 1, 1998 and declining ratably to 100% of the principal amount on or after April 1, 2001 plus accrued or unpaid interest to the date of redemption.

The Notes are unsecured obligations of the Company, subordinated in right of payment to all Senior Debt (as defined). The Notes carry various covenants, including a limitation on payment of dividends, incurrence of additional indebtedness and issuance of disqualified stock (as defined).

As of September 30, 1996 and 1995, the fair value of the Notes, which is determined based on quoted market price, was $101,875 and $62,500, respectively.

10. SENIOR LONG-TERM DEBT:

Senior long-term debt consisted of the following at September 30, 1996 and 1995:

	1996	1995
Senior Long-Term Notes, due March 15, 2001; interest at 9 1/8 % (net of discount of $808 and $989, respectively)	$199,192	$199,011

The Senior Notes are not redeemable by the Company prior to March 15, 1998. Thereafter, the Senior Notes will be redeemable at any time at the option of the Company, in whole or in part, at

redemption prices beginning at 103.083% of the principal amount for the period beginning March 15, 1998 and declining ratably to 100% of the principal amount on or after March 15, 2000 plus accrued or unpaid interest to the date of redemption.

The Senior Notes are senior unsecured obligations of the Company, senior in right of payment to the 9 5/8% Senior Subordinated Notes of the Company. The Senior Notes carry various covenants, including a limitation on payment of dividends, incurrence of additional indebtedness and issuance of disqualified stock (as defined).

As of September 30, 1996 and 1995, the fair value of the Senior Notes, which is determined based on quoted market price, was $184,000 and $140,000, respectively.

11. OTHER LONG TERM DEBT

On December 29, 1995, the Company's wholly owned subsidiary, Envirotest Wisconsin, Inc., issued $17,000 principal amount of notes (the "Notes"). The Notes bear interest at the rate of 7.53% per annum with monthly payments, including interest, beginning at approximately $230 and increasing to approximately $340 with maturity on November 30, 2002. The Notes are collateralized by all assets utilized in the Wisconsin program. At September 30, 1996, the unpaid principal balance is $16,010.

In January 1996, the Company acquired Systems Control, Inc., a Washington corporation (SC-WA), the operator of the centralized emissions testing program in the State of Washington. At the time of the acquisition, SC-WA had debt outstanding under a credit agreement. As of September 30, 1996, the outstanding balance is $11,654 and bears interest at various rates with an effective rate of 8.64% at September 30, 1996 and is collateralized by all real property of the vehicle emissions program in the State of Washington. This agreement requires monthly payments of approximately $240 with a balloon payment at maturity on December 31, 1999 of $4,500. This credit agreement requires a cash collateral amount of $600 as of September 30, 1996 and through maturity and requires certain covenants related to tangible net worth, capital ratio, cash flow ratio and distributions of SC-WA be maintained.

In June 1996, the Company issued $14,345 principal amount of notes for the Indiana program. The notes bear interest at the rate of 7.82% per annum with

Copyright © 2012 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

(DOLLAR AMOUNTS IN THOUSANDS)

quarterly payments, including

interest of approximately $540 and mature in 2006. Principal payments begin June 1997. The notes are collateralized by all assets utilized in the Indiana program.

The other long-term debt matures as follows:

1997	$3,880
1998	5,289
1999	5,779
2000	9,441
2001	4,510
Thereafter	13,110
Total principal payments	42,009
Less current portion	(3,880)
	$38,129

12. STOCK OPTIONS:

The Company has adopted a Stock Option Plan (the "Plan") providing for the grant of options to purchase shares of Class A Common Stock to certain employees of the Company and its subsidiaries and to Outside Directors (as defined) on an annual, nondiscretionary basis. The Plan provides for the grant of options intended to qualify as Incentive Stock Options ("ISOs") as defined by Section 422 of the Internal Revenue Code and options that do not qualify as ISOs ("NQSOs"). The exercise price per share for all ISOs generally may not be less than 100% of the fair market value on the date of grant. The exercise price per share for NQSOs may be less than, equal to or greater than the fair market value on the date of grant, but not less than par value, except that the exercise price for NQSOs granted to Outside Directors shall be the fair market value on the date of grant. Under the Plan, such options are exercisable according to a vesting schedule pursuant to the terms of each Option Agreement. Unless earlier terminated by the Board of Directors, the Plan will terminate in January 2003, 10 years after its effective date.

In 1993, pursuant to an agreement for consulting services, a director and principal stockholder of the Company was granted options to purchase 50,000 shares of Class A Common Stock at an exercise price of $9.75 per share and 50,000 shares at an exercise price of $14.00 per share. Options to purchase 25,000 shares of each of the foregoing options (an aggregate of 50,000)

vested upon grant, with the remaining options vesting in September 1994. The unexercised options expire August 31, 1998.

The following table summarizes the status of, and changes in, options granted during the years ended September 30, 1996, 1995 and 1994:

	Shares Under Option	Option Price Per Share
Outstanding at October 1, 1993	2,451,305	$0.27 - $16.00
Granted	396,000	$16.00 - $22.00
Exercised	-	-
Canceled	(125,000)	$16.00
Outstanding at September 30, 1994	2,722,305	$0.27 - $22.00
Granted	457,500	$6.13
Exercised	(186,155)	$0.27
Canceled and expired	(787,000)	$15.88 - $22.00
Reissued	454,000	$6.13
Outstanding at September 30, 1995	2,660,650	$0.27 - $20.00

Copyright © 2012 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

(DOLLAR AMOUNTS IN THOUSANDS)

Granted	400,000	$2.75 - $2.80
Exercised	(462,325)	$0.27 - $0.48
Canceled	(185,000)	$0.27 - $16.00
Outstanding at September 30, 1996	2,413,325	$0.27 - $20.00
Options exercisable at:		
September 30, 1994	1,939,305	
September 30, 1995	1,664,150	
September 30, 1996	1,505,950	

13. STOCKHOLDERS' EQUITY:

Envirotest Systems Corp. was incorporated on August 20, 1990 for the purpose of purchasing Hamilton Test Systems, Inc. ("HTS"), a wholly owned subsidiary of United Technologies Corporation (the "Prior Parent"). At the time of the HTS acquisition, a subsidiary of the Prior Parent had an equity interest in Envirotest of approximately 23.6% of the outstanding stock.

Generally Accepted Accounting Principles require that a portion of the equity participation in Envirotest by the Prior Parent be valued using the carry-over basis of its equity interest in HTS prior to the acquisition. Accordingly, a portion of HTS' assets were recorded at the book value of the Prior Parent. The effect of the predecessor carry-over basis ($5,578) is reflected as a component of stockholders' equity.

Payment of cash dividends is restricted by the terms of the Indenture covering the Senior Subordinated Notes (under a formula based upon the consolidated net income of the Company plus proceeds of equity offerings, and subject to the maintenance of a certain consolidated fixed charge coverage ratio).

14. INCOME TAXES:

Income (loss) before income taxes and income tax expense (benefit) for the years ended September 30, 1996, 1995 and 1994 are shown below:

	1996	1995	1994
Income (loss) before income taxes:			
Domestic operations	$(18,938)	$(16,105)	$3,165
Foreign operations	(488)	601	421
Total	(19,426)	(15,504)	3,586
Income tax:			
Domestic operations:			
Current	162	350	592
Deferred	5,161	(1,159)	515
Total domestic	5,323	(809)	1,107
Foreign operations:			
Current			152
Deferred	315	166	153
Total foreign	315	166	305
Total	$5,638	$(643)	$1,412

The Company's tax expense (benefit) differs from the expense (benefit) calculated using the statutory federal income tax rate for the following

Copyright © 2012 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

(DOLLAR AMOUNTS IN THOUSANDS)

reasons:

	1996	1995	1994
Tax expense (benefit) at statutory federal income tax rate	$(6,605)	$(5,271)	$1,219
Increase (decrease) resulting from:			
Goodwill amortization	66	66	66
Nondeductible expenses	179	172	70
Adjustments of the valuation allowance	13,044	5,400	895
State income taxes, net of federal tax benefit	(837)	(1,162)	(1,021)
Foreign taxes, net of federal tax benefit	(52)	152	138
Other	(157)	-	45
Total income tax expense (benefit)	$5,638	$ (643)	$1,412

The components of deferred tax balances as of September 30, 1996 and 1995 are as follows:

	1996	1995
Deferred taxes:		
Accrued vacation pay	$551	$607
Charitable contributions	372	351
Other liabilities	3,007	1,659
Pennsylvania settlement reserves	2,972	---
Net operating loss carryforwards	20,268	15,840
Difference between financial reporting and tax bases of fixed and intangible assets	(7,718)	(6,369)
Valuation allowance	(19,452)	(6,612)
Net deferred taxes	$0	$5,476

The net change in the valuation allowance for the deferred tax assets of the Company is as follows:

	1996	1995
Beginning balance	$6,612	$1,212
Adjustment of valuation allowance due to a reassessment of the realizability of deferred tax assets	12,840	5,400
Ending balance	$19,452	$6,612

At September 30, 1996 the Company had federal net operating loss carryforwards for federal tax purposes of approximately $46,418. The amounts expire between 2006 and 2011. The state loss carryforwards vary in amount and expiration date depending upon the jurisdiction.

15. DEFINED CONTRIBUTION PLAN AND SUPPLEMENTAL RETIREMENT PLAN:

The Company has adopted a defined contribution 401(k) plan (the "Plan") covering substantially all of its employees. Eligible employees may contribute up to 16% of base compensation to the Plan. The Company has an optional matching program where the Company can match 50% of the employee's first 6% of contribution. Company-matched contributions vest in full after three years of an employee's credited service to the Company. The Company also has an option to make additional profit-sharing contributions equal to 2% of the base salary of each Plan participant. Defined contribution expense for the Company was approximately $696, $586 and $578, for the years ended September 30, 1996, 1995 and 1994, respectively.

The Company has supplemental employee retirement plans covering six of its key employees or former employees. The plan benefits for each employee range from $13 to $100 per year commencing at age 65 for a period of ten years payable in equal monthly installments. The plans also provide death and

Copyright © 2012 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

disability benefits in the event of the death or total disability of an employee while employed by the Company. The Company's policy is to fund the plan through certain life insurance policies or through the general unrestricted assets of the Company. Supplemental retirement expense for the Company was approximately $119, $511 and $118, for the years ended September 30, 1996, 1995 and 1994, respectively.

16. RELATED PARTY TRANSACTIONS:

In 1993, the Company entered into a three-year agreement for consulting services with a director and principal stockholder of the Company. The agreement provides for a base consulting fee of $240 plus expenses annually for the first year and $120 annually thereafter, as well as the grant of options. For the years ended September 30, 1996, 1995 and 1994, the Company expensed $120, $122 and $247, respectively, under this agreement.

As the Company has previously disclosed in its periodic reports filed with the Securities and Exchange Commission under the Securities and Exchange Act of 1934, the facilities and assets utilized by the Company in the Cuyahoga County, Ohio I/M testing program (the "Ohio Assets") and the Tennessee I/M testing program (the "Tennessee Assets") were leased to the Company pursuant to separate Sale and leaseback Agreements with Kane Partners, L.P. ("Kane Partners"). Richard Gelfond, a director of the Company, is Vice President of the General Partner of Kane Partners and holds a 25% limited partnership interest in Kane Partners. Chester C. Davenport, Chairman of the Company, holds a 25% limited partnership interest in Kane Partners. In November 1992, Kane Partners acquired the underlying leasehold property and the related rights and obligations from the original lessors of the Ohio and Tennessee Assets.

The statute and regulations governing Ohio's new I/M 240 test program require that the land and buildings be owned by a third party having no affiliation with the operator of the program. The Ohio program is divided into four separate zones, three of which were subject to competitive bid and, when awarded, complied with this requirement. The fourth zone, Cuyahoga County, was subject to an existing contract held by Envirotest at the time contracts for the other zones were awarded by the State (two of which were awarded to the Company). As a condition to entering into a new 10 year contract with Envirotest to conduct I/M 240 vehicle inspections in Cuyahoga County, Ohio (and not submitting this zone to a competitive bid), the State of Ohio required Envirotest to comply with its new I/M legislation and caused Kane Partners to divest its ownership interest in the Ohio Assets. Accordingly, the third party developer utilized approximately $10,000 of the net proceeds of the Authority offering described in Note 17 to acquire ownership of the Ohio Assets that will be utilized in the new Cuyahoga County, Ohio program to be operated by the Company. As a result, the land and buildings utilized by the Company under its three Ohio I/M 240 program contracts will be owned by the developer and leased to the Company.

In connection with the negotiations related to the Ohio Assets, the Company agreed to purchase from Kane Partners the Tennessee Assets for $1,800 and one Ohio test site that will not be utilized in the new test program for $300, for an aggregate purchase price of $2,100. Although Tennessee Assets and Ohio Assets have been subject to separate sale and leaseback agreements, the assets have served as functional security for a financing provided to the Company in 1990 and were held by Kane Partners since 1992 for the same purpose. Kane Partners utilized a portion of the aggregate proceeds received by it from the sale of the Ohio Assets and Tennessee Assets to retire certain debt obligations held by Chemical Venture Partners and Apollo Advisors, L.P., affiliates of which are directors of the Company and beneficially own approximately 14% and 17%, respectively, of the Company's outstanding Class A Common Stock. These debt obligations were incurred by Kane Partners in connection with its initial acquisition of the Ohio Assets and Tennessee Assets.

In connection with the evaluation and approval of the acquisition of the Ohio Assets and the Tennessee Assets, and as required by the Senior Notes debt

Copyright © 2012 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

(DOLLAR AMOUNTS IN THOUSANDS)

covenants, a committee of disinterested directors of the Company retained an independent financial advisor which rendered an opinion stating that (i) the purchase price paid for the Ohio Assets and Tennessee Assets (collectively, the "Purchase Price") was fair to the public shareholders of the Company from a financial point of view, and (ii) the Purchase Price was fair and reasonable to the Company from a financial point of view and was on financial terms which are at least as favorable as financial terms which could be obtained by the Company in a comparable transaction made on an arm's length basis with persons who are not related persons.

As discussed in Note 17, the Company leased land and facilities in Ohio and Nashville, Tennessee from Kane Partners during 1994 and 1995. Total lease expenses under these leases were approximately $1,567 and $2,084 for the years ended September 30, 1995 and 1994, respectively.

17. CAPITAL LEASE AND LONG-TERM DEBT OBLIGATION:

On June 30, 1995, the Ohio Air Quality Development Authority (Authority) issued $64,380 of bonds with a 8.1% interest rate to finance the costs of the acquisition, construction, renovation and equipping of the Company's emissions testing network in Ohio. The bonds are subject to mandatory sinking fund redemption and are due December 31, 2005. The land and buildings are

owned by a developer (the "Developer") and leased to the Company pursuant to a capital lease. The equipment is owned by the Company. The Developer and the Company separately have entered into loan agreements with the Authority under which the payments will provide for timely payment of principal and interest on the bonds. The Developer and the Company have entered into a master lease agreement pursuant to which the developer will lease the land and buildings to the Company. The proceeds are held in trust pending use of the funds and the unexpended proceeds are reflected on the Company's balance sheet as restricted cash.

Pursuant to the master lease and loan agreements, all revenues from the operation of the Ohio emissions testing network are paid into certain accounts held by the Trustee pursuant to a cash management services agreement. The excess of revenues from operations over the amount required to be paid monthly to the Authority under the loan agreements and to the Ohio Environmental Protection Agency per the contracts will be available to the Company. The bonds are collateralized by all Ohio program assets.

The future minimum annual payments under the master lease and Company loan agreement for fiscal years ending September 30, are as follows:

1997	$10,430
1998	9,623
1999	9,617
2000	9,638
2001	9,636
Thereafter	40,894
Total minimum payments	89,838
Amount representing interest	(26,943)
Present value of minimum payments	62,895
Less current portion	(4,740)
	$58,155

18. OPERATING LEASES:

The Company is obligated under noncancelable operating leases for the building sites in Vancouver, British Columbia. The Vancouver lease runs for seven years ending August 31, 1999, with monthly payments averaging approximately $300. The Company has the option to renew this lease for an additional seven year period.

Copyright © 2012 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

(DOLLAR AMOUNTS IN THOUSANDS)

As of September 30, 1996, approximate future minimum lease commitments under noncancelable operating leases are as follows:

1997	$5,225
1998	5,068
1999	4,643
2000	922
2001	711
Thereafter	615
	$17,184

Rental expense for the years ended September 30, 1996, 1995 and 1994 was approximately $4,112, $6,406 and $5,944, respectively, net of sublease income of approximately $289 and $40 for 1996 and 1995, respectively.

19. COMMITMENTS AND CONTINGENCIES:

The Company's principal commitments at September 30, 1996 consisted of construction contracts of approximately $4,900 of which $1,800 has already been incurred for the Indiana program.

The Company has several performance bonds on its long-term contracts. These bonds are required by the contracts and vendor agreements in the event the Company cannot perform and complete the contracts and agreements. In addition, a bank holds a letter of credit in the amount of $2,400 guaranteed by the Company in connection with its performance obligations in respect of the Washington State contract. In the opinion of management, the Company will be able to fulfill the requirements of the long-term contracts and leases.

The State of Connecticut has made certain claims stating that the Company owes the State $2,400 plus accruing amounts for certain cost savings in the start up of the enhanced testing program in Connecticut. The Company cannot predict the outcome of this complaint. However, the Company believes that it has sufficient defense against these claims.

In October 1996, a class action lawsuit was filed asserting the 10 year contract between Ohio Environmental Protection Agency (OEPA) and the Company is unconstitutional and, thus, void. The complaint does not request money damages, except for attorney fees and costs, but seeks to have the Ohio motor vehicle emission inspection program and the Company's contract enjoined and declared unconstitutional. Subsequently, the Company filed its motion to intervene as an additional party defendant in order to protect its interest in the contract challenged by the plaintiffs' action. The Company believes that it has valid defenses to the claims contained in the complaint and intends to defend the matter vigorously.

The Company is a party to various other legal proceedings and claims in the ordinary course of business. Although the claims cannot be estimated, in the opinion of management, the resolution of these matters will not have a material adverse effect on the Company's consolidated financial position and results of operations.

20. QUARTERLY RESULTS OF OPERATIONS (UNAUDITED):

The following is a summary of the Company's quarterly results of operations for the years ended September 30, 1996 and 1995:

	1996 QUARTERS ENDED			
	DEC. 31	MAR. 31	JUN. 30	SEP. 30
Total contract revenues	$28,184	$30,024	$32,556	$33,708
Gross profit	6,292	1,812	7,416	6,803
Net income (loss)	5,588	(16,415)	(6,337)	(7,900)

Copyright © 2012 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

(DOLLAR AMOUNTS IN THOUSANDS)

Earnings (loss) per common and common equivalent share	$0.32	$(0.99)	$(0.38)	$(0.46)
Earnings (loss) per common share - assuming full dilution	$0.32	$(0.99)	$(0.38)	$(0.46)

	1995 QUARTERS ENDED			
	DEC. 31	MAR. 31	JUN. 30	SEP. 30
Total contract revenues	$22,745	$24,149	$29,066	$28,797
Gross profit	9,929	6,849	8,133	6,749
Net loss	(211)	(1,837)	(2,409)	(10,404)
Loss per common and common equivalent share	$(0.01)	$(0.12)	$(0.15)	$(0.64)
Loss per common share - assuming full dilution	$(0.01)	$(0.12)	$(0.15)	$(0.64)

21. FOREIGN OPERATIONS:

The Company's contract revenues from its foreign subsidiary, which is located in Vancouver, British Columbia, Canada were approximately $10,147, $12,285 and $13,450 for the years ended

September 30, 1996, 1995 and 1994, respectively, and were earned from a single customer. Identifiable assets of the foreign subsidiary totaled approximately $6,913, $5,686 and $6,221 at September 30, 1996, 1995 and 1994, respectively. The foreign subsidiary had a gross profit of approximately $572, $1,875 and $2,464 for the years ended September 30, 1996, 1995 and 1994, respectively.

22. SUMMARIZED SEPARATE FINANCIAL INFORMATION:

The Company's consolidated subsidiaries, Envirotest Technologies, Inc. ("ETI"), Remote Sensing Technology, Inc. and Envirotest Partners ("Partners") are guarantors of the Senior Notes and Notes. The total assets, net equity and net income of all the subsidiaries not guaranteeing the Senior Notes and Notes are less than ten percent of the respective amounts reported in the consolidated financial statements. As required by Rule 3-10(a) of Regulation S-X, this footnote sets forth the summarized financial information of the guarantor subsidiaries as of September 30, 1996 and 1995 and for the years ended September 30, 1996, 1995 and 1994.

In accordance with Staff Accounting Bulletin No. 73, the summarized financial information reflects the push down of the Company's debt, related interest expense and allocable debt issue costs associated with the Company's acquisition of ETI. In addition, as required by Staff Accounting Bulletin No. 55, the summarized financial information reflects all of the expenses that the Company incurred on the guarantors' behalf. Except for interest expense, certain general and administrative expenses and income taxes, expenses are separately identifiable and therefore, charged directly to the guarantors. Interest expense is allocated based on the amount of debt related to the acquisition of ETI; common general and administrative expenses are allocated based on management's assessment of the actual costs associated with the guarantors' operations; and income tax expense is provided in the guarantors' financial data on a separate return basis. Management believes that the methods used to allocate expenses to the guarantors are reasonable.

COMBINED SUMMARIZED BALANCE SHEET DATA
SEPTEMBER 30, 1996 AND 1995

	1996	1995
ASSETS		
Current assets	$ 8,193	$ 5,886
Non-current assets	129,046	250,961
Total assets	$137,239	$256,847

Copyright © 2012 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

LIABILITIES AND STOCKHOLDERS' EQUITY		
Due to parent	$ 18,535	$144,596
Other current liabilities	8,191	10,242
Total current liabilities	26,726	154,838
Non-current liabilities	84,459	80,074
Stockholders' equity	26,054	21,935
Total liabilities and stockholders' equity	$137,239	$256,847

COMBINED SUMMARIZED STATEMENTS OF OPERATIONS DATA
FOR THE YEARS ENDED SEPTEMBER 30, 1996, 1995 AND 1994

	1996	1995	1994
Contract revenues	$30,743	$45,047	$52,317
Gross profit	20,530	24,379	30,216
Net income	4,114	4,948	10,726

ITEM 9. CHANGES IN AND DISAGREEMENTS WITH ACCOUNTANTS ON ACCOUNTING AND FINANCIAL DISCLOSURE

None.

PART III

ITEM 10. DIRECTORS AND EXECUTIVE OFFICERS OF THE REGISTRANT

Information regarding directors is incorporated by reference to the Company's definitive proxy statement for its 1997 Annual Meeting of Stockholders (the "1997 Proxy Statement"). Information regarding executive officers of the Company, included herein under the caption, "Executive Officers of the Company" in Part I, Item 1 herein, is incorporated herein by reference.

ITEM 11. EXECUTIVE COMPENSATION

Incorporated by reference to the Company's 1997 Proxy Statement.

ITEM 12. SECURITY OWNERSHIP OF CERTAIN BENEFICIAL OWNERS AND MANAGEMENT

Incorporated by reference to the Company's 1997 Proxy Statement.

ITEM 13. CERTAIN RELATIONSHIPS AND RELATED TRANSACTIONS

Incorporated by reference to the Company's 1997 Proxy Statement.

PART IV

ITEM 14. EXHIBITS, FINANCIAL STATEMENT SCHEDULES AND REPORTS ON FORM 8-K.

(a)1 FINANCIAL STATEMENTS

ENVIROTEST SYSTEMS CORP.

Consolidated Balance Sheets at September 30, 1996 and 1995.

Consolidated Statements of Operations for the years ended September 30, 1996, 1995 and 1994.

Consolidated Statements of Stockholders' Equity for the years ended September 30, 1996, 1995 and 1994.

Consolidated Statements of Cash Flows for the years ended September 30, 1996, 1995 and

Copyright © 2012 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

1994.

Notes to Consolidated Financial Statements

Report of Independent Accountants.

(a)2 FINANCIAL STATEMENTS SCHEDULES

Schedule II -- Valuation and Qualifying Accounts

Schedules other than that listed above are omitted because they are not required or are not applicable, or because the information is furnished elsewhere in the financial statements or the notes thereto.

(a)3 EXHIBITS

3.1 Restated Certificate of Incorporation of Envirotest Systems Corp. (f)

3.2 First Amended and Restated Bylaws of Envirotest Systems Corp. (j)

3.4 Restated Certificate of Incorporation of Envirotest Technologies, Inc. (j)

3.5 Restated Bylaws of Envirotest Technologies, Inc. (g)

3.6 Second Amended and Restated Bylaws of Envirotest Systems Corp.

4.1 Indenture, dated as of April 1, 1993, by and among Envirotest Systems Corp., as issuer, Envirotest Technologies, Inc., as guarantor, and First Trust National Association, as trustee, governing the 9 5/8% Senior Subordinated Notes due 2003 of Envirotest Systems Corp. (f)

4.2 Indenture, dated as of March 15, 1994, by and among Envirotest Systems Corp., as issuer, Envirotest Technologies, Inc., as guarantor and First Trust National Association, as trustee, governing the 9 1/8% Senior Notes due 2001 of Envirotest Systems Corp. (h)

4.3 First Supplemental Indenture, dated as of March 16, 1994, by and among Envirotest Systems Corp., as issuer, Envirotest Technologies, Inc., Remote Sensing Technologies, Inc. and Envirotest Partners, as guarantors, and First Trust National Association, as trustee, governing the 9 5/8% Senior Subordinated Notes due 2003 of Envirotest Systems Corp. (h)

4.4 Second Supplemental Indenture, dated as of May 28, 1994, by and among Envirotest Systems Corp., as issuer, Envirotest Technologies, Inc., Remote Sensing

Technologies, Inc. and Envirotest Partners, as guarantors, and First Trust National Association, as trustee, governing the 9 5/8% Senior Subordinated Notes due 2003 of Envirotest Systems Corp. (j)

4.5 First Supplemental Indenture, dated as of March 15, 1994, by and among Envirotest Systems Corp., as issuer, Envirotest Technologies, Inc., Remote Sensing Technologies, Inc. and Envirotest Partners, as guarantors, and First Trust National Association, as trustee, governing the 9 1/8% Senior Notes due 2001 of Envirotest Systems Corp. (j)

4.6 Third Supplemental Indenture, dated as of January 30, 1996, by and among Envirotest Systems Corp., Envirotest Technologies, Inc., Remote Sensing Technologies, Inc., Envirotest Partners, Envirotest Acquisition Co., Systems Control, Inc., as guarantors, and First Trust National Association, as trustee, governing the 9 5/8% Senior Subordinated Notes due 2003 of Envirotest Systems Corp. (p)

4.7 Second Supplemental Indenture dated as of January 30, 1996 by and among, Envirotest Systems Corp., Envirotest Technologies, Inc., Remote Sensing Technologies, Inc., Envirotest Partners, Envirotest Acquisition Co., Systems Control, Inc., as guarantors, and First Trust National Association, as trustee governing the 9 1/8% Senior Notes due, 2001 of

Copyright © 2012 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

Envirotest Systems Corp. (p)

4.8 Trust Indenture between Indiana Finance Authority and Old National Trust Company, dated June 1, 1996. (p)

10.1 Amended and Restated Stockholders' Agreement, dated as of April 10, 1992, by and among Envirotest Systems Corp., Georgetown Partners Limited Partnership, Gnitrow Ltd., Equico Capital Corporation, Amoco Venture Capital Company, UNC Ventures II, L.P., UNC Ventures, Inc., MESBIC Ventures, Inc., Internationale Nederlanden (U.S.) Finance Corporation, Skopbank, Apollo Investment Fund, L.P., Chemical Equity Associates, and each of the individuals listed on the Schedule of Security holders attached thereto. (a)

10.2 Amendment No. 1 to Amended and Restated Stockholders' Agreement, dated as of November 10, 1992, by and among Envirotest Systems Corp. and the Management Stockholders signatory thereto. (a)

10.3 Stock Purchase Agreement, dated January 23, 1992, by and between Envirotest Systems Corp. and SD-Scicon plc. (a)

10.4 Sale and Leaseback Agreement, dated as of December 14, 1990, by and between

Hamilton Test Systems Ohio, Inc., as Lessor, and Hamilton Test Systems, Inc., as Lessee. (a)

10.5 Amendment No. 1 to Sale and Leaseback Agreement, dated as of December 14, 1990, by and between Hamilton Test Systems Ohio, Inc., as Lessor, and Hamilton Test Systems, Inc., as Lessee. (a)

10.6 Lease Supplement No. 1, dated December 21, 1990, by and between Hamilton Test Systems Ohio, Inc., as Lessor, and Hamilton Test Systems, Inc., as Lessee. (a)

10.7 Lease Supplement No. 1, dated February 4, 1991, by and between Hamilton Test Systems Ohio, Inc., as Lessor, and Hamilton Test Systems, Inc., as Lessee. (a)

10.8 Lease Supplement No. 2, dated March 28, 1991, by and between Hamilton Test Systems Ohio, Inc., as Lessor, and Hamilton Test Systems, Inc., as Lessee. (a)

10.9 Amendment No. 2 to Sale and Leaseback Agreement, dated as of July 12, 1991, by and between Hamilton Test Systems Ohio, Inc., as Lessor, and Hamilton Test Systems, Inc., as Lessee. (a)

10.10 Amendment No. 3 to Sale and Leaseback Agreement, dated as of April 10, 1992, by and between Hamilton Test Systems Ohio, Inc., as Lessor, and Hamilton Test Systems, Inc., as Lessee. (a)

10.11 Amendment No. 4 to Sale and Leaseback Agreement, dated as of November 17, 1992, by and between Kane Partners, L.P., as Lessor, and Hamilton Test Systems, Inc., as Lessee. (a)

10.12 Sale and Leaseback Agreement, dated as of December 14, 1990, by and between Hamilton Test Systems Nashville, Inc., as Lessor, and Hamilton Test Systems, Inc., as Lessee. (a)

10.13 Lease Supplement No. 1, dated February 4, 1991, by and between Hamilton Test Systems Nashville, Inc., as Lessor, and Hamilton Test Systems, Inc., as Lessee. (a)

10.14 Lease Supplement No. 2, dated March 11, 1991, by and between Hamilton Test Systems Nashville, Inc., as Lessor, and Hamilton Test Systems, Inc., as Lessee. (a)

10.15 Amendment No. 1 to Sale and Leaseback Agreement, dated as of July 12, 1991, by and between Hamilton Test Systems Nashville, Inc., as Lessor, and Hamilton Test Systems, Inc., as Lessee. (a)

10.16 Lease Supplement No. 3, dated March 28, 1991, by and between Hamilton Test Systems Nashville, Inc., as Lessor, and Hamilton Test Systems, Inc., as Lessee. (a)

10.17 Lease Termination, dated as of August , 1991, by and between Hamilton Test Systems Nashville, Inc., as Lessor, and Hamilton Test Systems, Inc., as Lessee. (a)

Copyright © 2012 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

10.18 Amendment No. 2 to Sale and Leaseback Agreement, dated as of April 10, 1992, by and between Hamilton Test Systems Nashville, Inc., as Lessor, and Hamilton Test Systems, Inc., as Lessee. (a)

10.19 Supplementary Agreement dated as of July 12, 1991, by and between Hamilton Test Systems Nashville, Inc., as Lessor, and Hamilton Test Systems, Inc., as Lessee. (a)

10.20 Ebco-Hamilton Partnership Agreement, dated for reference August 30, 1991, by and among Ebco Automotive Testing Holdings, Ltd., Hamilton Test Systems (BC) Ltd., Ebco-Hamilton Test Systems Ltd., Ebco Industries Ltd. and Hamilton Test Systems, Inc. (a)

10.21 Management Agreement, dated for reference August 30, 1991, by and between Hamilton Test Systems, Inc. and Ebco-Hamilton Partners. (a)

10.22 Form of Lease entered into by Ebco-Hamilton Partners and Intrawest Development Corporation for real estate and improvements used for program facilities in the British Columbia I/M program. (a)

10.23 Development and Exclusive License Agreement, dated May 15, 1991, by and among Colorado Seminary (d/b/a the University of Denver), Systems Control, Inc., Sun Electric Corporation, Donald H. Stedman, Ph.D and Gary A. Bishop, Ph.D. (a)

10.28 Employment Agreement, dated as of July 1, 1992, by and between Hamilton Test Systems, Inc. and Ronald M. Lancaster. (a)

10.30 Employment Agreement, dated as of January 1, 1993, by and between Envirotest Systems Corp. and Chester C. Davenport. (c)

10.32 Supplemental Retirement Plan Agreement, dated as of September 1, 1991, by and between Hamilton Test Systems, Inc. and Sylvia C. Edmonds. (a)

10.34 Envirotest Systems Corp. Stock Option Plan, dated as of January 21, 1993. (d)

10.35 Motor Vehicle Emissions Inspection Maintenance Program Agreement, dated for

reference April 15, 1991, by and between Her Majesty the Queen in Right of the Province of British Columbia and Ebco-Hamilton Test Systems Ltd., and Guaranteed by Hamilton Test Systems, Inc. (a)

10.36 Request for Proposal for the Design, Construction and Operation of a Motor Vehicle Emissions, Inspection, and Maintenance Program for the Lower Mainland of British Columbia, dated September 28, 1990, as revised March 29, 1991. (a)

10.37 Technical Proposal, consisting of Volume IV Design/Operational Proposal and Volume IV Appendices, submitted by Hamilton Test Systems, Inc. in cooperation with the Ebco Group, dated November 30, 1990. (a)

10.38 Motor Vehicle Emissions Inspection and Maintenance Program Assignment and Assumption Agreement, dated for reference August 30, 1991, by and between Her Majesty the Queen in Right of the Province of British Columbia and Ebco-Hamilton Test Systems Ltd., as Assignor, and Ebco-Hamilton Test Systems Ltd., Ebco Automotive Testing Holdings Ltd. and Hamilton Test Systems (B.C.) Ltd., carrying on business as Ebco-Hamilton Partners, as Assignee. (a)

10.39 Guarantee Agreement, dated for reference August 30, 1991, by and between Hamilton Test Systems, Inc., as Guarantor, and the Queen in Right of the Province of British Columbia. (a)

10.40 Motor Vehicle Emissions Inspection and Maintenance Program Amendment No. 1, dated for reference May 15, 1991, by and between Her Majesty the Queen in Right of the Province of British Columbia and Ebco-Hamilton Test Systems Ltd., Ebco Automotive Testing Holdings Ltd. and Hamilton Test Systems (B.C.) Ltd., carrying on business as Ebco-Hamilton Partners. (a)

10.41 Motor Vehicle Emissions Inspection and Maintenance Program Amendment No. 2, dated for reference May 31, 1991, by and between Her Majesty the Queen in Right of the Province of British Columbia and Ebco-Hamilton Test Systems Ltd., Ebco Automotive Testing

Copyright © 2012 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

Holdings Ltd. and Hamilton Test Systems (B.C.) Ltd., carrying on business as Ebco-Hamilton Partners. (a)

10.42 Motor Vehicle Emissions Inspection and Maintenance Program Amendment No. 3, dated for reference December 13, 1991, by and between Her Majesty the Queen in Right of the Province of British Columbia and Ebco-Hamilton Test Systems Ltd., Ebco Automotive Testing Holdings Ltd. and Hamilton Test Systems (B.C.) Ltd., carrying on business as Ebco-Hamilton Partners. (a)

10.43 Motor Vehicle Emissions Inspection and Maintenance Program Amendment No. 4,

dated for reference April 1, 1992, by and between Her Majesty the Queen in Right of the Province of British Columbia and Ebco-Hamilton Test Systems Ltd., Ebco Automotive Testing Holdings Ltd. and Hamilton Test Systems (B.C.) Ltd., carrying on business as Ebco-Hamilton Partners. (a)

10.44 Contract for the Establishment and Operation of Motor Vehicle Inspection Program Facilities for the State of Connecticut, dated as of December 31, 1987, by and between the State of Connecticut and Hamilton Test Systems, Inc. (a)

10.45 Extension and Modification of Contract between the State of Connecticut and Hamilton Test Systems, Inc. for the Establishment and Operation of Motor Vehicle Inspection Program Facilities Dated December 31, 1987, dated as of May 20, 1992, by and between the State of Connecticut and Hamilton Test Systems, Inc. (a)

10.46 Change Order to Contract between the State of Connecticut and Hamilton Test Systems, Inc. for the Establishment and Operation of Motor Vehicle Inspection Program Facilities Dated December 31, 1987, as Modified by an Extension and Modification Agreement Effective May 20, 1992, dated as of July 30, 1992, by and between the State of Connecticut and Hamilton Test Systems, Inc. (a)

10.47 Contract for Motor Vehicle Inspection Program (for Zone 3 -- Palm Beach County), dated as of January 31, 1990, by and between the State of Florida, the Department of Highway Safety and Motor Vehicle, and Systems Control, Inc. (Contract No. MO169). (a)

10.48 Request for Proposal No. 3646-89 for the Establishment and Operation of the Motor Vehicle Inspection Program issued by the State of Florida. (a)

10.49 Proposal to the Florida Department of Highway Safety and Motor Vehicles in response to RFP 3646-89 submitted by Systems Control, Inc. for Zones 3 and 5. (a)

10.50 Amendment No. 1 to the Motor Vehicle Inspection Program Contract No. MO169, dated February 1, 1990, by and between the State of Florida, the Department of Highway Safety and Motor Vehicles, and Systems Control, Inc. (a)

10.51 Contract for Motor Vehicle Inspection Program (for Zone 5 -- Dade County), dated as of January 31, 1990, by and between the State of Florida, the Department of Highway Safety and Motor Vehicle, and Systems Control, Inc. (Contract No. MO171). (a)

10.52 Amendment No. 1 to the Motor Vehicle Inspection Program Contract No. MO171, dated February 1, 1990, by and between the State of Florida, the Department of

Highway Safety and Motor Vehicle, and Systems Control, Inc. (a)

10.53 Professional Services Agreement, dated October 31, 1990, by and between the Illinois Environmental Protection Agency and Systems Control, Inc. (Agency Agreement No. VI-1024). (a)

10.54 Illinois Environmental Protection Agency's Scope of Services for the Extension of the Vehicle Emission Test Program, dated October 31, 1990. (a)

10.55 License Agreement, dated October 31, 1990, by and between the Illinois Environmental Protection Agency and Systems Control, Inc.

Copyright © 2012 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

(a)

10.56 Technical Proposal for the Extension of the Illinois Vehicle Emission Test Program submitted by Systems Control, Inc. (a)

10.57 Amendment No. 1 to Professional Services Agreement Number VI-1024, dated April 8, 1991, by and between the Illinois Environmental Protection Agency and Systems Control, Inc. (a)

10.58 Amendment No. 2 to Professional Services Agreement Number VI-1024, dated May 1, 1991, by and between the Illinois Environmental Protection Agency and Systems Control, Inc. (a)

10.59 Contract-VI-1, dated July 31, 1985, by and between the Illinois Environmental Protection Agency and Systems Control, Inc. (a)

10.60 Request for Proposal for the Illinois Motor Vehicle Emissions Inspection Program, dated January 1985. (a)

10.61 Contract No. DOT-MDE-92-001 for Establishment and Operation of a Vehicle Emissions Inspection Program, dated as of January 1, 1992, by and between the State of Maryland (the Department of Transportation, the Motor Vehicle Administration and the Department of the Environment) and Systems Control, Inc. (a)

10.62 Invitation for Bids for Contract DOT-MDE-88-001, dated May 9, 1988. (a)

10.63 Technical Offer submitted by Systems Control, Inc. to the State of Maryland, dated June 27, 1988. (a)

10.64 Systems Control, Inc.'s letter to the State of Maryland, dated June 26, 1991. (a)

10.65 General Conditions of the Contract for the Establishment and Operation of Motor Vehicle Inspection/Maintenance Program for the State of Minnesota, dated as of July 18, 1990, by and between the State of Minnesota, acting through the Pollution Control Agency, and Systems Control, Inc., doing business in Minnesota as Systems Control Vehicle Testing, Inc. (a)

10.66 Request for Proposal for the Establishment and Operation of Motor Vehicle Inspection/Maintenance Program for the State of Minnesota Pollution Control Agency, dated November 20, 1989. (a)

10.67 Proposal submitted by Systems Control, Inc. to the State of Minnesota Pollution Control Agency in response to the Request for Proposal. (a)

10.68 Amendment No. 1 to the General Conditions of the Contract for the Establishment and Operation of Motor Vehicle Inspection/Maintenance Program for the State of Minnesota, dated as of June 17, 1991, by and between the State of Minnesota, acting through the Pollution Control Agency, and Systems Control, Inc., doing business in Minnesota as Systems Control Vehicle Testing, Inc. (a)

10.69 Amendment No. 2 to the General Conditions of the Contract for the Establishment and Operation of Motor Vehicle Inspection/Maintenance Program for the State of Minnesota, dated as of May 15, 1992, by and between the State of Minnesota, acting through the Pollution Control Agency, and Systems Control, Inc., doing business in Minnesota as Systems Control Vehicle Testing, Inc. (a)

10.70 Term Contract for Establishment and Performance of a Vehicular Tailpipe Emissions Inspection Program for Cuyahoga County, dated December 28, 1989, by and between the State of Ohio, the Ohio Environmental Protection Agency (through the Department of Administrative Services), and Hamilton Test System, Inc. (Term Contract No. 680138-GS). (a)

10.71 Ohio Environmental Protection Agency Invitation to Bid for a Vehicular Emissions Inspection Program for Cuyahoga County (Bid No.: 680138-GS). (a)

10.72 Letter dated July 5, 1990 from the Ohio Environmental Protection Agency to Hamilton Test Systems, Inc. (a)

10.73 Contract for Operation of Vehicle Inspection and Maintenance Program, dated July 1990, by and between the Metropolitan

Copyright © 2012 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

Government of Nashville and Davidson County and Hamilton Test Systems, Inc. (a)

10.74 Terms and Specifications to Establish and Operate a Vehicle Inspection and

Maintenance Program for Nashville and Davidson County. (a)

10.75 Proposal submitted by Hamilton Test Systems, Inc. to the Metropolitan Government of Nashville and Davidson County. (a)

10.76 Extension of the Contract for the Continued Operation of Motor Vehicle Emissions Inspection and Maintenance Program Facilities for the State of Wisconsin, dated as of August 1, 1988, by and between the State of Wisconsin, the Department of Transportation, and Hamilton Test Systems, Inc. (a)

10.77 Supplemental Agreement No. 5, dated as of March 23, 1989, by and between the State of Wisconsin, the Department of Transportation, and Hamilton Test Systems, Inc. (a)

10.78 Extension and Modification of the Contract for the Continued Operation of Motor Vehicle Emissions Inspection and Maintenance Program Facilities for the State of Wisconsin, dated as of September 1, 1992, by and between the State of Wisconsin, the Department of Transportation, and Hamilton Test Systems, Inc. (a)

10.79 Contract, dated September 30, 1992, by and between Hamilton Test Systems, Inc. and the Environmental Protection Agency. (b)

10.80 Amendment No. 1 to Employment Agreement, dated as of January 1, 1993, by and between Hamilton Test Systems, Inc. and Ronald M. Lancaster. (c)

10.83 Stockholders' Agreement, dated as of March 30, 1993, by and among Chester C. Davenport, Sylvia C. Edmonds, Georgetown Partners Limited Partnership, Chemical Equity Associates, A California Limited Partnership, TSG Ventures Inc., and the New Class B Holders. (e)

10.84 Amendment No. 2 to Amended and Restated Stockholders' Agreement, dated as of March 30, 1993, by and among Envirotest Systems Corp., Georgetown Partners Limited Partnership, Kane Partners, L.P., TSG Ventures Inc. (f/k/a/ Equico Capital Corporation), Amoco Venture Capital Company, UNC Ventures II, L.P., UNC Ventures, Inc., MESBIC Ventures, Inc., Internationale Nederlanden (U.S.) Finance Corporation, Skopbank, Apollo Investment Fund, L.P., Chemical Equity Associates, and each of the individuals listed on the Schedule of Securityholders attached thereto. (e)

10.85 Amendment No. 4 to Sale and Leaseback Agreement, dated as of March 30, 1993, by and between Kane Partners, L.P., as Lessor, and Hamilton Test Systems, Inc., as Lessee (relating to Tennessee property). (e)

10.86 Amendment No. 5 to Sale and Leaseback Agreement, dated as of March 30, 1993, by and between Kane Partners, L.P., as Lessor, and Hamilton Test Systems, Inc., as Lessee (relating to Ohio property). (e)

10.87 Agreement for Consulting Services, dated as of September 1, 1993, by and between Envirotest Systems Corp. and Cheviot Capital Advisors Inc. (f)

10.88 Contract for Centralized Emissions Inspection Facilities, dated November 11, 1993, by and between the Commonwealth of Pennsylvania, Department of Transportation, and Envirotest/Synterra Partners. (f)

10.89 Request for Proposal for Pennsylvania's Centralized Vehicle Inspection/Maintenance (I/M) Program, RFP Number 111142, dated June 21, 1993. (f)

10.90 An Agreement between the Colorado Department of Health, the Colorado Department of Revenue and Envirotest Systems Corp., dated

Copyright © 2012 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

February 22, 1994. (g)

10.91 Contract between the State of Connecticut and Envirotest Systems Corporation for the Establishment and Operation of the Motor Vehicle Inspection Program Facilities for the State of Connecticut dated April 15, 1994. (h)

10.92 Contract Between the Department of Environment and Conservation State of Tennessee and Envirotest Systems Corporation Dated May 12, 1994. (i)

10.93 State of Ohio Environmental Protection Agency, Contract for Services with Envirotest Systems Corp., dated October 1994, for Montgomery, Clark and Greene Counties. (k)

10.94 State of Ohio Environmental Protection Agency, Contract for Services with Envirotest Systems Corp., dated October 1994, for Summit, Portage, Medina, Lake, Lorain and Geauga Counties. (k)

10.95 Agreement between the Wisconsin Department of Transportation and Envirotest Systems Corp. for the establishment and Operation of Motor Vehicle Emissions Inspection Facilities for the State of Wisconsin, dated January, 1995. (k)

10.96 Employment Agreement, dated as of February 1, 1995 between Envirotest Systems Corp. and Ralph E. Reins. (k)

10.97 State of Ohio Environmental Protection Agency, Contract for Services with Envirotest Systems Corp., dated April 25, 1995, for Cuyahoga County. (l)

10.98 Separation, Release and Waiver Agreement, dated as of May 24, 1995 by and between the Company and William J. Beckham, Jr. (m)

10.99 Agreement with State of California, dated June 1995. (m)

10.100 General Release and Settlement Agreement, dated December 15, 1995 between Envirotest, the Commonwealth of Pennsylvania and the Pennsylvania Department of Transportation. (n)

10.101 Release of Claim and Dismissal of Litigation before the Commonwealth Court of the Commonwealth of Pennsylvania, dated December 18, 1995. (n)

10.102 Contract between Bureau of Automotive Repairs for the State of California and Remote Sensing Technologies, Inc., dated July 13, 1995. (n)

10.103 Employment Agreement between F. Robert Miller and Envirotest Systems Corp. dated January 26, 1996. (o)

10.104 Amendment No. 3 to Contract L-90-5140 between the Metropolitan Government of Nashville and Davidson County and Envirotest Systems Corp. dated December 19, 1995. (o)

10.105 Amendment No. 6 dated December 21, 1995 to Professional Services Agreement Number VI-1024 between the State of Illinois Environmental Protection Agency and Envirotest Technologies, Inc. (o)

10.106 Agreement between Indiana Department of Environmental Management and Envirotest Systems Corp. dated June 26, 1996. (p)

10.107 Loan Agreement between Envirotest Systems Corp. and Indiana Development Finance Authority, dated June 1, 1996. (p)

10.108 Employment Agreement between C. Michael Alston and Envirotest Systems Corp., effective January 1, 1996.

10.109 Employment Agreement between Raj Modi and Envirotest Systems Corp., effective January 1, 1996.

10.110 Employment Agreement between Lawrence Taylor and Envirotest Systems Corp.,

effective January 1, 1996.

Copyright © 2012 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

10.111 Contract between State of Washington and Envirotest Systems Corp.

10.112 Purchase and Sale Agreement between ES Funding Corporation and Envirotest Partners, dated November 26, 1996.

10.113 Liquidity Loan Agreement among The Liquidity Lenders, Market Street Capital Corp., Envirotest Partners and PNC Bank, National Association, dated November 26, 1996.

10.114 Receivables Purchase Agreement among Market Street Capital Corp., ES Funding Corporation and PNC Bank, National Association, dated November 26, 1996.

11. Statement of Computation of Per Share Earnings.

21. Subsidiaries of Envirotest Systems Corp. and Envirotest Technologies, Inc.

23. Consent of Independent Accountants regarding incorporation by reference to Registration Statement on Form S-8.

(a) Incorporated by reference to the similarly numbered Exhibits to the Registrant's Registration Statement on Form S-1 (No. 33-57384) filed on January 25, 1993.

(b) Incorporated by reference to the similarly numbered Exhibits to Amendment No. 1 to the Registrant's Registration Statement on Form S-1 (No. 33-57384) filed on March 12, 1993.

(c) Incorporated by reference to the similarly numbered Exhibits to Amendment No. 2 to the Registrant's Registration Statement on Form S-1 (No. 33-57384) filed on March 25, 1993.

(d) Incorporated by reference to the similarly numbered Exhibits to Amendment No. 3 to the Registrant's Registration Statement on Form S-1 (No. 33-57384) filed on March 30, 1993.

(e) Incorporated by reference to the similarly numbered Exhibits to the Company's Quarterly Report on Form 10-Q for the quarterly period ended March 31, 1993.

(f) Incorporated by reference to the similarly numbered Exhibits to the Company's Annual Report on Form 10-K for the fiscal year ended September 30, 1993, filed on December 29, 1993.

(g) Incorporated by reference to the similarly numbered Exhibits to Amendment No. 2 to the Registrant's Registration Statement on Form S-1 (No. 33-75406) filed on March 8, 1994.

(h) Incorporated by reference to the similarly numbered Exhibits to the Company's Quarterly Report on Form 10-Q for the quarterly period ended March 31, 1994.

(i) Incorporated by reference to the similarly numbered Exhibits to the Company's Quarterly Report on Form 10-Q for the quarterly period ended June 30, 1994.

(j) Incorporated by reference to the similarly numbered Exhibits to the Company's Annual Report on Form 10-K for the fiscal year ended September 30, 1994, filed on December 29, 1994.

(k) Incorporated by reference to the similarly numbered Exhibits to the Company's Quarterly Report on Form 10-Q for the quarterly period ended December 31,1994.

(l) Incorporated by reference to the similarly numbered Exhibits to the Company's Quarterly Report on Form 10-Q for the quarterly period ended March 31, 1995.

(m) Incorporated by reference to the similarly numbered Exhibits to the Company's Quarterly Report on Form 10-Q for the quarterly period ended June 30, 1995.

(n) Incorporated by reference to the similarly numbered Exhibits to the Company's Annual Report on Form 10-K for the fiscal year ended September 30, 1995, filed on December 29, 1995.

(o) Incorporated by reference to the similarly numbered Exhibits to the Company's Quarterly report on Form 10-Q for the quarterly

Copyright © 2012 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

period ended March 31, 1996.

(p) Incorporated by reference to the similarly numbered Exhibits to the Company's Quarterly Report on Form 10-Q for the quarterly period ended June 30, 1996.

(b) REPORTS ON FORM 8-K

The registrant filed no reports on Form 8-K during fiscal 1996.

SIGNATURES

Pursuant to the requirements of Section 13 or 15(d) of the Securities Exchange Act of 1934, as amended, the registrants have duly caused this report to be signed on its behalf by the undersigned, thereunto duly authorized, in the City of Bethesda, State of Maryland, on the 24th day of December, 1996.

ENVIROTEST TECHNOLOGIES, INC.	ENVIROTEST SYSTEMS CORP.
By: /s/ Chester C. Davenport	By: /s/ Chester C. Davenport
Chester C. Davenport	Chester C. Davenport
Chairman of the Board of Directors	Chairman of the Board of Directors

Pursuant to the requirements of the Securities Exchange Act of 1934, this report has been signed by the following persons on behalf of the registrants and in the capacities and on the dates indicated:

SIGNATURE	TITLE	DATE
/s/ Chester C. Davenport (Chester C. Davenport)	Chairman of the Board of Directors	December 24, 1996
/s/ F. Robert Miller (F. Robert Miller)	President, Chief Operating Officer, Director	December 23, 1996
/s/ Raj Modi (Raj Modi)	Vice President, Chief Financial Officer, Treasurer and Assistant Secretary (Principal Financial and Accounting Officer)	December 24, 1996
(Richard L. Gelfond)	Vice Chairman of the Board of Directors	December ___, 1996
/s/ Cleveland Christophe (Cleveland A. Christophe)	Director	December 23, 1996
(Edward Dugger III)	Director	December ___, 1996
(Craig M. Cogut)	Director	December ___, 1996

/s/ Robert W. Kasten Jr. (Robert W. Kasten, Jr.)	Director	December 23, 1996

Copyright © 2012 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

REPORT OF INDEPENDENT ACCOUNTANTS

To the Board of Director and Stockholders
Envirotest Systems Corp.

Our report on the consolidated financial statements of Envirotest Systems Corp. is included on page 43 of this Form 10-K. In connection with our audits of the financial statements, we have also audited the related financial statement schedule listed in the index of this Form 10-K.

In our opinion, the financial statement schedule referred to above, when considered in relation to the basic financial statements taken as a whole, presents fairly, in all material respects, the information required to be included therein.

/s/ Coopers & Lybrand L.L.P.
San Jose California
December 13, 1996

ENVIROTEST SYSTEMS CORP.
SCHEDULE II - VALUATION AND QUALIFYING ACCOUNTS
(IN THOUSANDS)

<TABLE>
<CAPTION>

Classification	Beginning of Period	Costs and Expense	Other Accounts	Deductions	Balance at End of Period
<S>	<C>	<C>	<C>	<C>	<C>
SEPTEMBER 30, 1996					
Allowance for doubtful accounts	$375	$74	--	--	$449
SEPTEMBER 30, 1995					
Allowance for doubtful accounts	$354	$21	--	--	$375
SEPTEMBER 30, 1994					
Allowance for doubtful accounts	$250	$104	--	--	$354

</TABLE>

Copyright © 2012 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

SECOND AMENDED AND RESTATED BYLAWS

OF

ENVIROTEST SYSTEMS CORP.

a Delaware corporation

(the "Company")

(As adopted on March 26, 1993,
amended on November 22, 1994, and further
amended in September 1996)

TABLE OF CONTENTS

Copyright © 2012 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

Copyright © 2012 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

RESTATED BYLAWS

ARTICLE I.

Copyright © 2012 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

OFFICES

Section 1.1. REGISTERED OFFICE. The registered office of the Company within the State of Delaware shall be located at either (i) the principal place of business of the Company in the State of Delaware or (ii) the office of the corporation or individual acting as the Company's registered agent in Delaware.

Section 1.2. ADDITIONAL OFFICES. The Company may, in addition to its registered office in the State of Delaware, have such other offices and places of business, both within and without the State of Delaware, as the Board of Directors of the Company (the "Board") may from time to time determine or as the business and affairs of the Company may require.

ARTICLE II.

STOCKHOLDERS MEETINGS

Section 2.1. ANNUAL MEETINGS. Annual meetings of stockholders shall be held at a place and time on any weekday which is not a holiday as shall be designated by the Board and stated in the notice of the meeting, at which the stockholders shall elect the directors of the Company and transact such other business as may properly be brought before the meeting.

Section 2.2. SPECIAL MEETINGS. Special meetings of the stockholders, for any purpose or purposes, unless otherwise prescribed by law or by the certificate of incorporation, (i) may be called by the chairman of the board or the president and (ii) shall be called by the president or secretary at the request in writing of a majority of the Board or stockholders owning capital stock of the Company representing forty percent (40%) of the votes of all capital stock of the Company entitled to vote thereat. Such request of the Board or the stockholders shall state the purpose or purposes of the proposed meeting.

Section 2.3. NOTICES. Written notice of each stockholders' meeting stating the place, date and hour of the meeting shall be given to each stockholder entitled to vote thereat by or at the direction of the officer calling such meeting not less than ten (10) nor more than sixty (60) days before the date of the meeting. If said notice is for a stockholders meeting other than an annual meeting, it shall in addition state the purpose or purposes for which said meeting is called, and the business transacted at such meeting shall be limited to the matters so stated in said notice and any matters reasonably related thereto.

Section 2.4. QUORUM. The presence at a stockholders' meeting of

Copyright © 2012 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

the holders, present in person or represented by proxy, of capital stock of the Company representing a majority of the votes of all capital stock of the Company entitled to vote thereat shall constitute a quorum at such meeting for the transaction of business except as otherwise provided by law, the certificate of incorporation or these Bylaws. If a quorum shall not be present or represented at any meeting of the stockholders, a majority of the stockholders entitled to vote thereat, present in person or represented by proxy, shall have power to adjourn the meeting from time to time, without notice other than announcement at the meeting, until a quorum shall be present or represented. At such reconvened meeting at which a quorum shall be present or represented, any business may be transacted which might have been transacted at the meeting as originally notified. If the adjournment is for more than thirty (30) days, or if after the adjournment a new record date is fixed for the reconvened meeting, a notice of said meeting shall be given to each stockholder entitled to vote at said meeting. The stockholders present at a duly convened meeting may continue to transact business until adjournment, notwithstanding the withdrawal of enough stockholders to leave less than a quorum.

Section 2.5. VOTING OF SHARES.

Section 2.5.1. VOTING LISTS. The officer or agent who has charge of the stock ledger of the Company shall prepare, at least ten (10) days before every meeting of stockholders, a complete list of the stockholders entitled to vote thereat arranged in alphabetical order and showing the address and the number of shares registered in the name of each stockholder. Such list shall be open to the examination of any stockholder, for any purpose germane to the meeting, during ordinary business hours for a period of at least ten (10) days prior to the meeting, either at a place within the city where the meeting is to be held, which place shall be specified in the notice of the meeting, or, if not so specified, at the place where the meeting is to be held. The list shall also be produced and kept at the time and place of the meeting during the whole time thereof, and may be inspected by any stockholder who is present. The original stock transfer books shall be prima facie evidence as to who are the stockholders entitled to examine such list or transfer books or to vote at any meeting of stockholders. Failure to comply with the requirements of this section shall not affect the validity of any action taken at said meeting.

Section 2.5.2. VOTES PER SHARE. Each outstanding share of capital stock shall be entitled to vote in accordance with the provisions for voting included in the certificate of incorporation. In determining the number of shares of stock required by law, by the certificate of incorporation or by these Bylaws to be represented for any purpose, or to determine the outcome of any matter submitted to stockholders for approval or consent, the

Copyright © 2012 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

number of shares represented or voted shall be weighted in accordance with the provisions of the certificate of incorporation regarding voting powers of each class of stock. Any reference in these Bylaws to a majority or a particular percentage of the voting stock or a majority or a particular percentage of the stock voting shall be deemed to refer to a majority or a particular percentage, respectively, of the voting power of such stock. Issues shall be determined by a class vote only when a class vote is required by law or the certificate of incorporation.

Section 2.5.3. PROXIES. Every stockholder entitled to vote at a meeting or to express consent or dissent without a meeting or a stockholder's duly authorized attorney-in-fact may authorize another person or persons to act for him by proxy. Each proxy shall be in writing, executed by the stockholder giving the proxy or by his duly authorized attorney. No proxy shall be voted on or after three (3) years from its date, unless the proxy provides for a longer period. Unless and until voted, every proxy shall be revocable at the pleasure of the person who executed it, or his legal representatives or assigns, except in those cases where an irrevocable proxy permitted by statute has been given.

Section 2.5.4. REQUIRED VOTE. When a quorum is present at any meeting, the vote of the holders, present in person or represented by proxy, of capital stock of the Company representing a majority of the votes of all capital stock of the Company entitled to vote thereat shall decide any question brought before such meeting, unless the question is one upon which, by express provision of law or the certificate of incorporation or these Bylaws, a different vote is required, in which case such express provision shall govern and control the decision of such question.

Section 2.6. CONSENTS IN LIEU OF MEETING. Any action required to be or which may be taken at any meeting of stockholders may be taken without a meeting, without prior notice and without a vote, if a consent in writing, setting forth the action so taken, shall be signed by the holders of outstanding stock representing not less than the minimum number of votes that would be necessary to authorize or take such action at a meeting at which all shares entitled to vote thereon were present and voted. Prompt, written notice of the action taken by means of any such consent which is other than unanimous shall be given to those stockholders who have not consented in writing.

ARTICLE III.

DIRECTORS

Section 3.1. PURPOSE. The business of the Company shall be managed by or under the direction of the Board, which may exercise

Copyright © 2012 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

all such powers of the Company and do all such lawful acts and things as are not by law, the certificate of incorporation or these Bylaws directed or required to be exercised or done by the stockholders. Directors need not be stockholders or residents of the State of Delaware.

Section 3.2. NUMBER. The number of directors constituting the entire Board shall be nine. The term "entire Board" as used in these Bylaws means the total number of directors that the Company would have if there were no vacancies.

Section 3.3. ELECTION. Directors shall be elected in accordance with the provisions of the certificate of incorporation, and each director shall hold office until his successor has been duly elected and qualified.

Section 3.4. VACANCIES. Vacancies and newly-created directorships resulting from any increase in the authorized number of directors shall be filled in accordance with the provisions of the certificate of incorporation. No decrease in the size of the Board shall serve to shorten the term of an incumbent director.

Section 3.5. COMPENSATION. Unless otherwise restricted by the certificate of incorporation or these Bylaws, the Board shall have the authority to fix the compensation of directors. The directors may be reimbursed their expenses, if any, of attendance at each meeting of the Board and may be paid either a fixed sum for attendance at each meeting of the Board or a stated salary as director, or both. No such payment shall preclude any director from serving the Company in any other capacity and receiving compensation therefor. Members of committees of the Board may be allowed like compensation for attending committee meetings.

ARTICLE IV.

BOARD MEETINGS

Section 4.1. ANNUAL MEETINGS. The Board shall meet as soon as practicable after the adjournment of each annual stockholders' meeting at the place of the stockholders' meeting. No notice to the directors shall be necessary to legally convene this meeting, provided a quorum is present.

Section 4.2. REGULAR MEETINGS. Regularly scheduled, periodic meetings of the Board may be held without notice at such times and places as shall from time to time be determined by resolution of the Board and communicated to all directors.

Section 4.3. SPECIAL MEETINGS. Special meetings of the Board (i) may be called by the chairman of the board or president

Copyright © 2012 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

and (ii) shall be called by the president or secretary on the written request of two directors or the sole director, as the case may be. Notice of each special meeting of the Board shall be given, either personally or as hereinafter provided, to each director at least 24 hours before the meeting if such notice is delivered personally or by means of telephone, telegram, telex or facsimile transmission and delivery, two days before the meeting if such notice is delivered by a recognized express delivery service, and three days before the meeting if such notice is delivered through the United States mail. Any and all business may be transacted at a special meeting which may be transacted at a regular meeting of the Board. Except as may be otherwise expressly provided by law, the certificate of incorporation or these Bylaws, neither the business to be transacted at, nor the purpose of, any special meeting need be specified in the notice or waiver of notice of such meeting.

Section 4.4. QUORUM, REQUIRED VOTE. A majority of the directors shall constitute a quorum for the transaction of business at any meeting of the Board, and the act of a majority of the directors present at any meeting at which there is a quorum shall be the act of the Board, except as may be otherwise specifically provided by law, the certificate of incorporation or these Bylaws. If a quorum shall not be present at any meeting, a majority of the directors present may adjourn the meeting from time to time, without notice other than announcement at the meeting, until a quorum is present.

Section 4.5. CONSENT IN LIEU OF MEETING. Unless otherwise restricted by the certificate of incorporation or these Bylaws, any action required or permitted to be taken at any meeting of the Board or any committee thereof may be taken without a meeting, if all members of the Board or committee, as the case may be, consent thereto in writing, and the writing or writings are filed with the minutes of proceedings of the Board or committee.

ARTICLE V.

COMMITTEES OF DIRECTORS

Section 5.1. ESTABLISHMENT; STANDING COMMITTEES. The Board may by resolution establish, name or dissolve one or more committees, each committee to consist of one or more of the directors. Each committee shall keep regular minutes of its meetings and report the same to the Board when required. There shall exist the following standing committees, which committees shall have and may exercise the following powers and authority:

Section 5.1.1. AUDIT COMMITTEE. The Audit Committee shall, from time to time, meet to review and monitor the financial

Copyright © 2012 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

and cost accounting practices and procedures of the Company and its subsidiaries and to report its findings and recommendations to the Board for final action. The Audit Committee shall not be empowered to approve any corporate action, of whatever kind or nature, and the recommendations of the Audit Committee shall not be binding on the Board, except when, pursuant to the provisions of Section 5.2 of these Bylaws, such power and authority have been specifically delegated to such committee by the Board by resolution. In addition to the foregoing, the specific duties of the Audit Committee shall be determined by the Board by resolution.

Section 5.1.2. COMPENSATION COMMITTEE. The Compensation Committee shall, from time to time, meet to review the various compensation plans, policies and practices of the Company and its subsidiaries and to report its findings and recommendations to the Board for final action. The Compensation Committee shall not be empowered to approve any corporate action, of whatever kind or nature, and the recommendations of the Compensation Committee shall not be binding on the Board, except when, pursuant to the provisions of Section 5.2 of these Bylaws, such power and authority have been specifically delegated to such committee by the Board by resolution. In addition to the foregoing, the specific duties of the Compensation Committee shall be determined by the Board of Directors by resolution.

Section 5.2. AVAILABLE POWERS. Any committee established pursuant to Section 5.1 of these Bylaws, including the Audit Committee and the Compensation Committee, but only to the extent provided in the resolution of the Board establishing such committee or otherwise delegating specific power and authority to such committee and as limited by law, the certificate of incorporation and these Bylaws, shall have and may exercise all the powers and authority of the Board in the management of the business and affairs of the Company, and may authorize the seal of the Company to be affixed to all papers which may require it.

Section 5.3. UNAVAILABLE POWERS. No committee of the Board shall have the power or authority to amend the certificate of incorporation; adopt an agreement of merger or consolidation; recommend to the stockholders the sale, lease or exchange of all or substantially all of the Company's property and assets, a dissolution of the Company or a revocation of such a dissolution; amend the Bylaws of the Company; or, unless the resolution establishing such committee or the certificate of incorporation expressly so provides, declare a dividend, authorize the issuance of stock or adopt a certificate of ownership and merger.

Section 5.4. ALTERNATE MEMBERS. The Board may designate one or more

Copyright © 2012 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

directors as alternate members of any committee, who may replace any absent or disqualified member at any meeting of such committee. In the absence or disqualification of a member of a

committee, the member or members thereof present at any meeting and not disqualified from voting, whether or not he or they constitute a quorum, may unanimously appoint another member of the Board to act at the meeting in the place of any such absent or disqualified member.

Section 5.5. PROCEDURES. Time, place and notice, if any, of meetings of a committee shall be determined by such committee. At meetings of a committee, a majority of the number of members designated by the Board shall constitute a quorum for the transaction of business. The act of a majority of the members present at any meeting at which a quorum is present shall be the act of the committee, except as otherwise specifically provided by law, the certificate of incorporation or these Bylaws. If a quorum is not present at a meeting of a committee, the members present may adjourn the meeting from time to time, without notice other than an announcement at the meeting, until a quorum is present.

ARTICLE VI.

OFFICERS

Section 6.1. ELECTED OFFICERS. The Board shall elect a chairman of the board, a president, a treasurer and a secretary (collectively, the "Required Officers") having the respective duties enumerated below and may elect such other officers having the titles and duties set forth below which are not reserved for the Required Officers or such other titles and duties as the Board may by resolution from time to time establish:

Section 6.1.1. CHAIRMAN OF THE BOARD. The chairman of the board, or in his absence, the president, shall preside when present at all meetings of the stockholders and the Board. The chairman of the board shall advise and counsel the president and other officers and shall exercise such powers and perform such duties as shall be assigned to or required of him from time to time by the Board or these Bylaws. The chairman of the board may execute bonds, mortgages and other contracts requiring a seal under the seal of the Company, except where required or permitted by law to be otherwise signed and executed and except where the signing and execution thereof shall be expressly delegated by the Board to some other officer or agent of the Company. The chairman of the board may delegate all or any of his powers or duties to the president, if and to the extent deemed by the chairman of the board to be desirable or appropriate.

Copyright © 2012 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

Section 6.1.2. PRESIDENT. The president shall be the chief executive officer of the Company, shall have general and active management of the business of the Company and shall see that all orders and resolutions of the Board are carried into effect.

In the absence of the chairman of the board or in the event of his inability or refusal to act, the president shall perform the duties and exercise the powers of the chairman of the board.

Section 6.1.3. VICE PRESIDENTS. In the absence of the president or in the event of his inability or refusal to act, the vice president (or in the event there be more than one vice president, the vice presidents in the order designated by the Board, or in the absence of any designation, then in the order of their election or appointment) shall perform the duties of the president, and when so acting, shall have all the powers of and be subject to all the restrictions upon the president. The vice presidents shall perform such other duties and have such other powers as the Board may from time to time prescribe.

Section 6.1.4. SECRETARY. The secretary shall attend all meetings of the stockholders, the Board and (as required) committees of the Board and shall record all the proceedings of such meetings in books to be kept for that purpose. He shall give, or cause to be given, notice of all meetings of the stockholders and special meetings of the Board and shall perform such other duties as may be prescribed by the Board or the president. He shall have custody of the corporate seal of the Company and he, or an assistant secretary, shall have authority to affix the same to any instrument requiring it, and when so affixed, it may be attested by his signature or by the signature of such assistant secretary. The Board may give general authority to any other officer to affix the seal of the Company and to attest the affixing thereof by his signature.

Section 6.1.5. ASSISTANT SECRETARIES. The assistant secretary, or if there be more than one, the assistant secretaries in the order determined by the Board (or if there be no such determination, then in the order of their election or appointment) shall, in the absence of the secretary or in the event of his inability or refusal to act, perform the duties and exercise the powers of the secretary and shall perform such other duties and have such other powers as the Board may from time to time prescribe.

Section 6.1.6. TREASURER. Unless the Board by resolution otherwise provides, the treasurer shall be the chief accounting and financial officer of the Company. The Treasurer shall have the custody of the corporate funds and securities, shall keep full and accurate accounts of

Copyright © 2012 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

receipts and disbursements in books belonging to the Company and shall deposit all moneys and other valuable effects in the name and to the credit of the Company in such depositories as may be designated by the Board. He shall disburse the funds of the Company as may be ordered by the Board, taking proper vouchers for such disbursements, and shall render to the president and the Board, at its regular meetings, or when the

Board so requires, an account of all his transactions as treasurer and of the financial condition of the Company.

Section 6.1.7. ASSISTANT TREASURERS. The assistant treasurer, or if there shall be more than one, the assistant treasurers in the order determined by the Board (or if there be no such determination, then in the order of their election or appointment) shall, in the absence of the treasurer or in the event of his inability or refusal to act, perform the duties and exercise the powers of the treasurer and shall perform such other duties and have such other powers as the Board may from time to time prescribe.

Section 6.2. ELECTION. All elected officers shall serve until their successors are duly elected and qualified or until their earlier death, disqualification, retirement, resignation or removal from office.

Section 6.3. APPOINTED OFFICERS. The Board may also appoint or delegate the power to appoint such other officers, assistant officers and agents, and may also remove such officers and agents or delegate the power to remove same, as it shall from time to time deem necessary, and the titles and duties of such appointed officers may be as described in Section 6.1 for elected officers; provided that the officers and any officer possessing authority over or responsibility for any functions of the Board shall be elected officers.

Section 6.4. MULTIPLE OFFICEHOLDERS, STOCKHOLDER AND DIRECTOR OFFICERS. Any number of offices may be held by the same person, unless the certificate of incorporation or these Bylaws otherwise provide. Officers need not be stockholders or residents of the State of Delaware. Officers, such as the chairman of the board, possessing authority over or responsibility for any function of the Board must be directors.

Section 6.5. COMPENSATION, VACANCIES. The compensation of elected officers shall be set by the Board. The Board shall also fill any vacancy in an elected office. The compensation of appointed officers and the filling of vacancies in appointed offices may be delegated by the Board to the same extent as permitted by these Bylaws for the initial filling of such offices.

Copyright © 2012 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

Section 6.6. ADDITIONAL POWERS AND DUTIES. In addition to the foregoing especially enumerated powers and duties, the several elected and appointed officers of the Company shall perform such other duties and exercise such further powers as may be provided by law, the certificate of incorporation or these Bylaws or as the Board may from time to time determine or as may be assigned to them by any competent committee or superior officer.

Section 6.7. REMOVAL. Any officer may be removed, either with or without cause, by a majority of the directors at the time in office, at any regular or special meeting of the Board.

ARTICLE VII.

SHARE CERTIFICATES

Section 7.1. ENTITLEMENT TO CERTIFICATES. Every holder of the capital stock of the Company, unless and to the extent the Board by resolution provides that any or all classes or series of stock shall be uncertificated, shall be entitled to have a certificate, in such form as is approved by the Board and conforms with applicable law, certifying the number of shares owned by him.

Section 7.2. MULTIPLE CLASSES OF STOCK. If the Company shall be authorized to issue more than one class of capital stock or more than one series of any class, a statement of the powers, designations, preferences and relative, participating, optional or other special rights of each class of stock or series thereof and the qualification, limitations or restrictions of such preferences and/or rights shall, unless the Board shall by resolution provide that such class or series of stock shall be uncertificated, be set forth in full or summarized on the face or back of the certificate which the Company shall issue to represent such class or series of stock; provided that, to the extent allowed by law, in lieu of such statement, the face or back of such certificate may state that the Company will furnish a copy of such statement without charge to each requesting stockholder.

Section 7.3. SIGNATURES. Each certificate representing capital stock of the Company shall be signed by or in the name of the Company by (1) the chairman of the board, the president or a vice president; and (2) the treasurer, an assistant treasurer, the secretary or an assistant secretary of the Company. The signatures of the officers of the Company may be facsimiles. In case any officer who has signed or whose facsimile signature has been placed upon a certificate shall have ceased to hold such office before such certificate is issued, it may be issued by the Company with the

Copyright © 2012 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

same effect as if he held such office on the date of issue.

Section 7.4. ISSUANCE AND PAYMENT. Subject to the provisions of the law, the certificate of incorporation or these Bylaws, shares may be issued for such consideration and to such persons as the Board may determine from time to time. Shares may not be issued until the full amount of the consideration has been paid, unless upon the face or back of each certificate issued to represent any partly paid shares of capital stock there shall have been set forth the total amount of the consideration to be paid

therefor and the amount paid thereon up to and including the time said certificate is issued.

Section 7.5. LOST CERTIFICATES. The Board may direct a new certificate or certificates to be issued in place of any certificate or certificates theretofore issued by the Company alleged to have been lost, stolen or destroyed upon the making of an affidavit of that fact by the person claiming the certificate of stock to be lost, stolen or destroyed. When authorizing such issue of a new certificate or certificates, the Board may, in its discretion and as a condition precedent to the issuance thereof, require the owner of such lost, stolen or destroyed certificate or certificates, or his legal representative, to advertise the same in such manner as it shall require and/or to give the Company a bond in such sum as it may direct as indemnity against any claim that may be made against the Company with respect to the certificate alleged to have been lost, stolen or destroyed.

Section 7.6. TRANSFER OF STOCK. Upon surrender to the Company or its transfer agent, if any, of a certificate for shares duly endorsed or accompanied by proper evidence of succession, assignation or authority to transfer and of the payment of all taxes applicable to the transfer of said shares, the Company shall be obligated to issue a new certificate to the person entitled thereto, cancel the old certificate and record the transaction upon its books; provided, however, that the Company shall not be so obligated unless such transfer was made in compliance with applicable state and federal securities laws.

Section 7.7. REGISTERED STOCKHOLDERS. The Company shall be entitled to recognize the exclusive right of a person registered on its books as the owner of shares to receive dividends, vote and be held liable for calls and assessments and shall not be bound to recognize any equitable or other claim to or interest in such share or shares on the part of any person other than such registered owner, whether or not it shall have express or other notice thereof, except as otherwise provided by law.

Copyright © 2012 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

ARTICLE VIII.

INDEMNIFICATION

Section 8.1. GENERAL. The Company shall indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative (other than an action by or in the right of the Company), by reason of the fact that he is or was a director, officer, employee or agent of the Company, or is or was serving at the request of the Company as a director, officer, trustee, employee or agent of or in any other

capacity with another corporation, partnership, joint venture, trust or other enterprise, against expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred by him in connection with such action, suit or proceeding if he acted in good faith and in a manner he reasonably believed to be in or not opposed to the best interests of the Company, and, with respect to any criminal action or proceeding, had no reasonable cause to believe his conduct was unlawful. The termination of any action, suit or proceeding by judgment, order, settlement, conviction, or upon a plea of nolo contendere or its equivalent, shall not, of itself, create a presumption that the person did not act in good faith and in a manner which he reasonably believed to be in or not opposed to the best interests of the Company, and, with respect to any criminal action or proceeding, have reasonable cause to believe that his conduct was unlawful.

Section 8.2. ACTIONS BY OR IN THE RIGHT OF THE COMPANY. The Company shall indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action or suit by or in the right of the Company to procure a judgment in its favor by reason of the fact that he is or was a director, officer, employee or agent of the Company, or is or was serving at the request of the Company as a director, officer, trustee, employee or agent of or in any other capacity with another corporation, partnership, joint venture or trust or other enterprise, against expenses (including attorneys' fees) actually and reasonably incurred by him in connection with the defense or settlement of such action or suit if he acted in good faith and in a manner he reasonably believed to be in or not opposed to the best interests of the Company and except that no indemnification shall be made in respect of any claim, issue or matter as to which such person shall have been adjudged to be liable to the Company unless and only to the extent that the Court of Chancery or the court in which such action or suit was brought shall determine upon application that, despite the adjudication of liability but in view of all the circumstances of the case,

Copyright © 2012 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

such person is fairly and reasonably entitled to indemnity for such expenses which the Court of Chancery or such other court shall deem proper.

Section 8.3. BOARD DETERMINATIONS. Any indemnification under sections 8.1 and 8.2 (unless ordered by a court) shall be made by the Company only as authorized in the specific case upon a determination that indemnification of the director, officer, employee or agent is proper in the circumstances because he has met the applicable standard of conduct set forth in sections 8.1 and 8.2. Such determination shall be made (1) by the Board of Directors by a majority vote of a quorum consisting of directors who were not parties to such action, suit or proceeding, or (2) if such a quorum is not obtainable, or, even if obtainable a quorum of

disinterested directors so directs, by independent legal counsel in a written opinion, or (3) by the stockholders.

Section 8.4. ADVANCEMENT OF EXPENSES. Expenses incurred by a director, officer, employee or agent of the Company in defending a civil or criminal action, suit or proceeding shall (in the case of any action, suit or proceeding against a director of the Corporation) or may (in the case of any pending or threatened action, suit or proceeding against an officer, employee or agent) be paid by the Company in advance of the final disposition of such action, suit or proceeding upon receipt of an undertaking by or on behalf of such director, officer, employee or agent to repay such amount if it shall ultimately be determined that he is not entitled to be indemnified by the Company as authorized by law or in this section.

Section 8.5. NONEXCLUSIVE. The indemnification and advancement of expenses provided by, or granted pursuant to, this section shall not be deemed exclusive of any other rights to which any director, officer, employee or agent of the Company seeking indemnification or advancement of expenses may be entitled under any other Bylaw, agreement, vote of stockholders or disinterested directors or otherwise, both as to action in his official capacity and as to action in another capacity while holding such office, and shall, unless otherwise provided when authorized or ratified, continue as to a person who has ceased to be a director, officer, employee or agent of the Company and shall inure to the benefit of the heirs, executors and administrators of such a person.

Section 8.6. INSURANCE. The Company may purchase and maintain insurance on behalf of any person who is or was a director, officer, employee or agent of the Company, or is or was serving at the request of the Company as a director, officer, employee or agent of another corporation, partnership, joint venture, trust, or other enterprise, against any liability asserted against him and incurred by him in any such capacity or arising out

Copyright © 2012 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

of his status as such, whether or not the Company would have the power to indemnify him against such liability under the provisions of the statutes, the Certificate of Incorporation or this section.

Section 8.7. CERTAIN DEFINITIONS. For purposes of this section, (a) references to "the Company" shall include, in addition to the resulting corporation, any constituent corporation (including any constituent of a constituent) absorbed in a consolidation or merger which, if its separate existence had continued, would have had power and authority to indemnify its directors, officers and employees or agents, so that any person who is or was a director, officer, employee or agent of such constituent corporation, or is or was serving at the request of such constituent corporation as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other

enterprise, shall stand in the same position under the provisions of this section with respect to the resulting or surviving corporation as he would have with respect to such constituent corporation if its separate existence had continued; (b) references to "other enterprises" shall include employee benefit plans; (c) references to "fines" shall include any excise taxes assessed on a person with respect to an employee benefit plan; and (d) references to "serving at the request of the Company" shall include any service as a director, officer, employee or agent of the Company which imposes duties on, or involves services by, such director, officer, employee, or agent with respect to any employee benefit plan, its participants, or beneficiaries; and a person who acted in good faith and in a manner he reasonably believed to be in the interest of the participants and beneficiaries of an employee benefit plan shall be deemed to have acted in a manner "not opposed to the best interests of the Company" as referred to in this section.

Section 8.8. CHANGE IN GOVERNING LAW. In the event of any amendment or addition to Section 145 of the General Corporation Law of the State of Delaware or the addition of any other section to such law which shall limit indemnification rights thereunder, the Company shall, to the extent permitted by the General Corporation Law of the State of Delaware, indemnify to the fullest extent authorized or permitted hereunder, any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative (including an action by or in the right of the corporation), by reason of the fact that he is or was a director, officer, employee or agent of the Company or is or was serving at the request of the Company as a director, officer, employee, trustee or agent of another corporation, partnership, joint venture, trust, or other enterprise, against expenses (including attorneys' fees), judgments, fines and amounts paid in

Copyright © 2012 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

settlement actually and reasonably incurred by him in connection with such action, suit or proceeding.

ARTICLE IX.

INTERESTED DIRECTORS, OFFICERS AND STOCKHOLDERS

Section 9.1. VALIDITY. Any contract or other transaction between the Company and any of its directors, officers or stockholders (or any corporation or firm in which any of them are directly or indirectly interested) shall be valid for all purposes notwithstanding the presence of such director, officer or stockholder at the meeting authorizing such contract or transaction, or his participation or vote in such meeting or authorization.

Section 9.2. DISCLOSURE, APPROVAL. The foregoing shall, however, apply only if the material facts of the relationship or the interest of each such director, officer or stockholder is known or disclosed:

(1) to the Board and it nevertheless in good faith authorizes or ratifies the contract or transaction by a majority of the directors present, each such interested director to be counted in determining whether a quorum is present but not in calculating the majority necessary to carry the vote; or

(2) to the stockholders and they nevertheless in good faith authorize or ratify the contract or transaction by a majority of the shares present, each such interested person to be counted for quorum and voting purposes.

Section 9.3. NONEXCLUSIVE. This provision shall not be construed to invalidate any contract or transaction which would be valid in the absence of this provision.

ARTICLE X.

MISCELLANEOUS

Section 10.1. PLACE OF MEETINGS. All stockholders, directors and committee meetings shall be held at such place or places, within or without the State of Delaware, as shall be designated from time to time by the Board or such committee and stated in the notices thereof. If no such place is so designated, said meetings shall be held at the principal business office of the Company.

Copyright © 2012 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

Section 10.2. FIXING RECORD DATES.

(a) In order that the Company may determine the stockholders entitled to notice of or to vote at any meeting of stockholders or any adjournment thereof, the Board may fix, in advance, a record date, which shall not precede the date upon which the resolution fixing the record date is adopted by the Board, and which record date shall not be more than sixty (60) nor less than ten (10) days prior to any such action. If no record date is fixed by the Board, the record date for determining stockholders entitled to notice of or to vote at a meeting of stockholders shall be at the close of business on the day next preceding the day notice is given or, if notice is waived, at the close of business on the day next preceding the day on which the meeting is held. A determination of stockholders of record entitled to notice of or to vote at a meeting of stockholders shall apply to any adjournment of

the meeting; provided, however, that the Board may fix a new record date for the adjourned meeting.

(b) In order that the Company may determine the stockholders entitled to consent to corporate action in writing without a meeting, the Board may fix a record date, which record date shall not precede the date upon which the resolution fixing the record date is adopted by the Board, and which date shall not be more than ten days after the date upon which the resolution fixing the record date is adopted by the Board. If no record date has been fixed by the Board, the record date for determining stockholders entitled to consent to corporate action in writing without a meeting, when no prior action by the Board is otherwise required, shall be the first date on which a signed written consent setting forth the action taken or proposed to be taken is delivered to the Company by delivery to its registered office in the State of Delaware, its principal place of business, or an officer or agent of the Company having custody of the book in which proceedings of meetings of stockholders are recorded. Delivery made to the Company's registered office shall be by hand or by certified or registered mail, return receipt requested. If no record date has been fixed by the Board and prior action by the Board is required, the record date for determining stockholders entitled to consent to corporate action in writing without a meeting shall be at the close of business on the day on which the Board adopts the resolution taking such prior action.

(c) In order that the Company may determine the stockholders entitled to receive payment of any dividend or other distribution or allotment of any rights or the stockholders entitled to

Copyright © 2012 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

exercise any rights in respect of any change, conversion or exchange of stock, or for the purpose of any other lawful action, the Board may fix a record date, which record date shall not precede the date upon which the resolution fixing the record date is adopted, and which record date shall be not more than sixty (60) days prior to such action. If no record date is fixed, the record date for determining stockholders for any such purpose shall be at the close of business on the day on which the Board adopts the resolution relating thereto.

Section 10.3. MEANS OF GIVING NOTICE. Whenever under law, the certificate of incorporation or these Bylaws, notice is required to be given to any director or stockholder, such notice may be given in writing and delivered personally, through the United States mail, by a recognized express delivery service (such as Federal Express) or by means of telegram, telex or facsimile transmission, addressed to such director or stockholder at his address or telex or facsimile transmission number, as the case may be, appearing on the records of the Company, with postage and fees thereon prepaid. Such notice shall be deemed to be given at the time when the same shall be deposited in the United States mail or

with an express delivery service or when transmitted, as the case may be. Notice of any meeting of the Board may be given to a director by telephone and shall be deemed to be given when actually received by the director.

Section 10.4. WAIVER OF NOTICE. Whenever any notice is required to be given under law, the certificate of incorporation or these bylaws, a written waiver of such notice, signed before or after the date of such meeting by the person or persons entitled to said notice, shall be deemed equivalent to such required notice. All such waivers shall be filed with the corporate records. Attendance at a meeting shall constitute a waiver of notice of such meeting, except where a person attends for the express purpose of objecting to the transaction of any business on the ground that the meeting is not lawfully called or convened.

Section 10.5. ATTENDANCE VIA COMMUNICATIONS EQUIPMENT. Unless otherwise restricted by law, the certificate of incorporation or these Bylaws, members of the Board, any committee thereof or the stockholders may hold a meeting by means of conference telephone or other communications equipment by means of which all persons participating in the meeting can effectively communicate with each other. Such participation in a meeting shall constitute presence in person at the meeting, except where a person participates in the meeting for the express purpose of objecting to the transaction of any business on the ground that the meeting is not lawfully called or convened.

Copyright © 2012 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

Section 10.6. DIVIDENDS. Dividends on the capital stock of the Company, paid in cash, property, or securities of the Company, as limited by applicable law and applicable provisions of the certificate of incorporation, may be declared by the Board at any regular or special meeting.

Section 10.7. RESERVES. Before payment of any dividend, there may be set aside out of any funds of the Company available for dividends such sum or sums as the Board from time to time, in its absolute discretion, think proper as a reserve or reserves to meet contingencies, for equalizing dividends, for repairing or maintaining any property of the Company, or for such other purpose as the Board shall determine to be in the best interest of the Company; and the Board may modify or abolish any such reserve in the manner in which it was created.

Section 10.8. REPORTS TO STOCKHOLDERS. The Board shall present at each annual meeting of stockholders, and at any special meeting of stockholders when called for by vote of the stockholders, a statement of the business and condition of the Company.

Section 10.9. CONTRACTS AND NEGOTIABLE INSTRUMENTS. Except as otherwise provided by law or these Bylaws, any contract or other

instrument relative to the business of the Company may be executed and delivered in the name of the Company and on its behalf by the chairman of the board or the president; and the Board may authorize any other officer or agent of the Company to enter into any contract or execute and deliver any contract in the name and on behalf of the Company, and such authority may be general or confined to specific instances as the Board may by resolution determine. All bills, notes, checks or other instruments for the payment of money shall be signed or countersigned by such officer, officers, agent or agents and in such manner as are permitted by these Bylaws and/or as, from time to time, may be prescribed by resolution (whether general or special) of the Board. Unless authorized so to do by these Bylaws or by the Board, no officer, agent or employee shall have any power or authority to bind the Company by any contract or engagement, or to pledge its credit, or to render it liable pecuniarily for any purpose or to any amount.

Section 10.10. FISCAL YEAR. The fiscal year of the Company shall be the twelve-month period ending on September 30.

Section 10.11. SEAL. The seal of the Company shall be in such form as shall from time to time be adopted by the Board. The seal may be used by causing it or a facsimile thereof to be impressed, affixed or

Copyright © 2012 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

otherwise reproduced.

Section 10.12. BOOKS AND RECORDS. The Company shall keep correct and complete books and records of account and shall keep minutes of the proceedings of its stockholders, Board and committees and shall keep at its registered office or principal place of business, or at the office of its transfer agent or registrar, a record of its stockholders, giving the names and addresses of all stockholders and the number and class of the shares held by each.

Section 10.13. RESIGNATION. Any director, committee member, officer or agent may resign by giving written notice to the chairman of the board, the president or the secretary. The resignation shall take effect at the time specified therein, or immediately if no time is specified. Unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

Section 10.14. SURETY BONDS. Such officers and agents of the Company (if any) as the president or the Board may direct, from time to time, shall be bonded for the faithful performance of their duties and for the restoration to the Company, in case of their death, resignation, retirement, disqualification or removal from office, of all books, papers, vouchers, money and other property of whatever kind in their possession or under their control belonging to the Company, in such amounts and by such surety companies as the president or the Board may determine. The premiums on such bonds

shall be paid by the Company, and the bonds so furnished shall be in the custody of the Secretary.

Section 10.15. PROXIES IN RESPECT OF SECURITIES OF OTHER CORPORATIONS. The chairman of the board, the president, any vice president or the secretary may from time to time appoint an attorney or attorneys or an agent or agents for the Company to exercise, in the name and on behalf of the Company, the powers and rights which the Company may have as the holder of stock or other securities in any other corporation to vote or consent in respect of such stock or other securities, and the chairman of the board, the president, any vice president or the secretary may instruct the person or persons so appointed as to the manner of exercising such powers and rights; and the chairman of the board, the president, any vice president or the secretary may execute or cause to be executed, in the name and on behalf of the Company and under its corporate seal or otherwise, all such written proxies or other instruments as he may deem necessary or proper in order that the Company may exercise such powers and rights.

Copyright © 2012 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

Section 10.16. AMENDMENTS. These Bylaws may be altered, amended, repealed or replaced by the Board when such power is conferred upon the Board by the certificate of incorporation, at any regular meeting of the Board, or at any special meeting of the Board if notice of such alteration, amendment, repeal or replacement is contained in the notice of such special meeting. If the power to adopt, amend, repeal or replace these Bylaws is conferred upon the Board by the certificate of incorporation, the power of the stockholders to so adopt, amend, repeal or replace these Bylaws shall not be divested or limited thereby, except as provided in the certificate of incorporation.

Copyright © 2012 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

EMPLOYMENT AGREEMENT

AGREEMENT made as of the 1st day of January, 1996, by and between ENVIROTEST SYSTEMS CORP., a Delaware corporation with an office at 246 Sobrante Way, Sunnyvale, California 94086 (hereinafter referred to as the "Company"), and C. MICHAEL ALSTON, an individual residing at 9706 Mill Race Estate Drive, Vienna, Virginia 22182 (hereinafter referred to as the "Employee").

W I T N E S S E T H:

WHEREAS, the Company desires to retain the services of the Employee, and the Employee desires to be employed by the Company, upon the terms and conditions set forth in this Agreement.

NOW, THEREFORE, in consideration of the premises and the mutual covenants and agreements hereinafter contained, the parties hereby agree as follows:

1. EMPLOYMENT AND TERM.

(a) The Company shall employ the Employee, and the Employee shall serve the Company, upon the terms and conditions hereinafter set forth.

(b) The employment of the Employee by the Company hereunder shall commence as of the date hereof and, unless sooner terminated in the manner as herein provided, shall terminate on the third anniversary hereof (the "Term"); PROVIDED, HOWEVER, that the Term shall automatically be extended for two (2) years on the terms and conditions provided herein unless either party shall give the other party no less than 90 days' written notice prior to the expiration of the applicable term of employment.

2. DUTIES. During the Term, the Employee shall serve as Vice President and General Counsel of the Company, faithfully and to the best of his ability, and perform such duties and have such responsibilities and authority as are consistent with (i) his position and status as Vice President and General Counsel of the Company and (ii) the practices and policies of the Company generally applicable to executive employment arrangements. The Employee shall report directly to the President and Chief Executive Officer of the Company.

3. SALARY. During the first year of the Term of his employment hereunder, the Company shall pay to the Employee a salary for his services at a rate of $210,000 per annum, payable in accordance with the regular payroll practices of the Company. For the second and third years of the Term, and if the Term is extended for an additional period as provided in Paragraph 1(b) of this Agreement, then during each subsequent year after the first year of the Term the

Copyright © 2012 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

Company shall pay a salary for the Employee's service at a rate of the previous year's salary for the immediately preceding year, increased by the greater of (i) five percent (5.0%) or (ii) the aggregate monthly percentage increase in the Consumer Price Index for all Urban Consumers (CPI-U) for the United States, All Items (1982-1984 = 100), published by the U.S. Department of Labor, after taking into account any revisions, for the most recent twelve months for which the Consumer Price Index data is published prior to the first day of such additional year.

4. BONUS ARRANGEMENT; STOCK OPTIONS.

(a) In addition to the salary provided for in Paragraph 3 of this Agreement, the Employee is eligible to participate in the Company's bonus and other compensation plans for the Company's employees of like classification during the term of employment hereunder. The Employee shall not be eligible for payment under such a plan if his employment is terminated for cause.

(b) In the event that a "change of control" of the Company occurs during the Term, one hundred percent (100%) of all options granted to the Employee prior to the date on which such change of control occurs shall vest upon such change of control and may be exercised by the Employee at any time during the ninety (90) day period commencing upon the date such change of control occurs. Change of control shall have the meaning set forth in Exhibit I hereto.

5. EMPLOYEE BENEFITS AND PERQUISITES. During the Term, the Company will provide to the Employee the following benefits and/or perquisites:

(a) The Employee shall be a participant in all benefit programs provided for the Company's management executives of like classification, including, but not limited to, insurance, retirement, tax-deferred plans, health and other benefit plans (including the Medical Reimbursement Program) for which he qualifies.

(b) The Employee shall be entitled to receive fringe benefits and perquisites (other than the above-mentioned employee benefit plans and programs) in the aggregate substantially equivalent to those provided to the Company's management executives of like classification, including vacation time and reasonable sick leave.

(c) The Employee shall be entitled to an insurance policy on his life in the amount of $1 million for a beneficiary named by the Employee.

(d) During the Term, the Company shall furnish to the Employee an automobile of the Company's reasonable choice. The Company shall pay for all expenses associated with the use, operation and enjoyment of the automobile (including insurance coverage but exclusive of gasoline expense).

Copyright © 2012 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

6. PERMANENT DISABILITY. In the event of the permanent disability (as hereinafter defined) of the Employee during the Term, the Company shall have the right, upon written notice to the Employee, to terminate his employment hereunder, effective upon the giving of such notice. Upon such termination, the Company shall be discharged and released from any further obligations under this Agreement, except for the obligation to pay salary and other benefits pursuant to Paragraph 8(b) of this Agreement. Disability benefits due under applicable plans and programs of the Company shall be determined under the provisions of such plans and programs. For purposes of this Paragraph 6, "permanent disability" shall be defined as any physical or mental disability or incapacity which renders the Employee unable to execute his duties hereunder for 180 consecutive days or an aggregate period of more than 210 days in any twelve (12) month period.

7. DEATH. In the event of the death of the Employee during the Term, the salary and other benefits to which the Employee is entitled pursuant to Paragraph 8(b) hereof shall be paid to the beneficiary so designated by the Employee by written notice to the Company, or, failing such designation, to his estate. The Employee shall have the right to name, from time to time, any one person as beneficiary hereunder or, with the consent of the Board, he may make other forms of designation of beneficiary or beneficiaries. The Employee's designated beneficiary or personal representative, as the case may be, shall accept the payments provided for in this Paragraph 7 in full discharge and release of the Company of and from any further obligations under this Agreement. Any other benefits due under applicable plans and programs of the Company shall be determined under the provisions of such plans and programs.

8. TERMINATION AND EXPIRATION OF EMPLOYMENT.

(a) The Employee's employment hereunder may be terminated by the Company for "cause" at any time. Termination of employment for "cause" shall mean termination upon (1) the willful failure by the Employee to materially perform his duties with the Company or to follow the instructions of the Board (other than any such failure resulting from his incapacity due to physical or mental illness), (2) the willful engaging by the Employee in conduct that is materially injurious to the Company, monetarily or otherwise, (3) the commission of any act of fraud, theft or dishonesty by the Employee against the Company, (4) the conviction of the Employee of (or the pleading by the Employee of NOLO CONTENDERE to) any felony, fraud or embezzlement or (5) any willful breach by the Employee of the terms of this Agreement, unless any such breach of this Agreement by the Employee that is capable of being corrected is corrected in all material respects within thirty (30) days following written notification by the Company to the Employee that the Company intends to terminate the employment of Employee hereunder by reason of a willful breach of this Agreement for cause as specified in such written notice to the Employee.

Copyright © 2012 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

If the Employee is terminated for "cause," the Company shall have no further obligations under this Agreement, except for the obligation to pay all salary and other benefits earned but unpaid to the date of termination, and all options granted to the Employee and not exercised prior to the date of such termination shall be extinguished on the date of such termination.

(b) If (i) the Company terminates the employment of the Employee during the Term other than for "cause" (as defined in Paragraph 8(a) of this Agreement), or (ii) during the Term there is a change in control of the Company and the successor entity (or purchaser) does not accept an assignment of this Agreement, or (iii) the terms of the Employee's employment are materially adversely changed or his duties and responsibilities are materially diminished, following a change of control or otherwise (including, by way of example and not by limitation, by reason of the Employee ceasing to be a Vice President and General Counsel of the Company), whereupon, in the case of this clause (iii), the Employee shall have the right to consider his employment hereunder to have been terminated by the Company by giving written notice to the Company within 10 business days after the date on which the Employee believes that such adverse change has occurred, the action(s) constituting such adverse change or diminution, and the fact that he is terminating this Agreement pursuant to this Paragraph 8(b)(iii), then (A) the Company shall retain Employee and Employee agrees to serve as a consultant to the Company for the longer of the remainder of the Term or twenty-four (24) months ("Consulting Period"); (B) the Employee's options shall vest as set forth in Section 4(b) above; (C) the Employee shall be entitled to continue to receive (1) on the same schedule as was in existence prior to such termination, payment of his base salary and all other benefits to which he is entitled for the Consulting Period and (2) the pro rata portion of any bonus earned by the Employee for the fiscal year in which the termination occurred; and (D) if the Employee has relocated to California, then all expenses that would have been permitted by the Company's Relocation Policy for relocation of the Employee and his family to a location on the East Coast of the United States of the Employee's choosing.

9. CONFIDENTIALITY; INJUNCTIVE RELIEF.

(a) Recognizing that the knowledge, information and relationship with customers, suppliers and agents, and the knowledge of the Company's business methods, systems, plans and policies which he may hereafter receive or obtain as an employee of the Company, are valuable and unique assets of the Company, the Employee agrees that, during and after the Term, he shall not (otherwise than pursuant to his duties hereunder) disclose, without the prior written approval of the Board, any such knowledge or information pertaining to the Company, its business, personnel or policies, to any person, firm, corporation or other entity, for any reason or purpose

Copyright © 2012 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

whatsoever. The provisions of this Paragraph 9(a) shall not apply to (i) information which is or shall become generally known to the public or the trade, or information which is or shall become available in trade or other publications (except by reason of the Employee's breach of his obligations hereunder) and (ii) information which the Employee is required to disclose by law or by a governmental entity or by an order of a court of competent jurisdiction or pursuant to a subpoena from such a court or agency. If the Employee is required by law or a court order to disclose such information, he shall notify the Company of such requirement and provide the Company an opportunity to contest such law or court order.

(b) The Employee acknowledges that the services to be rendered by him are of a special, unique and extraordinary character and, in connection with such services, he will have access to confidential information vital to the Company's business. By reason of this, the

Employee consents and agrees that if he violates any of the provisions of this Agreement with respect to confidentiality, the Company would sustain irreparable harm and, therefore, in addition to any other remedies which the Company may have under this Agreement or otherwise, the Company shall be entitled to apply to any court of competent jurisdiction for an injunction restraining the Employee from committing or continuing any such violation of this Agreement, and the Employee shall not object to any such application.

10. REPRESENTATION, WARRANTY AND COVENANT OF THE EMPLOYEE. The Employee represents, warrants and covenants to the Company that he is not and will not during the Term become a party to any agreement, contract or understanding, whether employment or otherwise, which would in any way restrict or prohibit him from undertaking or performing his employment in accordance with the terms and conditions of this Agreement.

11. REPRESENTATION AND WARRANTY OF THE COMPANY. The Company represents and warrants that this Agreement constitutes a valid and legally binding obligation of the Company, enforceable in accordance with the terms herein set forth, except to the extent that the enforceability of this Agreement may be affected by bankruptcy, insolvency, reorganization, moratorium, or similar laws affecting creditors' rights and remedies generally and subject, as to enforceability, to general principles of equity, including principles of commercial reasonableness, good faith and fair dealing (regardless of whether enforcement is sought in a proceeding at law or equity).

12. DEDUCTIONS AND WITHHOLDING. The Employee agrees that the Company shall withhold from any and all payments required to be made to the Employee pursuant to this Agreement, all federal, state, local and/or other taxes which the Company determines are required to be withheld in accordance with applicable statutes and/or regulations from time to time in effect.

Copyright © 2012 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

13. ENTIRE AGREEMENT. This Agreement, together with the other agreements specifically referred to herein, sets forth the entire agreement and understanding of the parties, and cancels and supersedes any and all prior agreements and understandings (whether written or oral) between the parties hereto, with respect to the employment of the Employee by the Company, and no statement, representation, warranty or covenant has been made by either party with respect thereto except as expressly set forth herein.

14. NOTICES. All notices, requests, demands and other communications hereunder shall be in writing and shall be delivered personally or sent by registered or certified mail, return receipt requested, to the other party hereto at his or its address as set forth at the beginning of this Agreement. Either party may change the address to which notices, requests, demands and other communications hereunder shall be sent by sending written notice of such change of address to the other party.

15. ASSIGNABILITY, BINDING EFFECT AND SURVIVAL. This Agreement shall inure to the benefit of and shall be binding upon the heirs, executors, administrators, successors and legal representatives of the Employee, and shall inure to the benefit of and be binding upon the Company

and its successors and assigns. Notwithstanding the foregoing, the obligations of the Employee may not be delegated and, except as expressly provided in Paragraph 7 hereof relating to the designation of beneficiaries, the Employee may not assign, transfer, pledge, encumber, hypothecate or otherwise dispose of this Agreement, or any of his rights hereunder, and any such attempted delegation or disposition shall be null and void and without effect. The provisions of Paragraphs 6, 7, 8, 9, 21 and 22 hereof shall survive termination of this Agreement.

16. AMENDMENT. This Agreement shall not be altered, modified, amended or terminated except by written instrument signed by each of the parties hereto. Waiver by either party hereto of any breach hereunder by the other party shall not operate as a waiver of any other breach, whether similar to or different from the breach waived.

17. GOVERNING LAW. THIS AGREEMENT SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF CALIFORNIA WITHOUT REGARD TO THE PRINCIPLES OF CONFLICTS OF LAW.

18. PARAGRAPH HEADINGS. The paragraph headings contained in this Agreement are for reference purposes only and shall not affect in any way the meaning or interpretation of this Agreement.

19. SEVERABILITY. If any provision of this Agreement or the application of any such provision to any party or circumstances shall be determined by any court of competent jurisdiction to be invalid and unenforceable to any extent,

Copyright © 2012 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

the remainder of this Agreement or the application of such provision to such person or circumstances other than those to which it is so determined to be invalid and unenforceable, shall not be affected thereby, and each provision hereof shall be validated and shall be enforced to the fullest extent permitted by law.

20. ARBITRATION. The parties agree that any disputes that may arise in connection with, arising out of or relating to this Agreement, or any dispute that relates in any way, in whole or in part, to the Employee's employment with the Company, the termination of that employment or any other dispute by and between the parties or their successors or assigns, will be submitted to binding arbitration in Los Angeles, California according to the rules and procedures of the American Arbitration Association and California Code of Civil Procedure Section 1283.05. The parties agree that each will bear his or its own attorney's fees and costs in connection with any such arbitration and each party will pay half of any costs associated with the arbitration. This arbitration obligation extends to any and all claims that may arise by and between the parties or their successors, assigns or affiliates, and expressly extends to, without limitation, claims or causes of action for wrongful termination, impairment of ability to compete in the open labor market, breach of an express or implied contract, breach of any collective bargaining agreement, breach of the covenant of good faith and fair dealing, breach of fiduciary duty, fraud, misrepresentation, defamation, slander, infliction of emotional distress, disability, loss of future earnings, and claims under the California Constitution, the United States Constitution, and applicable state and federal fair employment laws, federal equal employment opportunity laws, and federal and state labor statutes and regulations,

including, but not limited to, the Civil Rights Act of 1964, as amended, the Fair Labor Standards Act, as amended, the Americans With Disabilities Act of 1990, the Rehabilitation Act of 1973, as amended, the Employee Retirement Income Security Act of 1974, as amended, and the Age Discrimination in Employment Act of 1967.

21. CONSULTING SERVICES.

(a) For a period of one (1) year after the Employee ceases to be employed by the Company (the "Additional Consulting Period"), at the discretion of the Company (which discretion should be exercised within 30 days following the end of the Term), the Company may elect to retain Employee and Employee agrees to serve as a consultant to the Company. During the Additional Consulting Period, Employee shall be available to provide such consulting services to the Company as the Company may reasonably desire.

(b) During the Additional Consulting Period, if the Company has elected to retain the Employee to serve as a consultant to the Company, the Employee shall receive consulting fees in an amount equal to Employee's base

Copyright © 2012 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

salary then in effect, less any appropriate deductions, that shall be paid in accordance with the Company's ordinary payroll practices.

22. NONCOMPETITION. During (i) the Term of this Agreement, (ii) the Consulting Period, if any, under Paragraph 8(b) hereof, and (iii) the Additional Consulting Period, if the Company has elected to retain the Employee to serve as a consultant to the Company, the Employee shall not, directly or indirectly, without the prior written consent of the Company, provide consultation services or otherwise provide services to (whether as an employee or a consultant, with or without pay), own, manage, operate, join, control, participate in, or be connected with (as a stockholder, partner, or otherwise), any business, individual, partner, firm, corporation, or other entity that is then a competitor of the Company, including any entity engaged in the business of providing vehicle emissions testing services or services directly related thereto that comprise a material portion of the Company's business or any other business that is definitely planned by or that is under development by the Company or any of its affiliates during the Employee's employment (if Employee is currently employed) or at the time of the Employee's date of termination (each such competitor a "Competitor of the Company"); PROVIDED, HOWEVER, that the "beneficial ownership" by the Employee, either individually or as a member of a "group" (as such terms are used in Section 13(d) of the Securities Exchange Act of 1934 (the "Exchange Act") and Regulation 13D under the Exchange Act) of not more than five percent (5%) of the voting stock of any publicly held corporation shall not alone constitute a violation of this Agreement.

It is further expressly agreed that the Company will or would suffer irreparable injury if the Employee were to compete with the Company or any subsidiary or affiliate of the Company in violation of this Agreement and that the Company would by reason of such competition be entitled to injunctive relief in a court of appropriate jurisdiction, and the Employee further consents and stipulates to the entry of such injunctive relief in such a court prohibiting the Employee from

competing with the Company or any subsidiary or affiliates of the Company in violation of this Agreement.

IN WITNESS WHEREOF, the parties hereto set their hands as of the day and year first above written.

ENVIROTEST SYSTEMS CORP.

By: /s/ Chester C. Davenport

Its: Chairman of the Board of Directors

Copyright © 2012 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

/s/ C. Michael Alston

C. Michael Alston, Individually

EXHIBIT I

"Change of Control" means (i) any sale, transfer or other conveyance (other than to the Company or a wholly owned Subsidiary of the Company), whether direct or indirect, of all or substantially all of the assets of the Company, on a consolidated basis, in one transaction or a series of related transactions, if, immediately after such transaction, any "person" or "group" becomes the "beneficial owner," directly or indirectly, of more than 50% of the total voting power entitled to vote in the election of directors, managers, or trustees of the transferee, (ii) any "person" or "group" is or becomes the "beneficial owner," directly or indirectly, of more than 50% of the total voting power of the Voting Stock then outstanding, or (iii) during any period of 24 consecutive months, individuals who at the beginning of such period constituted the Board of Directors of the Company (together with any new directors whose election by such Board or whose nomination for election by the shareholders of the Company was approved by a vote of a majority of the directors then still in the office who were either directors at the beginning of such period or whose election or nomination for election was previously so approved), cease for any reason to constitute a majority of the Board of Directors of the Company then in office.

For purposes of this definition, (i) the terms "person" and "group" shall have the meanings used for purposes of Rules 13d and 13d-5 of the Exchange Act, whether or not applicable; PROVIDED that no Excluded Person and no person or group controlled by Excluded Persons shall be deemed to be a "person" or "group" and (ii) the term "BENEFICIAL OWNER" shall have the meaning used in Rules 13d-3 and 13d-5 under the Exchange Act, whether or not applicable, except that a person shall be deemed to have "beneficial ownership" of all shares that any such person has the right to acquire, whether such right is exercisable immediately or only after the passage of time or upon the occurrence of certain events.

"Voting Stock" means the Capital Stock of the Company having generally the right to vote in the election for a majority of the directors of the Company.

"Excluded Person" means any beneficial holder of 5% or more of any class of common stock of the Company outstanding immediately prior to the consummation of the initial underwritten public offering by the Company of 3,400,000 shares of the Company's Class A Common Stock in April 1993.

Copyright © 2012 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

EMPLOYMENT AGREEMENT

AGREEMENT made as of the 1st day of January, 1996, by and between ENVIROTEST SYSTEMS CORP., a Delaware corporation with an office at 246 Sobrante Way, Sunnyvale, California 94086 (hereinafter referred to as the "Company"), and RAJ G. MODI, an individual residing at 7121 Placita Sin Codicia, Tuscon, Arizona 85718 (hereinafter referred to as the "Employee").

W I T N E S S E T H:

WHEREAS, the Company desires to retain the services of the Employee, and the Employee desires to be employed by the Company, upon the terms and conditions set forth in this Agreement.

NOW, THEREFORE, in consideration of the premises and the mutual covenants and agreements hereinafter contained, the parties hereby agree as follows:

1. EMPLOYMENT AND TERM.

(a) The Company shall employ the Employee, and the Employee shall serve the Company, upon the terms and conditions hereinafter set forth.

(b) The employment of the Employee by the Company hereunder shall commence as of the date hereof and, unless sooner terminated in the manner as herein provided, shall terminate on the third anniversary hereof (the "Term"); PROVIDED, HOWEVER, that the Term shall automatically be extended for two (2) years on the terms and conditions provided herein unless either party shall give the other party no less than 90 days' written notice prior to the expiration of the applicable term of employment.

2. DUTIES. During the Term, the Employee shall serve as Vice President, Chief Financial Officer, Treasurer and Assistant Secretary of the Company, faithfully and to the best of his ability, and perform such duties and have such responsibilities and authority as are consistent with (i) his position and status as Vice President, Chief Financial Officer, Treasurer and Assistant Secretary of the Company and (ii) the practices and policies of the Company generally applicable to executive employment arrangements. The Employee shall report directly to the President and Chief Executive Officer of the Company.

3. SALARY. During the first year of the Term of his employment hereunder, the Company shall pay to the Employee a salary for his services at a rate of $210,000 per annum, payable in accordance with the regular payroll practices of the Company. For the second and third years of the Term, and if the Term is extended for an

Copyright © 2012 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

additional period as provided in Paragraph 1(b) of this Agreement, then during each subsequent year after the first year of the Term the Company shall pay a salary for the Employee's service at a rate of the previous year's salary for the immediately preceding year, increased by the greater of (i) five percent (5.0%) or (ii) the aggregate monthly percentage increase in the Consumer Price Index for all Urban Consumers (CPI-U) for the United States, All Items (1982-1984 = 100), published by the U.S. Department of Labor, after taking into account any revisions, for the most recent twelve months for which the Consumer Price Index data is published prior to the first day of such additional year.

4. BONUS ARRANGEMENT; STOCK OPTIONS.

(a) In addition to any payments under the Company's relocation policy, the Employee will be paid a one-time moving bonus of $35,000 in connection with his relocation from Phoenix to Sunnyvale.

(b) In addition to the salary provided for in Paragraph 3 of this Agreement, the Employee is eligible to participate in the Company's bonus and other compensation plans for the Company's employees of like classification during the term of employment hereunder. Employee shall not be eligible for payment under such a plan if his employment is terminated for cause.

(c) In the event that a "change of control" of the Company occurs during the Term, one hundred percent (100%) of all options granted to the Employee prior to the date on which such change of control occurs shall vest upon such change of control and may be exercised by the Employee at any time during the ninety (90) day period commencing upon the date such change of control occurs. Change of control shall have the meaning set forth in Exhibit I hereto.

5. EMPLOYEE BENEFITS AND PERQUISITES. During the Term, the Company will provide to the Employee the following benefits and/or perquisites:

(a) The Employee shall be a participant in all benefit programs provided for the Company's management executives of like classification, including, but not limited to, insurance, retirement, tax-deferred plans, health and other benefit plans (including the Medical Reimbursement Program) for which he qualifies.

(b) The Employee shall be entitled to receive fringe benefits and perquisites (other than the above-mentioned employee benefit plans and programs) in the aggregate substantially equivalent to those provided to the Company's management executives of like classification, including vacation time and reasonable sick leave.

(c) The Employee shall be entitled to an insurance policy on his life

Copyright © 2012 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

in the amount of $1 million for a beneficiary named by the Employee.

(d) During the Term, the Company shall furnish to the Employee an automobile of the Company's reasonable choice. The Company shall pay for all expenses associated with the use, operation and enjoyment of the automobile (including insurance coverage but exclusive of gasoline expense).

(e) The Employee shall be entitled to relocation expenses in accordance with the Company's Relocation Policy. It is understood that, at the Company's request, the Employee will be relocating to the Company's headquarters in Sunnyvale, California. If this Agreement is not extended for at least one additional term (other than by termination of the Employee's employment pursuant to Paragraph 8(a) of this Agreement) and the Employee's next employer is not willing to pay for the Employee's relocation to his new location of employment, the Company shall pay such reasonable relocation expenses of the Employee in accordance with the Company's Relocation Policy.

6. PERMANENT DISABILITY. In the event of the permanent disability (as hereinafter defined) of the Employee during the Term, the Company shall have the right, upon written notice to the Employee, to terminate his employment hereunder, effective upon the giving of such notice. Upon such termination, the Company shall be discharged and released from any further obligations under this Agreement, except for the obligation to pay salary and other benefits pursuant to Paragraph 8(b) of this Agreement. Disability benefits due under applicable plans and programs of the Company shall be determined under the provisions of such plans and programs. For purposes of this Paragraph 6, "permanent disability" shall be defined as any physical or mental disability or incapacity which renders the Employee unable to execute his duties hereunder for 180 consecutive days or an aggregate period of more than 210 days in any twelve (12) month period.

7. DEATH. In the event of the death of the Employee during the Term, the salary and other benefits to which the Employee is entitled pursuant to Paragraph 8(b) hereof shall be paid to the beneficiary so designated by the Employee by written notice to the Company, or, failing such designation, to his estate. The Employee shall have the right to name, from time to time, any one person as beneficiary hereunder or, with the consent of the Board, he may make other forms of designation of beneficiary or beneficiaries. The Employee's designated beneficiary or personal representative, as the case may be, shall accept the payments provided for in this Paragraph 7 in full discharge and release of the Company of and from any further obligations under this Agreement. Any other benefits due under applicable plans and programs of the Company shall be determined under the provisions of such plans and programs.

8. TERMINATION AND EXPIRATION OF EMPLOYMENT.

(a) The Employee's employment hereunder may be terminated by the

Copyright © 2012 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

Company for "cause" at any time. Termination of employment for cause shall mean termination upon (1) the willful failure by the Employee to materially perform his duties with the Company or to follow the instructions of the Board (other than any such failure resulting from his incapacity due to physical or mental illness), (2) the willful engaging by the Employee in conduct that is materially injurious to the Company, monetarily or otherwise, (3) the commission of any act of fraud, theft or dishonesty by the Employee against the Company, (4) the conviction of the Employee of (or the pleading by the Employee of NOLO CONTENDERE to) any felony, fraud or embezzlement or (5) any willful breach by the Employee of the terms of this Agreement, unless any such breach of this Agreement by the Employee that is capable of being corrected is corrected in all material respects within thirty (30) days following written notification by the Company to the Employee that the Company intends to terminate the employment of Employee hereunder by reason of a willful breach of this Agreement for cause as specified in such written notice to Employee.

If the Employee is terminated for "cause," the Company shall have no further obligations under this Agreement, except for the obligation to pay all salary and other benefits earned but unpaid to the date of termination, and all options granted to the Employee and not exercised prior to the date of such termination shall be extinguished on the date of such termination.

(b) If (i) the Company terminates the employment of the Employee during the Term other than for "cause" (as defined in Paragraph 8(a) of this Agreement), or (ii) during the Term there is a change in control of the Company and the successor entity (or purchaser) does not accept an assignment of this Agreement, or (iii) the terms of the Employee's employment are materially adversely changed or his duties and responsibilities are materially diminished, following a change of control or otherwise (including, by way of example and not by limitation, by reason of the Employee ceasing to be a Vice President and Chief Financial Officer of the Company), whereupon, in the case of this clause (iii), the Employee shall have the right to consider his employment hereunder to have been terminated by the Company by giving written notice to the Company within 10 business days after the date on which the Employee believes that such adverse change has occurred, the action(s) constituting such adverse change or diminution, and the fact that he is terminating this Agreement pursuant to this Paragraph 8(b)(iii), then (A) the Company shall retain Employee and Employee agrees to serve as a consultant to the Company for the longer of the remainder of the Term or twenty-four (24) months ("Consulting Period"); (B) the Employee's options shall vest as set forth in Section 4(b) above; and (C) the Employee shall be entitled to continue to receive (1) on the same schedule as was in

existence prior to such termination, payment of his base salary and all other benefits to which he is entitled for the Consulting Period and (2) the pro rata portion of any bonus earned by the Employee for the fiscal year in which the termination occurred.

Copyright © 2012 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

9. CONFIDENTIALITY; INJUNCTIVE RELIEF.

(a) Recognizing that the knowledge, information and relationship with customers, suppliers and agents, and the knowledge of the Company's business methods, systems, plans and policies which he may hereafter receive or obtain as an employee of the Company, are valuable and unique assets of the Company, the Employee agrees that, during and after the Term, he shall not (otherwise than pursuant to his duties hereunder) disclose, without the prior written approval of the Board, any such knowledge or information pertaining to the Company, its business, personnel or policies, to any person, firm, corporation or other entity, for any reason or purpose whatsoever. The provisions of this Paragraph 9(a) shall not apply to (i) information which is or shall become generally known to the public or the trade, or information which is or shall become available in trade or other publications (except by reason of the Employee's breach of his obligations hereunder) and (ii) information which the Employee is required to disclose by law or by a governmental entity or by an order of a court of competent jurisdiction or pursuant to a subpoena from such a court or agency. If the Employee is required by law or a court order to disclose such information, he shall notify the Company of such requirement and provide the Company an opportunity to contest such law or court order.

(b) The Employee acknowledges that the services to be rendered by him are of a special, unique and extraordinary character and, in connection with such services, he will have access to confidential information vital to the Company's business. By reason of this, the Employee consents and agrees that if he violates any of the provisions of this Agreement with respect to confidentiality, the Company would sustain irreparable harm and, therefore, in addition to any other remedies which the Company may have under this Agreement or otherwise, the Company shall be entitled to apply to any court of competent jurisdiction for an injunction restraining the Employee from committing or continuing any such violation of this Agreement, and the Employee shall not object to any such application.

10. REPRESENTATION, WARRANTY AND COVENANT OF THE EMPLOYEE. The Employee represents, warrants and covenants to the Company that he is not and will not during the Term become a party to any agreement, contract or understanding, whether employment or otherwise, which would in any way restrict or prohibit him from undertaking or performing his employment in accordance with the terms and conditions of this Agreement.

11. REPRESENTATION AND WARRANTY OF THE COMPANY. The Company represents and warrants that this Agreement constitutes a valid and legally binding obligation of the Company, enforceable in accordance with the terms herein set forth, except to the extent that the enforceability of this Agreement may be affected by bankruptcy, insolvency, reorganization, moratorium or similar laws affecting creditors' rights and remedies generally and subject, as to

Copyright © 2012 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

enforceability, to general principles of equity, including principles of commercial reasonableness, good faith and fair dealing (regardless of whether enforcement is sought in a proceeding at law or equity).

12. DEDUCTIONS AND WITHHOLDING. The Employee agrees that the Company shall withhold from any and all payments required to be made to the Employee pursuant to this Agreement, all federal, state, local and/or other taxes which the Company determines are required to be withheld in accordance with applicable statutes and/or regulations from time to time in effect.

13. ENTIRE AGREEMENT. This Agreement, together with the other agreements specifically referred to herein, sets forth the entire agreement and understanding of the parties, and cancels and supersedes any and all prior agreements and understandings (whether written or oral) between the parties hereto, with respect to the employment of the Employee by the Company, and no statement, representation, warranty or covenant has been made by either party with respect thereto except as expressly set forth herein.

14. NOTICES. All notices, requests, demands and other communications hereunder shall be in writing and shall be delivered personally or sent by registered or certified mail, return receipt requested, to the other party hereto at his or its address as set forth at the beginning of this Agreement. Either party may change the address to which notices, requests, demands and other communications hereunder shall be sent by sending written notice of such change of address to the other party.

15. ASSIGNABILITY, BINDING EFFECT AND SURVIVAL. This Agreement shall inure to the benefit of and shall be binding upon the heirs, executors, administrators, successors and legal representatives of the Employee, and shall inure to the benefit of and be binding upon the Company and its successors and assigns. Notwithstanding the foregoing, the obligations of the Employee may not be delegated and, except as expressly provided in Paragraph 7 hereof relating to the designation of beneficiaries, the Employee may not assign, transfer, pledge, encumber, hypothecate or otherwise dispose of this Agreement, or any of his rights hereunder, and any such attempted delegation or disposition shall be null and void and without effect. The provisions of Paragraphs 6, 7, 8, 9, 21 and 22 hereof shall survive termination of this Agreement.

16. AMENDMENT. This Agreement shall not be altered, modified, amended or terminated except by written instrument signed by each of the parties hereto. Waiver

by either party hereto of any breach hereunder by the other party shall not operate as a waiver of any other breach, whether similar to or different from the breach waived.

17. GOVERNING LAW. THIS AGREEMENT SHALL BE GOVERNED BY AND CONSTRUED IN

Copyright © 2012 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

ACCORDANCE WITH THE LAWS OF THE STATE OF CALIFORNIA WITHOUT REGARD TO THE PRINCIPLES OF CONFLICTS OF LAW.

18. PARAGRAPH HEADINGS. The paragraph headings contained in this Agreement are for reference purposes only and shall not affect in any way the meaning or interpretation of this Agreement.

19. SEVERABILITY. If any provision of this Agreement or the application of any such provision to any party or circumstances shall be determined by any court of competent jurisdiction to be invalid and unenforceable to any extent, the remainder of this Agreement or the application of such provision to such person or circumstances other than those to which it is so determined to be invalid and unenforceable, shall not be affected thereby, and each provision hereof shall be validated and shall be enforced to the fullest extent permitted by law.

20. ARBITRATION. The parties agree that any disputes that may arise in connection with, arising out of or relating to this Agreement, or any dispute that relates in any way, in whole or in part, to the Employee's employment with the Company, the termination of that employment or any other dispute by and between the parties or their successors or assigns, will be submitted to binding arbitration in Los Angeles, California according to the rules and procedures of the American Arbitration Association and California Code of Civil Procedure Section 1283.05. The parties agree that each will bear his or its own attorney's fees and costs in connection with any such arbitration and each party will pay half of any costs associated with the arbitration. This arbitration obligation extends to any and all claims that may arise by and between the parties or their successors, assigns or affiliates, and expressly extends to, without limitation, claims or causes of action for wrongful termination, impairment of ability to compete in the open labor market, breach of an express or implied contract, breach of any collective bargaining agreement, breach of the covenant of good faith and fair dealing, breach of fiduciary duty, fraud, misrepresentation, defamation, slander, infliction of emotional distress, disability, loss of future earnings, and claims under the California Constitution, the United States Constitution, and applicable state and federal fair employment laws, federal equal employment opportunity laws, and federal and state labor statutes and regulations, including, but not limited to, the Civil Rights Act of 1964, as amended, the Fair Labor Standards Act, as amended, the Americans With Disabilities Act of 1990, the Rehabilitation Act of 1973, as amended, the Employee Retirement Income Security Act of 1974, as amended, and the Age Discrimination in Employment Act of 1967.

21. CONSULTING SERVICES.

(a) For a period of one (1) year after the Employee ceases to be employed by the Company (the "Additional Consulting Period"), at the discretion of the Company (which discretion should be exercised within 30 days following

Copyright © 2012 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

the end of the Term), the Company may elect to retain Employee and Employee agrees to serve as a consultant to the Company. During the Additional Consulting Period, Employee shall be available to provide such consulting services to the Company as the Company may reasonably desire.

(b) During the Additional Consulting Period, if the Company has elected to retain the Employee to serve as a consultant to the Company, the Employee shall receive consulting fees in an amount equal to Employee's base salary then in effect, less any appropriate deductions, that shall be paid in accordance with the Company's ordinary payroll practices.

22. NONCOMPETITION. During (i) the Term of this Agreement, (ii) the Consulting Period, if any, under Paragraph 8(b) hereof, and (iii) the Additional Consulting Period, if the Company has elected to retain the Employee to serve as a consultant to the Company, the Employee shall not, directly or indirectly, without the prior written consent of the Company, provide consultation services or otherwise provide services to (whether as an employee or a consultant, with or without pay), own, manage, operate, join, control, participate in, or be connected with (as a stockholder, partner, or otherwise), any business, individual, partner, firm, corporation, or other entity that is then a competitor of the Company, including any entity engaged in the business of providing vehicle emissions testing services or services directly related thereto that comprise a material portion of the Company's business or any other business that is definitely planned by or that is under development by the Company or any of its affiliates during the Employee's employment (if Employee is currently employed) or at the time of the Employee's date of termination (each such competitor a "Competitor of the Company"); PROVIDED, HOWEVER, that the "beneficial ownership" by the Employee, either individually or as a member of a "group" (as such terms are used in Section 13(d) of the Securities Exchange Act of 1934 (the "Exchange Act") and Regulation 13D under the Exchange Act) of not more than five percent (5%) of the voting stock of any publicly held corporation shall not alone constitute a violation of this Agreement.

It is further expressly agreed that the Company will or would suffer irreparable injury if the Employee were to compete with the Company or any subsidiary or affiliate of the Company in violation of this Agreement and that the Company would by reason of such competition be entitled to injunctive relief in a court of appropriate jurisdiction, and the Employee further consents and stipulates to the entry of such injunctive relief

in such a court prohibiting the Employee from competing with the Company or any subsidiary or affiliates of the Company in violation of this Agreement.

Copyright © 2012 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

IN WITNESS WHEREOF, the parties hereto set their hands as of the day and year first above written.

ENVIROTEST SYSTEMS CORP.

By: /s/ Chester C. Davenport

Its: Chairman of the Board of Directors

/s/ Raj G. Modi

Raj G. Modi, Individually

Copyright © 2012 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

EXHIBIT I

"Change of Control" means (i) any sale, transfer or other conveyance (other than to the Company or a wholly owned Subsidiary of the Company), whether direct or indirect, of all or substantially all of the assets of the Company, on a consolidated basis, in one transaction or a series of related transactions, if, immediately after such transaction, any "person" or "group" becomes the "beneficial owner," directly or indirectly, of more than 50% of the total voting power entitled to vote in the election of directors, managers, or trustees of the transferee, (ii) any "person" or "group" is or becomes the "beneficial owner," directly or indirectly, of more than 50% of the total voting power of the Voting Stock then outstanding, or (iii) during any period of 24 consecutive months, individuals who at the beginning of such period constituted the Board of Directors of the Company (together with any new directors whose election by such Board or whose nomination for election by the shareholders of the Company was approved by a vote of a majority of the directors then still in the office who were either directors at the beginning of such period or whose election or nomination for election was previously so approved), cease for any reason to constitute a majority of the Board of Directors of the Company then in office.

For purposes of this definition, (i) the terms "person" and "group" shall have the meanings used for purposes of Rules 13d and 13d-5 of the Exchange Act, whether or not applicable; PROVIDED that no Excluded Person and no person or group controlled by Excluded Persons shall be deemed to be a "person" or "group" and (ii) the term "BENEFICIAL OWNER" shall have the meaning used in Rules 13d-3 and 13d-5 under the Exchange Act, whether or not applicable, except that a person shall be deemed to have "beneficial ownership" of all shares that any such person has the right to acquire, whether such right is exercisable immediately or only after the passage of time or upon the occurrence of certain events.

"Voting Stock" means the Capital Stock of the Company having generally the right to vote in the election for a majority of the directors of the Company.

"Excluded Person" means any beneficial holder of 5% or more of any class of common stock of the Company outstanding immediately prior to the consummation of the initial underwritten public offering by the Company of 3,400,000 shares of the Company's Class A Common Stock in April 1993.

Copyright © 2012 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

EMPLOYMENT AGREEMENT

AGREEMENT made as of the 1st day of January, 1996, by and between ENVIROTEST SYSTEMS CORP., a Delaware corporation with an office at 246 Sobrante Way, Sunnyvale, California 94086 (hereinafter referred to as the "Company"), and LARRY TAYLOR, an individual residing at 5072 Placita Diaz, Tucson, Arizona 85718 (hereinafter referred to as the "Employee").

W I T N E S S E T H:

WHEREAS, the Company desires to retain the services of the Employee, and the Employee desires to be employed by the Company, upon the terms and conditions set forth in this Agreement.

NOW, THEREFORE, in consideration of the premises and the mutual covenants and agreements hereinafter contained, the parties hereby agree as follows:

1. EMPLOYMENT AND TERM.

(a) The Company shall employ the Employee, and the Employee shall serve the Company, upon the terms and conditions hereinafter set forth.

(b) The employment of the Employee by the Company hereunder shall commence as of the date hereof and, unless sooner terminated in the manner as herein provided, shall terminate on the third anniversary hereof (the "Term"); PROVIDED, HOWEVER, that the Term shall automatically be extended for two (2) years on the terms and conditions provided herein unless either party shall give the other party no less than 90 days' written notice prior to the expiration of the applicable term of employment.

2. DUTIES. During the Term, the Employee shall serve as Vice President - Marketing of the Company, faithfully and to the best of his ability, and perform such duties and have such responsibilities and authority as are consistent with (i) his position and status as Vice President -Marketing of the Company and (ii) the practices and policies of the Company generally applicable to executive employment arrangements. The Employee shall report directly to the President and Chief Executive Officer of the Company.

3. SALARY. During the first year of the Term of his employment hereunder, the Company shall pay to the Employee a salary for his services at a rate of $182,000 per annum, payable in accordance with the regular payroll practices of the Company. For the second and third years of the Term, and if the Term is extended for an additional period as provided in Paragraph 1(b) of this Agreement, then during each subsequent year after the first year of the Term the Company shall pay a salary for the Employee's service at a rate of the previous year's salary for the immediately preceding year, increased

Copyright © 2012 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

by the greater of (i) five percent (5.0%) or (ii) the aggregate

monthly percentage increase in the Consumer Price Index for all Urban Consumers (CPI-U) for the United States, All Items (1982-1984 = 100), published by the U.S. Department of Labor, after taking into account any revisions, for the most recent twelve months for which the Consumer Price Index data is published prior to the first day of such additional year.

4. BONUS ARRANGEMENT; STOCK OPTIONS.

(a) In addition to the salary provided for in Paragraph 3 of this Agreement, the Employee is eligible to participate in the Company's bonus and other compensation plans for the Company's employees of like classification during the term of employment hereunder. Employee shall not be eligible for payment under such a plan if his employment is terminated for cause.

(b) In the event that a "change of control" of the Company occurs during the Term, one hundred percent (100%) of all options granted to the Employee prior to the date on which such change of control occurs shall vest upon such change of control and may be exercised by the Employee at any time during the ninety (90) day period commencing upon the date such change of control occurs. Change of control shall have the meaning set forth in Exhibit I hereto.

5. EMPLOYEE BENEFITS AND PERQUISITES. During the Term, the Company will provide to the Employee the following benefits and/or perquisites:

(a) The Employee shall be a participant in all benefit programs provided for the Company's management executives of like classification, including, but not limited to, insurance, retirement, tax-deferred plans, health and other benefit plans (including the Medical Reimbursement Program) for which he qualifies.

(b) The Employee shall be entitled to receive fringe benefits and perquisites (other than the above-mentioned employee benefit plans and programs) in the aggregate substantially equivalent to those provided to the Company's management executives of like classification, including vacation time and reasonable sick leave.

(c) The Employee shall be entitled to an insurance policy on his life in the amount of $1 million for a beneficiary named by the Employee.

(d) During the Term, the Company shall furnish to the Employee an automobile of the Company's reasonable choice. The Company shall pay for all expenses associated with the use, operation and enjoyment of the automobile (including insurance coverage but exclusive of gasoline expense).

(e) It is understood that, at the Company's request, the Employee will be relocating to the Company's headquarters in Sunnyvale, California.

Copyright © 2012 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

It is understood and agreed by the Company that the Employee because of his family's preference to remain in Arizona does not intend to relocate his family to Sunnyvale. In lieu of the standard relocation package it is agreed

that the Company will pay the Employee a relocation grant of money equal to the estimated cost of relocation per the Company's standard relocation policy for an employee of Mr. Taylor's position of Vice President. It will then be Mr. Taylor's responsibility to secure and fund living accommodations in the Sunnyvale area. Attachment I provides the agreed upon estimate of relocation costs which Mr. Taylor would likely incur if he were to relocate his primary residence from Arizona to the Sunnyvale area. It is agreed that this total amount of money will be paid to Mr. Taylor in three equal annual installments effective with the date of the agreement. In the event of the death or termination under Paragraph 8(b) of this agreement or departure because of permanent disability per Paragraph 6 of this agreement it is agreed that Mr. Taylor or his estate will receive the agreed upon total of the estimated relocation costs.

6. PERMANENT DISABILITY. In the event of the permanent disability (as hereinafter defined) of the Employee during the Term, the Company shall have the right, upon written notice to the Employee, to terminate his employment hereunder, effective upon the giving of such notice. Upon such termination, the Company shall be discharged and released from any further obligations under this Agreement, except for the obligation to pay salary and other benefits pursuant to Paragraph 8(b) of this Agreement. Disability benefits due under applicable plans and programs of the Company shall be determined under the provisions of such plans and programs. For purposes of this Paragraph 6, "permanent disability" shall be defined as any physical or mental disability or incapacity which renders the Employee unable to execute his duties hereunder for 180 consecutive days or an aggregate period of more than 210 days in any twelve (12) month period.

7. DEATH. In the event of the death of the Employee during the Term, the salary and other benefits to which the Employee is entitled pursuant to Paragraph 8(b) hereof shall be paid to the beneficiary so designated by the Employee by written notice to the Company or, failing such designation, to his estate. The Employee shall have the right to name, from time to time, any one person as beneficiary hereunder or, with the consent of the Board, he may make other forms of designation of beneficiary or beneficiaries. The Employee's designated beneficiary or personal representative, as the case may be, shall accept the payments provided for in this Paragraph 7 in full discharge and release of the Company of and from any further obligations under this Agreement. Any other benefits due under applicable plans and programs of the Company shall be determined under the provisions of such plans and programs.

8. TERMINATION AND EXPIRATION OF EMPLOYMENT.

Copyright © 2012 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

(a) The Employee's employment hereunder may be terminated by the Company for "cause" at any time. Termination of employment for "cause" shall mean termination upon (1) the willful failure by the Employee to materially perform his duties with the Company or to follow the instructions of the Board (other than any such failure resulting from his incapacity due to physical or mental illness), (2) the willful engaging by the Employee in conduct that is materially injurious to the Company, monetarily or otherwise, (3) the commission of any act of fraud, theft or dishonesty by the Employee against the Company, (4) the conviction of the Employee of (or the pleading by the Employee of NOLO CONTENDERE to) any felony, fraud or embezzlement or (5) any

willful breach by the Employee of the terms of this Agreement, unless any such breach of this Agreement by the Employee that is capable of being corrected is corrected in all material respects within thirty (30) days following written notification by the Company to the Employee that the Company intends to terminate the employment of the Employee hereunder by reason of a willful breach of this Agreement for cause as specified in such written notice to the Employee.

If the Employee is terminated for "cause," the Company shall have no further obligations under this Agreement, except for the obligation to pay all salary and other benefits earned but unpaid to the date of termination, and all options granted to the Employee and not exercised prior to the date of such termination shall be extinguished on the date of such termination.

(b) If (i) the Company terminates the employment of the Employee during the Term other than for "cause" (as defined in Paragraph 8(a) of this Agreement), or (ii) during the Term there is a change in control of the Company and the successor entity (or purchaser) does not accept an assignment of this Agreement, or (iii) the terms of the Employee's employment are materially adversely changed or his duties and responsibilities are materially diminished, following a change of control or otherwise (including, by way of example and not by limitation, by reason of the Employee ceasing to be a Vice President-Marketing of the Company), whereupon, in the case of this clause (iii), the Employee shall have the right to consider his employment hereunder to have been terminated by the Company by giving written notice to the Company within 10 business days after the date on which the Employee believes that such adverse change has occurred, the action(s) constituting such adverse change or diminution, and the fact that he is terminating this Agreement pursuant to this Paragraph 8(b)(iii), then (A) the Company shall retain Employee and Employee agrees to serve as a consultant to the Company for the longer of the remainder of the term or eighteen (18) months ("Consulting Period"); (B) the Employee's options shall vest as set forth in Section 4(b) above; and (C) the Employee shall be entitled to continue to receive (1) on the same schedule as was in existence prior to such termination, payment of his base salary and all other benefits to which he is entitled for the Consulting Period and (2) the pro rata portion of any bonus earned by the Employee for the fiscal year in which the termination occurred.

Copyright © 2012 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

9. CONFIDENTIALITY; INJUNCTIVE RELIEF.

(a) Recognizing that the knowledge, information and relationship with customers, suppliers and agents, and the knowledge of the Company's business methods, systems, plans and policies which he may hereafter receive or obtain as an employee of the Company, are valuable and unique assets of the Company, the Employee agrees that, during and after the Term, he shall not (otherwise than pursuant to his duties hereunder) disclose, without the prior written approval of the Board, any such knowledge or information pertaining to the Company, its business, personnel or policies, to any person, firm, corporation or other entity, for any reason or purpose whatsoever. The provisions of this Paragraph 9(a) shall not apply to (i) information which is or shall become generally known to the public or the trade, or information which is or shall become available in trade or other publications (except by reason of the Employee's breach of his obligations hereunder) and (ii) information which the Employee is required to disclose by law or by a governmental entity

or by an order of a court of competent jurisdiction or pursuant to a subpoena from such a court or agency. If the Employee is required by law or a court order to disclose such information, he shall notify the Company of such requirement and provide the Company an opportunity to contest such law or court order.

(b) The Employee acknowledges that the services to be rendered by him are of a special, unique and extraordinary character and, in connection with such services, he will have access to confidential information vital to the Company's business. By reason of this, the Employee consents and agrees that if he violates any of the provisions of this Agreement with respect to confidentiality, the Company would sustain irreparable harm and, therefore, in addition to any other remedies which the Company may have under this Agreement or otherwise, the Company shall be entitled to apply to any court of competent jurisdiction for an injunction restraining the Employee from committing or continuing any such violation of this Agreement, and the Employee shall not object to any such application.

10. REPRESENTATION, WARRANTY AND COVENANT OF THE EMPLOYEE. The Employee represents, warrants and covenants to the Company that he is not and will not during the Term become a party to any agreement, contract or understanding, whether employment or otherwise, which would in any way restrict or prohibit him from undertaking or performing his employment in accordance with the terms and conditions of this Agreement.

11. REPRESENTATION AND WARRANTY OF THE COMPANY. The Company represents and warrants that this Agreement constitutes a valid and legally binding obligation of the Company, enforceable in accordance with the terms herein set forth, except to the extent that the enforceability of this

Copyright © 2012 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

Agreement may be affected by bankruptcy, insolvency, reorganization, moratorium, or similar laws affecting creditors' rights and remedies generally and subject, as to enforceability, to general principles of equity, including principles of commercial reasonableness, good faith and fair dealing (regardless of whether enforcement is sought in a proceeding at law or equity).

12. DEDUCTIONS AND WITHHOLDING. The Employee agrees that the Company shall withhold from any and all payments required to be made to the Employee pursuant to this Agreement, all federal, state, local and/or other taxes which the Company determines are required to be withheld in accordance with applicable statutes and/or regulations from time to time in effect.

13. ENTIRE AGREEMENT. This Agreement, together with the other agreements specifically referred to herein, sets forth the entire agreement and understanding of the parties, and cancels and supersedes any and all prior agreements and understandings (whether written or oral) between the parties hereto, with respect to the employment of the Employee by the Company, and no statement, representation, warranty or covenant has been made by either party with respect thereto except as expressly set forth herein.

14. NOTICES. All notices, requests, demands and other communications hereunder shall be in writing and shall be delivered personally or sent by registered or certified mail, return receipt

requested, to the other party hereto at his or its address as set forth at the beginning of this Agreement. Either party may change the address to which notices, requests, demands and other communications hereunder shall be sent by sending written notice of such change of address to the other party.

15. ASSIGNABILITY, BINDING EFFECT AND SURVIVAL. This Agreement shall inure to the benefit of and shall be binding upon the heirs, executors, administrators, successors and legal representatives of the Employee, and shall inure to the benefit of and be binding upon the Company and its successors and assigns. Notwithstanding the foregoing, the obligations of the Employee may not be delegated and, except as expressly provided in Paragraph 7 hereof relating to the designation of beneficiaries, the Employee may not assign, transfer, pledge, encumber, hypothecate or otherwise dispose of this Agreement, or any of his rights hereunder, and any such attempted delegation or disposition shall be null and void and without effect. The provisions of Paragraphs 6, 7, 8, 9, 21 and 22 hereof shall survive termination of this Agreement.

16. AMENDMENT. This Agreement shall not be altered, modified, amended or terminated except by written instrument signed by each of the parties hereto. Waiver by either party hereto of any breach hereunder by the other party shall not operate as a waiver of any other breach, whether similar to or different from the breach waived.

Copyright © 2012 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

17. GOVERNING LAW. THIS AGREEMENT SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF CALIFORNIA WITHOUT REGARD TO THE PRINCIPLES OF CONFLICTS OF LAW.

18. PARAGRAPH HEADINGS. The paragraph headings contained in this Agreement are for reference purposes only and shall not affect in any way the meaning or interpretation of this Agreement.

19. SEVERABILITY. If any provision of this Agreement or the application of any such provision to any party or circumstances shall be determined by any court of competent jurisdiction to be invalid and unenforceable to any extent, the remainder of this Agreement or the application of such provision to such person or circumstances other than those to which it is so determined to be invalid and unenforceable, shall not be affected thereby, and each provision hereof shall be validated and shall be enforced to the fullest extent permitted by law.

20. ARBITRATION. The parties agree that any disputes that may arise in connection with, arising out of or relating to this Agreement, or any dispute that relates in any way, in whole or in part, to the Employee's employment with the Company, the termination of that employment or any other dispute by and between the parties or their successors or assigns, will be submitted to binding arbitration in Los Angeles, California according to the rules and procedures of the American Arbitration Association and California Code of Civil Procedure Section 1283.05. The parties agree that each will bear his or its own attorney's fees and costs in connection with any such arbitration and each party will pay half of any costs associated with the arbitration. This arbitration obligation

extends to any and all claims that may arise by and between the parties or their successors, assigns or affiliates, and expressly extends to, without limitation, claims or causes of action for wrongful termination, impairment of ability to compete in the open labor market, breach of an express or implied contract, breach of any collective bargaining agreement, breach of the covenant of good faith and fair dealing, breach of fiduciary duty, fraud, misrepresentation, defamation, slander, infliction of emotional distress, disability, loss of future earnings, and claims under the California Constitution, the United States Constitution, and applicable state and federal fair employment laws, federal equal employment opportunity laws, and federal and state labor statutes and regulations, including, but not limited to, the Civil Rights Act of 1964, as amended, the Fair Labor Standards Act, as amended, the Americans With Disabilities Act of 1990, the Rehabilitation Act of 1973, as amended, the Employee Retirement Income Security Act of 1974, as amended, and the Age Discrimination in Employment Act of 1967.

21. CONSULTING SERVICES.

Copyright © 2012 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

(a) For a period of one (1) year after the Employee ceases to be employed by the Company (the "Additional Consulting Period"), at the discretion of the Company (which discretion should be exercised within 30 days following the end of the Term), the Company may elect to retain Employee and Employee agrees to serve as a consultant to the Company. During the Additional Consulting Period, Employee shall be available to provide such consulting services to the Company as the Company may reasonably desire.

(b) During the Additional Consulting Period, if the Company has elected to retain the Employee to serve as a consultant to the Company, the Employee shall receive consulting fees in an amount equal to Employee's base salary then in effect, less any appropriate deductions, that shall be paid in accordance with the Company's ordinary payroll practices.

22. NONCOMPETITION. During (i) the Term of this Agreement, (ii) the Consulting Period, if any, under Paragraph 8(b) hereof, and (iii) the Additional Consulting Period, if the Company has elected to retain the Employee to serve as a consultant to the Company, the Employee shall not, directly or indirectly, without the prior written consent of the Company, provide consultation services or otherwise provide services to (whether as an employee or a consultant, with or without pay), own, manage, operate, join, control, participate in, or be connected with (as a stockholder, partner, or otherwise), any business, individual, partner, firm, corporation, or other entity that is then a competitor of the Company, including any entity engaged in the business of providing vehicle emissions testing services or services directly related thereto that comprise a material portion of the Company's business or any other business that is definitely planned by or that is under development by the Company or any of its affiliates during the Employee's employment (if Employee is currently employed) or at the time of the Employee's date of termination (each such competitor a "Competitor of the Company"); PROVIDED, HOWEVER, that the "beneficial ownership" by the Employee, either individually or as a member of a "group" (as such terms are used in Section 13(d) of the Securities Exchange Act of 1934 (the "Exchange Act") and

Regulation 13D under the Exchange Act) of not more than five percent (5%) of the voting stock of any publicly held corporation shall not alone constitute a violation of this Agreement.

It is further expressly agreed that the Company will or would suffer irreparable injury if the Employee were to compete with the Company or any subsidiary or affiliate of the Company in violation of this Agreement and that the Company would by reason of such competition be entitled to injunctive relief in a court of appropriate jurisdiction, and the Employee further consents and stipulates to the entry of such injunctive relief in such a court prohibiting the Employee from competing with the Company or any subsidiary or affiliates of the Company in violation of this Agreement.

Copyright © 2012 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

IN WITNESS WHEREOF, the parties hereto set their hands as of the day and year first above written.

ENVIROTEST SYSTEMS CORP.

By: /s/ Chester C. Davenport

Its: Chairman of the Board of Directors

/s/ Larry Taylor

Larry Taylor, Individually

EXHIBIT I

"Change of Control" means (i) any sale, transfer or other conveyance (other than to the Company or a wholly owned Subsidiary of the Company), whether direct or indirect, of all or substantially all of the assets of the Company, on a consolidated basis, in one transaction or a series of related transactions, if, immediately after such transaction, any "person" or "group" becomes the "beneficial owner," directly or indirectly, of more than 50% of the total voting power entitled to vote in the election of directors, managers or trustees of the transferee, (ii) any "person" or "group" is or becomes the "beneficial owner," directly or indirectly, of more than 50% of the total voting power of the Voting Stock then outstanding, or (iii) during any period of 24 consecutive months, individuals who at the beginning of such period constituted the Board of Directors of the Company (together with any new directors whose election by such Board or whose nomination for election by the shareholders of the Company was approved by a vote of a majority of the directors then still in the office who were either directors at the beginning of such period or whose election or nomination for election was previously so approved), cease for any reason to constitute a majority of the Board of Directors of the Company then in office.

For purposes of this definition, (i) the terms "person" and "group" shall have the meanings used for purposes of Rules 13d and 13d-5 of the Exchange Act, whether or not applicable; PROVIDED that no Excluded Person and no person or group controlled by Excluded Persons shall be deemed to be a "person" or "group" and (ii) the term "BENEFICIAL OWNER" shall have the meaning used in Rules 13d-3 and 13d-5 under the Exchange Act, whether or not applicable, except that a person shall be deemed to have "beneficial ownership" of all shares that any such person has the right to acquire, whether such right is exercisable immediately or only after the passage of time or upon the occurrence of certain events.

"Voting Stock" means the Capital Stock of the Company having generally

Copyright © 2012 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

the right to vote in the election for a majority of the directors of the Company.

"Excluded Person" means any beneficial holder of 5% or more of any class of common stock of the Company outstanding immediately prior to the consummation of the initial underwritten public offering by the Company of 3,400,000 shares of the Company's Class A Common Stock in April 1993.

ATTACHMENT I

L. TAYLOR

ESTIMATED COST OF RELOCATION

Projected sale price of Tucson house based on current market and real estate agent input = $525,000

HOME SALE COSTS

Commission @ 6% = $31,500
Other Sale Expenses @ 1% of sell price = $5,250

NEW HOUSE PURCHASE COSTS

Assume purchase cost of $600,000
Assume 20% down payment; mortgage amount = $480,000
Loan Fee (2%) = $9,600 (Not subject to gross up)
Assume other purchase costs @ 1% of purchase price = $6,000

FURNITURE/VEHICLE MOVE

= $10,000

60 DAY TEMPORARY LIVING

2 months apartment rental @ $2,500 = $5,000
Meals @ $30 day x 3 (use $75 total) = $4,500

AIRFARE TO SAN JOSE

($114x3) = $542

HOUSE HUNTING TRIPS (2)

Airfare ($238 RDTP x 4) = $952
Hotel and meal expense for 2 total 10 days - $1,850

TOTAL EXPENSES SUBJECT TO GROSS UP = $65,052

Copyright © 2012 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

GROSS UP @ 35% =	$ 100,080
ADD LOAN FEE OF	9,600
ADD 1 MONTH SALARY	15,000
	$ 124,680

Copyright © 2012 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

REVISION 1
INVITATION FOR BID/CONTRACT
NUMBER 99-92
FOR
VEHICLE EXHAUST EMISSION INSPECTION PROGRAM

NOTE: THIS IS A COMPLETE REVISION OF CONTRACT BID DOCUMENT
DISCARD PREVIOUS DOCUMENT DATED MARCH 20, 1992

REVISED BID OPENING DATE 4 JUNE 1992 TIME 2:00 P.M.

CONTRACT ADMINISTRATOR
William W. Griffin
Phone: (206)753-1046

/S/

SIGNATURE DATE

ALTERATION OF INVITATION TO BID 99-92
VEHICLE EXHAUST EMISSION INSPECTION PROGRAM

NOTE:The following clauses contained herein are deleted as not applicable to this Invitation to Bid/Contract.

SECTION I DEFINITIONS:

4.Conditional
9.Convenience
10.Political Subdivision
13.Recovered Material Content Products

SECTION III 1E RESPONSIBILITIES (LAST SENTENCE ONLY)

SECTION IV STANDARD TERMS & CONDITIONS:

17.Liens, Claims and Encumbrances
18.Delivery
19.Inspection and Rejection
20.Title and Risk of Loss
22.Identification
23.Charges for Handling
24.Invoicing
25.Payment
26.Quality Standards
28B.Rights Reserved (sub paragraph 4 only)
29.Supplier Registration
37.Minority & Womens Business Enterprises (MWBE)
38.Established Business

Supplement to SECTION II SCOPE OF CONTRACT, Paragraph 1B, Estimated Usage:

The State does not guarantee that the Contractor(s) will conduct a certain number of paid inspections.

Bidders wishing to estimate their paid inspections may obtain magnetic data tapes containing current vehicle registration information. The requestor and user of information obtained from these tapes agrees that the State will not be held liable for their accuracy or usefulness as the basis for projecting paid inspections or adjusting any contract provision.

To obtain these tapes or for further information contact Curtis Carpenter of the Department of Ecology at (206) 459-6225. Additional vehicle registration data may be purchased. For further information, contact Jack Lince of the

Copyright © 2012 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

Department of Licensing at (206) 753-7379.

TABLE OF CONTENTS

Copyright © 2012 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

Copyright © 2012 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

SECTION I

DEFINITIONS

SECTION I
DEFINITIONS

As used in this document, the following definitions shall apply:

1. BID

An offer to provide goods and/or services to the State in response to a formal solicitation.

A.Equal An offer to provide goods and/or services which equal or exceed the quality, performance and use of the goods and/or services specified as standard.

B.Alternate An offer to provide goods and/or services which deviate with respect to features, performance or use from the goods and/or services specified as standard.

2. BIDDER

An individual, company, corporation, firm or combination thereof submitting a bid to the State of Washington.

3. CONTRACT

An agreement, or mutual assent, between two or more competent parties with the elements of the agreement being offered, acceptance and consideration.

DELETED 4. CONDITIONAL

State agencies are mandated to utilize this contract for all acquisitions of materials, equipment or services designated herein except when the following exists:

A.The purchaser is within existing delegated authorities and an agency has completed the competitive acquisition process required by State statutes and determined that materials, equipment or services of equal quality or performance are available at a lower total acquisition cost. Total acquisition cost(s) shall include: price, delivery, service, administration, maintenance, terms of payment, etc. In the solicitation of pricing from other firms, it is considered unethical to "auction' the contract price in an effort to force a firm to meet or beat that price.

B.State agencies have completed the competitive acquisition process required by state statutes and have determined that materials, equipment or services of equal quality or performance are available at a lower total acquisition cost. Total

Copyright © 2012 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

acquisition cost(s) shall include: price, delivery, service, administration, maintenance, terms of payment, etc.

C.The minimum order quantity specified in the contract exceeds the agency(ies) needs and would result in stockpiling of material at the agency level.

5. CONTRACTOR

An individual, company, corporation, firm or combination thereof with whom the State of Washington develops a contract for the procurement of goods and/or services.

6.CONTRACT ADMINISTRATOR

An individual designated by the State of Washington. Department of General Administration, Office of State Procurement to act on behalf of the state to develop and administer contracts within the limits established by law.

7.CONTRACTOR'S REPRESENTATIVE

An individual, or individuals, designated by the Contractor to act on its behalf and with the authority to legally bind the Contractor concerning the terms and conditions set forth in bid and contract documents.

8.CONTRACT DOCUMENTS

Documents which comprise an entire agreement.

DELETED
9.CONVENIENCE

This contract is established strictly for the convenience of state agencies and/or Political Subdivisions and any purchase against this agreement is at their discretion.

DELETED
10.POLITICAL SUBDIVISION

Any unit of local government in receipt of state funds; e.g., cities, counties, school districts, special purpose districts, local service districts, authorized to purchase under state agency contracts by virtue of interlocal agreement(s) entered into pursuant to Chapter 39.34 RCW and by the terms of a specific contract.

11.MANDATORY

State agencies are mandated to utilize this contract for all acquisitions of materials, equipment or services designated herein. This section does not apply to acquisitions by Political Subdivisions. Reference Section II, Paragraph 1B (Items Included).

12.PURCHASER

Purchaser shall mean any state agency(ies) and/or Political Subdivision(s) indicated as authorized contract users.

DELETED
13.RECOVERED MATERIAL CONTENT PRODUCTS

(1) "Post Consumer waste" which is:

(a)Paper, paperboard, and fibrous wastes from buildings such as retail stores, office buildings, [and] homes after the wastes have passed through their end-usage as a consumer item, including: Used corrugated boxes, old newspapers, old magazines, mixed waste paper, tabulating cards, and used cordage; and

(b)All paper, paperboard, and fibrous wastes that enter and are collected from municipal solid waste; and

(2)"Secondary waste" including manufacturing and other wastes such as:

(a)Dry paper and paperboard waste generated after completion of the papermaking process, that is, those manufacturing operations up to and including the cutting and trimming of the paper machine reel into smaller rolls or rough sheets including: Envelope cuttings, bindery trimmings, and other paper and paperboard waste resulting from printing, cutting, forming, and other converting operations; bag, box and carton manufacturing wastes; and butt rolls, mill wrappers, and rejected unused stock;

Copyright © 2012 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

(b)Finished paper and paperboard from obsolete inventories of paper and paperboard manufacturers, merchants, wholesalers, dealers, printers, converters, or others;

(c)Wastes generated by the conversion of goods made from fibrous material, that is, waste rope from cordage manufacture, textile mill waste, and cuttings; and

(d)Fibers recovered from waste water which otherwise would enter the waste stream. [1988 c 175 Section 1; 1988(1 Section 1)]

14.STATE AGENCY

Agency shall include: state institutions, colleges, community colleges and universities, the offices of the elective state officers, The Supreme Court, the Court of Appeals, the administrative and other departments of state government, and the offices of all appointive officers of the state, excluding the legislature.

SECTION II

SCOPE OF CONTRACT

SECTION II
SCOPE OF CONTRACT

MATERIALS, EQUIPMENT OR SERVICES

A.Scope and Intent The Office of State Procurement, Purchasing and Contract Administration (the state) pursuant to RCW Chapter 43.19 as authorized agent for State Of Washington, herewith solicits bids for: Establishing and operation of motor vehicle emission inspection facilities.

B.Estimated Usage 640,000 to 1,020.000 inspections per year. (Reference Section V, Paragraph 10)

C.Misrepresentation Contractor shall not misrepresent the scope of this contract to Purchasers. Only goods and services stated herein may be purchased against this contract. Misrepresentation may be cause for contract termination.

2.PURCHASER

A.Authorized Agency: Department of Ecology is authorized to utilize this contract, and such use is designated as mandatory as defined in Section 1.

3.TERM OF CONTRACT

Contract term shall be for a period from date of award through the 31st Day of December, 1999.

4.CONTRACT EXTENSION

The state reserves the right to extend this contract for additional contract terms or portions thereof. Contract extensions shall be subject to mutual agreement. Total contract period with extensions shall not exceed ten (10) years. Contractor shall respond within fifteen (15) calendar days following receipt of Office of State Procurement's request for extension.

5.PREBID CONFERENCE

A conference to address contractual requirements will be held at the time and location indicated below. If marked as mandatory, attendance by a representative or authorized agent of the company intending to submit a bid is required in order for the bid submitted to be considered responsive. If marked as optional, prospective bidders are encouraged to be present. If changes are

required as a result of the conference, written bid addenda will be issued.

Copyright © 2012 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

Note:Assistance for handicapped, blind or hearing impaired persons who wish to attend is available with prearrangement with the Office of State Procurement. Contact the Contract Administrator identified on the face page of this document.

Pre-bid: Date: Tuesday, 14 April 1992
Time: 9:00 A.M.
Location:

Office of State Procurement
Room 216
General Administration Bldg.,
Corner of 11th and Columbia
Olympia, Washington 98504-1017

Attendance: Optional [ ] Mandatory [X]

REVISED 6. BID RECEIPT AND OPENING: Submit signed original and

two copies of complete bid response. Bid must be received and

officially time stamped before bid opening date and time at the:

Office of State Procurement
Rm 21 6p General Administration Bldg
Corner of 11th and Columbia
Olympia, WA 98504-1017

Bid opening: Date Thursday June 4, 1992

Time 2:00 P.M.

Prior to receipt by the Office of State Procurement, the state will not be responsible for mis-direction or delivery of bid documents.

SECTION III

INSTRUCTIONS TO BIDDERS

SECTION III
INSTRUCTIONS TO BIDDERS

1.PREPARATION OF BID

A. Due Date and Time Original, signed, sealed bids must be received at the specified location on or before the date and time indicated in Section II, paragraph 6 "Bid Receipt and Opening" at which time they will be opened publicly and read aloud. Late bids will be returned unopened.

B. Format Bids shall be submitted on the forms provided in this document, portions of which may be copied. Bids must be typewritten or in ink and signed in ink by the bidder's authorized representative. Incomplete bids will be rejected unless such omissions do not materially affect the bid itself. Telegraphic bids or mailgrams will only be considered when approved in advance by the Contract Administrator. Telex or facsimile bids will not be accepted unless the document submitted has an original signature by an authorized representative of bidder in an ink color contrasting with document.

C. Prices Bidders shall extend unit pricing as required. In the event of an error in the extension of prices, the unit price shall prevail. Bid prices shall be inclusive of all associated costs and shall remain firm for ninety calendar days after bid opening date.

D. Identification Bid(s) must be submitted in a sealed envelope with the Invitation for Bid (IFB) number, the Contract Administrator's name, bid opening date and time clearly indicated on the label provided by the state for this purpose. The envelope must also bear the bidder's name and address~, preferably in the upper left hand corner. In the event a label was not provided with the bid, all of the above information should be written/typed on the outside of the envelope.

E. Responsibilities

Bidders shall:

- Examine and understand this entire document and seek clarification from the

Copyright © 2012 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

Contract Administrator if required pursuant to WAC 236-48-013 and WAC 236-48-081. Negligence in preparing a bid does not constitute the right of withdrawal after bid opening.

- Become familiar with and abide by current federal laws, state and local statutes, regulations and ordinances which could impact pricing or performance.

- Visit delivery and service location(s) as required. Become familiar with and verify any environmental factors which may impact current or future pricing for this requirement.

- Respond to this IFB by submission of a bid or by the return of Section IX, of this document, the "No Bid Response". Failure to respond to three (3) successive IFB'S will result in removal of supplier's name from the bid mailing list.

DELETED
SENTENCE
ONLY - Bid only contractual requirements that are in place and available at time of bid submittal.

2.INQUIRIES

All questions related to this IFB shall be directed to the Contract Administrator. Inquiries shall be in writing and shall reference the appropriate section and paragraph number of this document. Questions received less than ten (10) calendar days prior to bid opening may not be considered. Only questions answered by formal written addenda shall be binding. Oral interpretations shall be without legal effect.

3.WITHDRAWAL OR MODIFICATION OF BID

A.Prior to submittal Bid changes or modifications shall be initialed in ink by an authorized company representative.

B.After submittal At any time prior to the specified bid due date and time, bidder may withdraw the bid if such a request is submitted in writing. Bid modifications must be submitted in writing prior to bid opening date and time.

C.After bid opening No bid shall be altered or amended. The Director or designee, may allow a bid to be withdrawn if bidder demonstrates that they miscalculated bid prices.

4.CONTRACT FORMATION

Your bid response to this IFB is an offer to contract with the state. A bid response becomes a contract when officially accepted by the state as evidenced by return of a countersigned Section VII, "Offer and Contract Award."

5.AWARD RESULTS

All bids submitted become the property of the state and are a matter of public record.

Bids are read aloud at the time of the bid opening, including but not limited to, required bid attachments and total prices. This does not in any way determine award of the contract to the lowest responsible and responsive bidder.

A copy of the contract award notice will be furnished to bidders who include a self-addressed stamped envelope with their bid. Additional information may be obtained by attending the public bid opening or via review of the contract file after award. Bid results will not be given over the phone.

6.MINIMUM ORDER REQUIREMENTS

Where applicable, bidder shall indicate minimum order requirements. Failure to establish a minimum order shall waive all future rights of bidder to do so. The state reserves the right to accept or reject bids with minimum orders.

Copyright © 2012 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

SECTION IV
STANDARD TERMS AND CONDITIONS

1. ENTIRE AGREEMENT

This document, including all addenda and subsequently issued change notices, comprises the entire agreement between the State of Washington and the Contractor and shall be governed by the laws of the State Of Washington incorporated herein by reference. The venue for legal action shall be the Superior Court for the State Of Washington, County of Thurston. The state reserves the right to reject bids which propose alternate or additional terms and conditions.

2. CONFLICT AND SEVERABILITY

A.Conflict In the event of conflict between contract documents and applicable laws, codes, ordinances or regulations, the most stringent or legally binding requirement shall govern and be considered a part of this contract to afford the state maximum benefits.

B.Severability Any provision of this document found to be prohibited by law shall be ineffective to she extent of such prohibition without invalidating the remainder of the document.

3. ANTITRUST

The state maintains that, in actual practice, overcharges resulting from antitrust violations are borne by the purchaser. Therefore, the Contractor hereby assigns to the state any and all claims for such overcharges except overcharges which result from antitrust violations commencing after the price is established under this contract and which are not passed on to the state under an escalation clause.

4.NONDISCRIMINATION AND AFFIRMATIVE ACTION

Acceptance of this contract binds the contractor to the terms and conditions of Section 601, Title VI, Civil Rights Act of 1964, as may be amended:

In that "No person in the United States shall, on the grounds of race, color, national origin, sex or age, be excluded from participation in, be denied the benefits of, or be subject to discrimination under any program or activity receiving Federal financial assistance." In addition, "No otherwise qualified handicapped individual in the United States shall, solely by reason

of his handicap, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance."

Unless exempted by Presidential Executive Order #11246, as may be amended or replaced and applicable regulations thereunder, Contractor shall not discriminate against any employee or applicant for employment.

5.WORKERS RIGHT TO KNOW

Recently passed "right to know" legislation required the Department of Labor and Industries to establish a program to make employers and employees more aware of the hazardous substances in their work environment. WAC 296-62-054 requires among other things that all manufacturers/distributors of hazardous substances, including any of the items listed on this bid/quote/contract bid and subsequent award must include with each delivery completed Material Safety Data Sheets (MSDS) for each hazardous material. Additionally, each container of hazardous material must be appropriately labeled with:

- The identity of the hazardous material.
- Appropriate hazardous warnings, and
- Name and address of the chemical manufacturer, importer or other responsible party.

Appropriate fines may be levied by Labor and Industries against employers for noncompliance and agencies may withhold payment pending receipt of a legible copy of the MSDS. It should be noted that OSHA Form 20 is not acceptable in lieu of this requirement unless it is modified to include appropriate

Copyright © 2012 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

information relative to "carcinogenic ingredients" and "routes of entry" of the product(s) in question.

6.GIFTS AND GRATUITIES

In accordance with RCW 43.19.1937 and 1939, it is unlawful for any person to directly or indirectly offer, give or accept gifts, gratuities, loans, trips, favors, special discounts, services, or anything of economic value in conjunction with state business practices.

7.RIGHTS AND REMEDIES

In the event of any claim for default or breach of contract, no provision in this document or in the bidders offer shall be construed, expressly or by implication, as a waiver by the state of any existing or future right and/or remedy available by law. Failure of the state to insist upon the strict performance of any term or condition of the contract or to exercise or delay the exercise of any right or remedy provided in the contract or by law,

or the acceptance of (or payment for) materials equipment or services, shall not release the Contractor from any responsibilities or obligations imposed by this contract or by law, and shall not be deemed a waiver of any right of the state to insist upon the strict performance of the contract.

8.INSTATE PREFERENCE-RECIPROCITY

Pursuant to RCW 43.19.702 the Department of General Administration has established a schedule of penalties applicable against firms submitting bids from states which grant a preference to their own in-state businesses. The penalties are listed below and apply only to bids received from the following states:

Alaska.....	5%	Montana.....	3%
Arkansas.....	3%	New Mexico.....	5%
Hawaii.....	3%	Ohio.....	5%
Louisiana.....	7%	Oklahoma.....	5%
Massachusetts.....	2%	South Carolina.....	2%
		West Virginia.....	2%

In determining the lowest responsible bidder, the Contract Administrator will add an amount equal to the above percentage to each applicable bid submitted. In no event shall such increase be paid to a contractor whose bid is accepted.

9.PROTESTS

Protests shall be filed and resolved in accordance with Washington Administrative Code (WAC) 23 6-48-141 through 143. Protests filed prior to award are to be addressed to the Contract Administrator in charge of the bid. Protests filed after the award, and in accordance with above referenced WAC. are to be addressed to the Assistant Director, Office of State Procurement.

10. SAVE HARMLESS

Contractor shall indemnify, defend and save harmless the state from any and all claims, demands, suits, actions, proceedings, losses. costs and damages of every kind and description, including any attorneys' fees and/or litigation expenses, which may be brought or made against or incurred by the state on account of losses of or damage to any property or for injuries to or death of any person,

caused by, arising out of, or contributed to, in whole or in part, by reasons of any act, omission, professional error, fault, mistake or negligence of Contractor, Contractor's employees, agents, representatives or subcontractors, their employees, agents or representatives in connection with or incidental to the performance of this agreement, or arising out of Worker's Compensation claims, Unemployment Compensation' claims or Unemployment Disability Compensation claims of employees of Contractor and/or subcontractors or claim under similar such laws or obligations. Contractor also agrees to protect and save harmless the purchaser against all claims, suits or proceeding for patent, trademark, copyright, or franchise infringement arising from the purchase, installation, or use of goods and services ordered, and to assume all expenses and damages arising from such claims, suits or proceedings. Contractor's obligation under this Section to indemnify, defend and save harmless shall not be eliminated or reduced by any alleged concurrent or sole negligence of the state or its agencies,

Copyright © 2012 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

employees, and officers.

Contractor shall pay all attorney's fees and expenses incurred by the state in establishing and enforcing the state's rights under this paragraph, whether or not suit was instituted.

11. PERSONAL LIABILITY

It is agreed by and between the parties hereto that in no event shall any official, officer, employee or agent of the State of Washington be in any way personally liable or responsible for any covenant or agreement herein contained whether expressed or implied, nor for any statement or representation made herein or in any connection with this agreement.

12. SUPERVISION AND COORDINATION

Contractor shall:

-Competently and efficiently supervise and direct the implementation and completion of all contract requirements specified herein.

-Designate in its bid to the state, a representative(s) with the authority to legally commit Contractors firm. All communications given or received from the Contractor's representative shall be binding or the Contractor. Reference Section VIII, "Attachments".

-Promote and offer to Purchasers only those materials, equipment and/or services as stated herein and allowed for by contractual requirements. Violation of this condition will be grounds for contract termination (Ref. Section II, Paragraph 1.c).

13.ADVERTISING

Contractor shall not advertise or publish information concerning this contract in any form or media without prior written consent from the Contract Administrator.

14. SUBCONTRACTS/ASSIGNMENT

Contractor shall not on subcontract or assign the operation of vehicle inspection stations without the prior written consent of the Contract Administrator. The Contractor shall be responsible to ensure that all requirements of the contract shall flow down to any and all subcontractors.

15. TAXES. FEES AND LICENSES

A.Taxes Contractor shall pay for and maintain in current status any and all taxes which are necessary for contract performance. Unless otherwise indicated, the purchaser agrees to pay all State Of Washington sales or use taxes. No charge by Contractor shall be made for federal excise taxes and the purchaser agrees to furnish Contractor with an exemption certificate, where appropriate. Sales tax shall not be included in bid pricing submitted.

B.Fees/Licenses Prior to bid opening the Contractor shall pay for and maintain in a current status, any license fees, assessments, permit charges, etc., which are necessary for contract performance. It is the contractor's sole responsibility to monitor and determine any changes or the enactment of any subsequent regulations for said fees, assessments or charges and to immediately comply with said changes or regulations during the entire term of this contract.

16.WARRANTIES

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

B.Price Contractor warrants that payments to be retained by the contractor do not exceed those charged by the Contractor to any other customer purchasing the same services under similar conditions and in like or similar quantities.

DELETED

Copyright © 2012 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

17.LIENS, CLAIMS AND ENCUMBRANCES

All materials, equipment or services shall be free of all liens, claims, or encumbrances of any kind and if the state requests, a formal release of same shall be delivered to the state.

DELETED

18.DELIVERY

A.Time Delivery must be made during normal work hours and within time frames proposed by Bidder herein and subsequently accepted by the state. Failure to comply may subject Contractor to nondelivery assessment charges and/or liquidated damages as appropriate. The state reserves the right to refuse shipment when delivered after normal working hours. Contractor shall verify specific working hours of individual agencies and so instruct carrier(s) to deliver accordingly. The acceptance by the purchaser of late performance with or without objection or reservation shall not waive the right to claim damage for such breach nor constitute a waiver of the requirements for the timely performance of and' obligation remaining to be performed by Contractor.

B.Terms Unless otherwise specified, all goods are to be shipped FOB Destination freight prepaid and included. Where specific authorization is granted to ship goods FOB shipping point, Contractor agrees to prepay all shipping charges, route as instructed or if instructions are not provided, route by cheapest common carrier. Each invoice for shipping charges shall contain the original or a copy of the freight bill indicating that the payment for shipping has been made. The purchaser reserves the right to refuse COD shipments.

C.Location All deliveries are to be made to the applicable delivery location in accordance with ICC rules or as indicated in purchase order. When applicable, Contractor shall take necessary actions to safeguard items during inclement weather.

D.Unauthorized In no case shall Contractor initiate performance prior to receipt of written or verbal authorization from authorized purchaser(s). Expenses incurred otherwise shall be borne solely by the Contractor.

DELETED

19. INSPECTION AND REJECTION

The Purchaser's inspection of all materials and equipment upon delivery is for the sole purpose of identification. Such inspection shall not be construed as final acceptance or as acceptance of the materials or equipment if materials or equipment do not conform to contractual requirements. If there are any apparent defects in the materials or equipment at the time of

delivery, the Purchaser will promptly notify the Contractor thereof. Without limiting any other rights, the Purchaser and/or the state at its option, may require the Contractor to:

- Repair or replace, at Contractor's expense, any or all of the damaged goods,

- Refund the price of any or all of the damaged goods, or

- Accept the return of any or all of the damaged goods.

DELETED

20. TITLE AND RISK OF LOSS

Regardless of FOB point, Contractor agrees to bear all risks of loss, injury or destruction of goods and materials ordered herein which occur prior to delivery and acceptance. Such loss, injury or destruction shall not release Contractor from any obligation hereunder.

21. PERFORMANCE

Acceptance by the purchaser of unsatisfactory performance with or without objection or reservation shall not waive the right to claim damage for breach nor constitute a waiver of requirements for satisfactory performance of any obligation remaining to be performed by Contractor.

DELETED

22. IDENTIFICATION

All invoices, packing lists, packages, instruction manuals, correspondence, shipping notices, shipping containers and other written documents affecting

Copyright © 2012 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

this contract shall be identified by the applicable purchase order or field order number. Packing lists shall be enclosed with each shipment, indicating the contents therein.

DELETED
23. CHARGES FOR HANDLING

No charges will be allowed for handling which includes but is not limited to packing, wrapping, bags, containers or reels, unless otherwise stated herein.

DELETED
24. INVOICING

Contractor shall provide an original and two (2) copies of invoices. Each invoice shall be submitted as required by the

contract and shall reference the contract and field order or purchase order number. Invoices shall be properly annotated with applicable prompt payment discount(s).

DELETED
25. PAYMENT

Payment will be made by the state agency or political subdivision indicated on ordering document. Any bid that requires payment in less than thirty (30) calendar days need not be considered. Prompt payment discount periods of thirty (30) calendar days or more will be considered in determining the apparent lowest responsible and responsive bid. Invoices will not be processed for payment nor will the period of cash discount commence until receipt of a properly completed invoice and until all invoiced items are received and satisfactory performance of Contractor has been attained. If an adjustment in payment is necessary due to damage or dispute, the cash discount period shall commence on the date final approval for payment is authorized. Under "Chapter 39.76 RCW", if purchaser fails to make timely payment(s), Contractor may invoice for 1 % per month on the amount overdue or a minimum of $ 1.00. Payment will not be considered late if a check or warrant is mailed within the time specified. If no terms are specified, net 30 days will automatically apply. Payment(s) made in accordance with contract terms shall fully compensate the Contractor for all risk, loss, damages or expense of whatever nature and acceptance of payment shall constitute a waiver of all claims submitted by Contractor.

DELETED
26. QUALITY STANDARDS

Product or service specifications herein are intended solely to clearly describe type and quality and not to be restrictive. Trade reference specifications describe the type product thus far found to best meet agency functional requirements and provide the most economical use life under agency use situations. So as not to misrepresent the requirements herein, brands other than those specified will therefore be considered on the basis of whether at least equal in quality/performance. Failure to submit with bid complete documentation sufficient to establish products bid as at least equal will be complete grounds for rejection. By submitting bid, bidder expressly warrants product bid as at least equal to bid in quality and performance. The state's acceptance of a product bid as an "equal" is conditioned on the state's inspection and testing after receipt. If, in the sole judgment of the state, the item is determined not to be an equal, the bid may be rejected or the product returned at bidder's expense and/or the contract cancelled without any liability whatsoever to the state. Any bid containing a brand which is not of equal quality, performance or use specified must be represented as an "alternate" and not as an "equal":

failure to do so shall be sufficient reason to consider the bid nonresponsive.

27. DETERMINATION OF RESPONSIBILITY

During bid evaluation, the state reserves the right to make reasonable inquiry to determine the responsibility of any bidder. Requests may include. but not be limited to, financial statements, credit ratings, references, record of past performance, on-site inspection of bidder's or bidder's subcontractor's facilities. Failure to respond to said request(s) will be sufficient reason to consider the bid nonresponsive.

28. AWARD FACTORS

A.Criteria State contracts shall be awarded to the lowest responsible and responsive bidder subject to the preferences provided by law. Award criteria

Copyright © 2012 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

shall include all items as stated in RCW 43.19.1911 and WAC 236-48-093 and the contractual requirements provided herein.

B.Rights Reserved

The state reserves the right to:

1.Waive any informalities.

2.Reject any or all bids, or portions thereof, WAC 236-48-094 allows the state to "accept any portion of the items bid" unless the bidder stipulates all or nothing on the bid.

3.Reissue an IFB or negotiate as the best interests of the state may require whenever there is reason to believe that prices or terms are not the best obtainable.

DELETED ITEM 4 ONLY

4.Award on an all or none consolidated basis taking into consideration reduction in administrative costs as well as unit bid prices.

DELETED
29. SUPPLIER REGISTRATION

Prior to award of a contract, any unregistered bidder may be required to complete a Supplier Registration Packet for placement on the state's supplier list.

30. CHANGES

No alteration in any of the terms, conditions, or contractual requirements herein shall be effective without the written consent of the Contract Administrator as evidenced by issuance by the state of a contract change notice.

31. ADDITIONS OR DELETIONS

The state reserves the right to add or delete items, agencies or locations as determined to be in the best interest of the state. Added items, agencies or locations will be related to those on contract and additions or deletions will not represent a significant increase or decrease in size or scope of the contract. Such additions or deletions will be by mutual agreement, will be at prices consistent with the original bid price margins, and will be evidenced by issuance of a written contract change notice from the Contract Administrator.

32. CONTRACT SUSPENSION

The state may at any time and without cause, suspend the contract or any portion thereof, for a period of not more than thirty (30) calendar days, by written notice to the Contractor. Contractor shall resume performance within fifteen (15) calendar days of written notice from the state. If suspension is issued prior to the contractor commencing the operation of vehicle inspection stations, an extension may be granted to the required starting date of operations equal to the period of suspension.

33.TERMINATION

A.Termination for Convenience The state may terminate this contract, in whole or in part at any time and for any reason by giving a thirty (30) calendar days written termination notice to Contractor. Termination charges, when applicable, shall be computed in the following manner: (1) a sum computed and substantiated in accordance with standard accounting practices for those reasonable costs incurred by Contractor prior to the date of termination, for orderly phase out of performance as requested by the state in order to minimize the costs of the termination; and (2) a reasonable profit for such work performed; however, the state shall not be liable to the Contractor for any anticipated profits on the terminated portion of the contract, or claims of unabsorbed overhead or other fixed costs. In no event shall the state become liable to pay any sum in excess of the price of this contract for the terminated services.

B.Termination for Breach Except in the case of delay or failure resulting from circumstances beyond the control and without

Copyright © 2012 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

the fault or negligence of the Contractor or of the Contractor's suppliers or subcontractors, the state shall be entitled, by written or oral notice, to cancel this contract in its entirety or in part, for breach of any of the terms herein, and to have all other rights against Contractor by reason of Contractor's breach as provided by law and paragraph 34 below.

A breach shall mean any one or more of the following events: (1) Contractor fails to perform the services by the date required or by such later date as may be agreed to in a written amendment to the contract signed by the state; (2) Contractor breaches any warranty, or fails to perform or comply with any term or agreement in the contract; (3) Contractor makes any general assignment for the benefit of creditors; (4) in the state's sole opinion, Contractor becomes insolvent or in an unsound financial condition so as to endanger performance hereunder; (5) Contractor becomes the subject of any proceeding under any law relating to bankruptcy, insolvency or reorganization or relief from debtors; or (6) any receiver, trustee or similar official is appointed for Contractor or any of Contractor's property. If it is subsequently found that Contractor was not in breach, the rights and obligations of the parties shall be the same as if a Notice of Termination had been issued pursuant to subparagraph 33.A.

C.Termination by Mutual Agreement The state or the Contractor may terminate this contract in whole or in part, at any time, by mutual agreement with a thirty (30) calendar days written notice from one party to the other.

34.DEFAULT AND REMEDIES

A.Events Any of the following events shall constitute cause for the state to declare Contractor in default of the contract:

1.Nonperformance of contractual requirements.

2.A material breach of any term or condition of this contract.

The state shall issue a written notice of default providing a period in which Contractor shall have an opportunity to cure. Time allowed for cure shall not diminish or eliminate Contractor's liability for liquidated or other damages.

B.Remedies If the default remains, after Contractor has been provided the opportunity to cure, the state may do one or more of the following:

1.Exercise any remedy provided by law.

2.Terminate this contract and any related contracts or portions thereof.

3.Impose liquidated damages.

4.Suspend contractor from receiving future Invitations for Bid.

35. LEGAL FEES

The Contractor covenants and agrees that in the event suit is instituted by the purchaser for any default on the part of the Contractor, and the Contractor is adjudged by a court of competent jurisdiction to be in default, he shall pay to the purchaser all costs. expenses expended or incurred by the purchaser in connection therewith, and reasonable attorneys fees.

36. FORCE MAJEURE

A.Definition Except for payment of sums due, neither party shall be liable to the other or deemed in default under this contract if and to the extent that such party's performance of this contract is prevented by reason of force majeure. The term "force majeure" means an occurrence that is beyond the control of the party affected and could not have been avoided by exercising reasonable diligence. Force majeure shall include acts of God, war, riots, strikes, fire, floods, epidemics, or other similar occurrences.

B.Notification If either party is delayed by force majeure, said party shall provide written notification within forty-eight (48) hours. The notification shall provide evidence of the force majeure to the satisfaction of the other party. Such delay shall cease as soon as practicable and written notification of same shall be provided. The time of completion shall be extended by contract modification for a period of time equal to the time that

Copyright © 2012 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

the results or effects of such delay prevented the delayed party from performing in accordance with this contract.

C.Rights Reserved The state reserves the right to cancel the contract and/or purchase materials, equipment or services from the best available source during the time of force majeure, and Contractor shall have no recourse against the state.

DELETED
37. MINORITY AND WOMEN'S BUSINESS ENTERPRISES (MWBE)

MWBE requirements are set forth in Section VIII, "Attachments" to this Invitation for Bid and are hereby incorporated into the terms and conditions of this contract. Bidders are encouraged to contact the Office of Minority and Women's Business Enterprises (OMWBE) to obtain information on certified MWBE firms for potential subcontracting arrangements. Participation goals may also be met by entering into a Business Partnership Plan (B.P.P). Information on setting up a B.P.P. is available from OMWBE, Telephone (206) 753-9693.

DELETED
38.ESTABLISHED BUSINESS

To be considered responsive, bidder must, at the time of bid opening, or prior to that time if required by law, be an established business firm with all required licenses, bonding, facilities, equipment and trained personnel necessary to perform the work as specified in the bid solicitation.

The state reserves the right to require proof of said requirements within 10 calendar days from the date of request.

SECTION V

SPECIAL TERMS AND CONDITIONS

SECTION V
SPECIAL TERMS AND CONDITIONS

1. BID GUARANTEE (See Form at Appendix H)

All bids submitted for this contract must be accompanied by a surety bid bond or escrow agreement on a form furnished by the state or a certified or cashier's check or money order payable to State of Washington in an amount not less than $ 25,000.00 per zone. The escrow agreement or certified or cashier's check is to be with a bank or savings and loan institution regulated by the State Of Washington. Bid guarantees will be returned to all bidders at time of contract award with exception of contractor(s) of whom a performance guarantee is required in which case the Bid Guarantee will be returned upon receipt of same.

2. PERFORMANCE GUARANTEE (See Form at Appendix l)

A.Form Within fifteen (15) calendar days after receipt of notice of award, the Contractor shall furnish the state with a performance guarantee. Said guarantee shall be in the form of a(n):

1.Bond on a form furnished by the state and completed by an approved surety or;
2.Escrow agreement on a form furnished by the state or;
3.Irrevocable letter of credit or:
4.Certified check or;
5.Cashier's check.

Bidder is to indicate in Section VIII, Attachment 1 the form of performance guarantee they intend to provide.

NOTE: Certified or cashier's checks are held by the state and do not yield interest payable to the contractor.

B.Amount The performance guarantee shall be for an amount which is not less than $100,000.00 per station and shall be conditioned upon the faithful performance of six months of inspections by the Contractor after which time

Copyright © 2012 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

it will be discontinued and replaced by the Escrow Account balance required at Section VI paragraph 6.1.

C.Noncompliance Failure to provide the required guarantee will result in contract cancellation.

DELETED D ONLY
D. Discontinuance Based on Contractor performance

during the initial contract term, the state reserves the right to continue/discontinue performance guarantee requirements in subsequent extensions. Delivery, timely correct invoices, problem resolvement, etc. will be prime consideration.

3.INSURANCE

A.General Requirements Contractor shall, at his own expense, obtain and keep in force insurance as follows until completion of the contract. Within fifteen (15) calendar days of receipt of notice of award, the Contractor shall furnish evidence in the form of a Certificate of Insurance satisfactory to the state that insurance in the following kinds and minimum amounts has been secured. Failure to provide proof of insurance as required will result in contract cancellation.

B. Specific Requirements

1.Workers' Compensation Coverage The Contractor will at all times comply with all applicable workers' compensation, occupational disease, and occupational health and safety laws, statutes, and regulations to the full extent applicable. The state will not be held responsible in any way for claims filed by the Contractor or his employees for services performed under the terms of this contract.

2.Public Liability Insurance The Contractor shall at all times during the term of this contract, carry and maintain general public liability insurance, including contractual liability, against claims for bodily injury, personal injury, death or property damage occurring or arising out of services provided under this Contract. This insurance shall cover such claims as may be caused by any act, omission, or negligence of the Contractor or its officers, agents. representatives. assigns, or servants. The limits of liability insurance shall not be less than as follows:

Each Occurrence	$1,000,000
General Aggregate Limits (other than products-completed operations)	2,000,000
Products-Completed Operations Limit	2,000,000
Personal and Advertising Injury Limit	1,000,000
Fire Damage Limit (at any fire)	50,000
Medical Expense Limit (at any person)	5,000

3.Automobile Liability In the event that services delivered pursuant to this contract involve the use of vehicles or the transportation of clients, automobile liability insurance shall be required. If Contractor-owned personal vehicles are used, a Business Automobile Policy covering at a minimum Code 2 "owned autos only" must be secured. If Contractor employee's vehicles are used, the Contractor must also include the Business Automobile Policy Code 9, coverage for "no-owned autos." The minimum limits for automobile liability are:

$1,000,000 per occurrence, using a Combined Single Limit for bodily injury and property damage Comprehensive Liability Insurance shall be combined Comprehensive General and Automobile, Public Bodily Injury, Personal Injury and Property Damage Liability Insurance. The coverage provided shall protect against claims for personal injury; bodily injury, including illness, disease and death; and property damage caused an occurrence arising out of or in consequence of the performance of this service by the Contractor or subcontractor or anyone employed by either.

4.Additional Provisions Above insurance policy shall include the following provisions:

Copyright © 2012 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

A.Additional Insured The State of Washington and all authorized contract users shall be specifically named as an additional insured on all policies. All policies shall be primary over any other valid and collectable insurance.

B.Material Changes A forty-five (45) calendar day written notice shall be given to the State prior to termination of or any material change to the policy(ies) as it relates to this contract; provided that thirty (30) calendar day written notice shall be given for surplus line insurance cancellation for nonpayment of premiums, such notice shall not be less than ten (10) calendar days prior to such date.

C.Identification Policy must reference the state's bid/contract number.

D.Insurance Carrier Rating The insurance required above shall be issued by an insurance company authorized to do business within the state of Washington. Insurance is to be placed with a carrier that has a Best's rating of A-7 or better. Any exception must be approved by the Risk Manager for the State of Washington, by submitting a copy of the contract and evidence of insurance before contract commencement.

E.Excess Coverage The limits of all insurance required to be provided the Contractor shall be no less than the minimum amounts specified. However, coverage in the amounts of these minimum

limits shall not be construed to relieve the Contractor from liability in excess of such limits.

4. MATERIALS AND WORKMANSHIP

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

5. EVALUATION CONFERENCE

To aid in the evaluation process, after bid opening the state may require individual bidders to appear at a date, time and place determined by the state for the purpose of conducting discussions to determine whether both parties have a full and complete understanding of the nature and scope of contractual requirements. In no manner shall such action be construed as negotiations or an indication of the state's intention to award.

6. PROPRIETARY DATA

Any document(s) or information which the bidder believes is exempt from public disclosure (RCW 42.17.310) shall be clearly identified by bidder and placed in a separate envelope marked with bid number, bidder's name, and the words "Proprietary Data" along with a statement of the basis for such claim of exemption. The state's sole responsibility shall be limited to maintaining the above data in a secure area and to notify bidder of any request(s) for disclosure within a period of five (5) years from date of award. Failure to so label such materials or failure to provide a timely response after notice of request for public disclosure has been given shall be deemed a waiver by the bidder of any claim that such materials are, in fact, so exempt.

7.RETENTION OF RECORDS

Contractor shall retain all records relating to this contract for a period of three (3) years following the date of final payment or completion of any required audit, whichever is earlier. Any authorized representative of the state or federal government (where federal funds are involved) shall have access to and the right to examine, audit, excerpt, and transcribe all said records within a reasonable time.

8.OSHA AND WISHA REQUIREMENTS

Contractor agrees to comply with conditions of the Federal Occupational Safety and Health Acts of 1970 (OSHA) as may be amended, and, if it has a workplace within the state of Washington, the Washington industrial Safety and Health Act of 1973 (WISHA), as may be amended, and the standards and regulations issued thereunder and certifies that all items furnished and purchased under this order will conform to and comply with said standards and

Copyright © 2012 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

regulations. Contractor further agrees to indemnify and hold harmless purchaser from all damages assessed against purchaser as a result of Contractor's failure to comply with the acts and standards thereunder and for the failure of the items furnished under this order to so comply.

9.CONTRACTOR'S REPRESENTATIVE

A.Designation Bidder shall provide names, addresses, and phone numbers of primary and alternate representatives as required in Did documents. Reference Section VIII, "Attachments".

B.Responsibility Contractor's representative shall function as the primary point of contact, shall ensure supervision and coordination and shall take corrective action as necessary to meet contractual requirements.

C.Availability Contractor's representative, or designee, shall be available at all times during normal working hours throughout the term of the contract.

10.ESTIMATED USAGE

Estimated usage data as stated herein shall not bind the state to the purchase of said quantities. Usage estimates are based strictly upon past historical data and may not reflect future requirements. (Ref. Section Il, Paragraph 1 b).

11.PROCUREMENT OF RECOVERED MATERIALS

This Invitation for Bid has been determined EXEMPT from the provisions of WAC 236.48.096 regarding preference for products with recovered material content for reasons including inadequate competition, economics, environmental constraints, quality or availability.

12.BID EVALUATION

To be considered responsive, bidder must, at the time of the bid opening have the necessary resources, experience and expertise to accomplish the complete scope and tasks identified herein.

Determination of responsiveness will be based on an evaluation of the bidders attachments submitted which must be sufficient in themselves to clearly establish the bidders capability without need for subsequent clarification. The state reserves the right to reject any bid which is unsupported or unclear as to responsiveness and to reject outright any bid submittal taking material exception to the specifications herein.

Each bid submitted must be supported by the following:

1.Attachment 1 & 2, Bid Information and Price Sheets.

2.Identification/description of proposed facility locations including documents evidencing ownership or option to buy or lease. (Reference Specifications para. 4.1, 5.1 and 5.3.3)

3.A time phased, detailed schedule delineating critical tasks to be accomplished including all necessary governmental permits and approvals needed prior to the start of inspections. (Reference Specifications para. 4.1. 5.5.2 and 5.6.5)

4.Identification of the qualifications of management personnel and financial resources available for the performance of this contract.

5.A list of contracts of similar size and scope satisfactorily completed/currently being performed by the bidder, parent company or subsidiary. Identify government organization, description of work, period of performance, dollar magnitude, name and telephone number of government contract administrator. The list may be supplemented with information regarding any specialized experience and technical competence of the bidder's personnel in the performance of Emission Inspection or other programs of similar complexity of scheduling and technical aspects.

6.A bid bond in the amount of $25,000 per zone conditioned upon bidder execution of contract and commencing performance on the scheduled start date. Bid bond will be returned upon receipt of Contractor's performance bond.

13.AWARD

Award(s) is/are projected to be made within 30 days of bid opening. Award(s) will be made to the responsive bidder(s) offering the lowest overall bid pricing on a zone by zone basis. Any all or none or other bid conditioned on

Copyright © 2012 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

the award of more

then one zone will be rejected. Bids must set forth the amount of money to be retained by the bidder from the inspection fee in each paid inspection volume category over each twelve month end of the contract. The state anticipates declining bid pricing based on incremental cost savings to the contractor through increased business volume. Consideration will therefore be given to volume in the calculation of lowest overall bid.

Calculation of lowest bid for a zone will be done using the following weighted value formulae. The sum of the bid for each Paid Inspection Per Twelve Months category times the multipliers indicated below:

Zones I Paid Inspections Per Twelve Months

0	-	50,000	X	1.00
50,001	-	60,000	X	0.20
60,001	-	70,000	X	0.17
70,001	-	80,000	X	0.14
80,001	-	90,000	X	0.12
	over	90,000	X	0.10

Zones II Paid Inspections Per Twelve Months

0	-	300.000	X	1.00
300,001	-	340,000	X	0.13
340,001	-	380,000	X	0.12
380,001	-	420,000	X	0.11
420,001	-	460,000	X	0.10
	over	460,000	X	0.09

Zones III Paid Inspections Per Twelve Months

0	-	200,000	X	1.00
200.001	-	230,000	X	0.15
230,001	-	260,000	X	0.13
260,001	-	290,000	X	0.11
290,001	-	320,000	X	0.10
over		320,000	X	0.09

Zones IV Paid Inspections Per Twelve Months

0	-	40,000	X	1.00
40,001	-	45,000	X	0.13
45,001	-	50,000	X	0.11
50,001	-	55,000	X	0.10
55,001	-	60,000	X	0.09
over		60,000	X	0.08

Zones V Paid Inspections Per Twelve Months

0	-	50,000	X	1.00
50,001	-	60,000	X	0.20
60,001	-	70,000	X	0.17
70,001	-	80,000	X	0.14

80,001	-	90,000	X	0.12
	over	90,000	X	0.10

14.COST AND PRICING DATA, SUPPORTING INFORMATION

In support of initial bid pricing and subsequent contract price adjustments, bidder is to provide, with their bid, separate cost and pricing data for each major cost element of the highest per inspection bid price for each zone bid. Breakdowns must include identification of dollar amount and percent of total bid price for at least the following:

Fixed Costs
Direct Labor Costs
General and Administrative Costs
Contingencies/Other Casts
Profit

For each cost element state nature of expenses and basis of allocation. Separately identify projected salary schedule of lane operators and provide a detailed functional timeline for a typical contract vehicle emission

Copyright © 2012 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

inspection as specified herein.

Failure to provide such supporting information may result in bid rejection. Additionally, the state, prior to award, may request clarification/verification of cost and pricing data submitted. Bidders who intend to declare such data proprietary, ie. exempt from public disclosure, must comply with Para. V 6 Proprietary Data.

15.PRICING AND ADJUSTMENTS

Pricing, ie. portions of inspection fee retained at each volume category, shall remain firm through 28 February 1994. These amounts may be increased, if requested, annually thereafter by an amount needed to compensate the contractor for any direct labor employee compensation increases incurred during the past year or longer contract period. Contractor must provide a minimum of 30 day advance notice on any request with complete documentation of any on-going direct labor cost increases incurred. Acceptance will be at the discretion of the contract administrator and shall not produce a higher profit margin than that identified on the contractor's original bid cost and pricing data breakdown. Any direct labor cost increase shall not exceed the annual average percentage increase for the comparable period. Seattle-Tacoma consumer price index for urban wage earners and clerical workers, all items (CPl-W), compiled by the Bureau of Labor Statistics and the Department of Labor. Additionally, the total increase in the portions of the inspection fee retained shall not exceed an annual cap of 3%. For purposes of establishing the initial

contract base index figure from which future calculations will be made the 1 982-84 base rate index for 1992 annual average, released in February 1993 will be used. If the Bureau of Labor Statistics ceases to publish the index the contractor and the state shall agree on a substitute index.

All approved price adjustments for direct labor compensation increases shall remain unchanged for at least 365 calendar days thereafter. For price adjustments due to program changes, see Paragraph VI 6.3 Changes.

16.OPTION TO ACQUIRE ASSETS

In the event of termination of the contract for contractor breach, termination by mutual agreement, or within One Hundred and Eighty Days of the scheduled December 31, 1999 expiration or subsequent extension; the state shall have the option to acquire the contractors inspection station land and buildings, in whole or in part. The state may exercise this option only if it is the intention of the state to continue the operation of an inspection program by the state or through a successor contractor(s).

If the state has exercised its option for any or all inspection stations, then within thirty (30) days of the effective date of termination or on the scheduled expiration date the contractor shall:

1.Convey, transfer and assign to the state or the state's assignee all land and buildings located in the State of Washington, owned and used by the contractor as contract emission inspection stations.

2.Convey, transfer and assign to the state or the state's assignee all buildings owned and used by the contractor as contract emission inspection stations which are located on land being leased by the contractor.

3.Assign to the state or its assignee all leases and all rights to renew such leases under which the contractor is the lessee of land or buildings used as emission inspection stations in the performance of the contract.

On receipt of the assets, the state or its assignee shall:

1.Pay to the contractor the fair market value of land and buildings conveyed as determined by the median value determined by three (3) licensed appraisers selected by the state.

2.Assume all of the obligations of the contractor under all leases assigned. Contractor acknowledges that it shall remain liable for all claims, liabilities and judgments resulting from or arising out of its prior operation of the inspection stations and the contract.

Both parties agree to execute such documents as may be reasonably necessary to effect to the transactions above. Additionally, the contractor agrees to cooperate with the state and/or successor contractor(s) in affecting an

Copyright © 2012 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

orderly transfer of operation of the inspection facilities to the successor contractor(s). Though equipment, supplies and tools are excluded from the above transactions the contractor, state and/or successor contractor(s) may independently conduct separate negotiations to acquire such additional assets.

The performance by the state of its obligations set forth above shall constitute full satisfaction of all claims of the contractor against the state arising from the state's exercise of its option. The contractor agrees to provide in any contract agreement, assignment or other conveyance to be executed by it and to retain in any contract, agreement, assignment or other conveyance previously executed by it, upon renewal thereof for the purchase of land or buildings for use in the performance of this contract, the right of the contractor, without qualification, to convey, transfer or assign to the state any of the contractor's rights and obligations under such contract agreement, assignment or conveyance. Copies of all leases executed by the contractor in its performance of the contract shall be furnished to the contract administrator.

SECTION VI

SPECIFICATIONS

V-10

SECTION VI - SPECIFICATIONS

1.0 SCOPE

These specifications are for the establishment and operation of motor vehicle emission inspection stations for the State of Washington. THE REQUIREMENTS OF CHAPTER 70.120 RCW AND WAC 173-422 EFFECTIVE JUNE 1, 1993 ARE INCORPORATED INTO THE CONTRACT REQUIREMENTS BY REFERENCE. (See Appendices A,B,C for current versions and proposed revisions)

2.0 PURPOSE

To assist in the reduction of motor vehicle related air pollution within noncompliance areas designated by the Washington State Department of Ecology.

3.dEFINITIONS

The following definitions apply to this contract bid.

Audit

A. Fiscal: Means an audit of all receipts, payments, forms and other records pertinent to the receipt and disbursement of State funds.

B Performance: Means an audit of Contractor's performance in complying with all contract provisions including all applicable regulations.

C. Financial: An audit of books and records pertinent to the Contractors balance sheet and profit and loss statement for the period of performance under this agreement.

Average Number Waiting (ANW): The sum of the number of vehicles waiting to be inspected, (either on the property or on the street), counted at ten minute intervals over a period of 30 consecutive minutes, divided by four.

Average Inspection Frequency (AIF): The number of inspections completed over a 30 minute period divided by 30.

Average Waiting Time (AWT): The result of the average number waiting (ANW) divided by average testing frequency (ATF).

CO: Means carbon monoxide.

CO2: Means carbon dioxide.

Emission Standard: Means the highest concentration of hydrocarbons (HC) or carbon monoxide (CO) in the exhaust of a motor vehicle measured according to test procedures adopted by the State that will permit a certificate of compliance to be issued.

HC:Means concentration of hydrocarbons measured as n-hexane

Copyright © 2012 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

Inspection Fee: Means the amount of money that a vehicle operator will be charged for an emission inspection by the Contractor.

Sample Gas: Means the portion of the motor vehicle exhaust gases that is analyzed for comparison with the emission standards.

Shop Drawing: Means readable plans or sketches of proposed site and operation(s) (documents must be capable of being legibly reproduced on an engineering drawing reproduction machine).

Total Available Lane Time: Means the product of 30 minutes multiplied by the number of operable inspection lanes.

Utilization Factor: Means the stun of the time each lane was operated divided by the stun of the total available lane time.

Vehicle Emission Inspection Station: Means a facility authorized to issue a certificate of compliance or a certificate of acceptance.

4.0 CONTRACT REQUIREMENTS

The Contractor shall furnish necessary personnel, facilities, equipment and otherwise do all things necessary to complete the contract. The bidder must propose his methodology and resources to accomplish these tasks.

4.1 GENERAL SCOPE OF WORK

Task I - Design/Remodel Facilities: The bidder must propose location and number of lanes per station for each station bid. Only those bids that provide documentation evidencing an option to buy or lease, or currently lease or own the station site will be acceptable.

Task 2 - Acquire Site(s) and install Inspection Stations:
The Contractor shall acquire and prepare site(s) for the installation of the inspection station(s). The Contractor must obtain all necessary local, state, federal government approvals. In the event the Contractor is unable to obtain such approvals a suitable substitute location(s) must be bound by the Contractor that are acceptable to the State.

Task 3 - Install Inspection Test Equipment: The Contractor shall install all necessary equipment at the inspection station(s).

Task 4 - Operate Vehicle Inspection Stations: The Contractor shall be responsible for the complete operation and maintenance of the vehicle inspection station(s).

Task 5 - Submit Documentation and Test Data: The Contractor shall submit documentation and data for all inspections completed at the vehicle emission inspection station(s) to the State.

Task 6 - Collect Fees: The Contractor shall be responsible for the collection and accounting of fees for all paid inspections completed at the vehicle emission inspection station(s).

4.2 PROGRAM SCHEDULE

All inspection stations shall be fully operational by 9 a.m. June 1, 1993.

4.3 AUDITS

4.3.1 The Contractor shall allow unannounced State audits at the inspection station including:
a.Performance, including testing, calibration, data handling; and
b.Fiscal and administrative procedures at any time during station(s) operating hours; and
c.Training, operations and procedures manuals; and
d.All records including:calibration and maintenance log

4.3.2 Contractor must maintain his records of this contract operate within the State of Washington to enable easy access to all audit activity authorized by State statutes and this contract.

4.3.3 Checks and audits during station non-operating hours may be conducted by mutual consent.

4.3.4 State personnel may perform routine equipment checks during operating hours without the aid of Contractor personnel.

4.3.5 The State shall be entitled to conduct a complete financial audit in connection with negotiations with respect to a contract extension or other

Copyright © 2012 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

contract change.

5.0 TECHNICAL SPECIFICATIONS

5.1 INSPECTION STATION LOCATIONS AND NUMBER OF LANES

Contracts will be let for the following number of stations:

Zone	Stations
1	2
2	8
3	6
4	1
5	2

The bidder shall identify a specific property for each station bid. The stations bid must be no closer than three miles from each other, conveniently located to readily serve the public and approximately equally distributed throughout a zone. Geographical boundaries of each zone or station locations are indicated in Appendix D.

The number of inspection lanes at a station must be three or more and in any zone the average number of lanes per station must be four or more.

No contract will be let for less than the above number of stations in a zone. However, the state may elect to reject one or more bids and call for rebids or enter into negotiations for any number of stations.

5.2 VEHICLE INSPECTION FEES

The Contractor shall, for an inspection fee established by Ecology, inspect any gasoline or diesel powered motor vehicle. The Contractor will retain an amount from the inspection fee equal to the amount bid and remit the balance to the State. The Contractor shall inspect without charge to the vehicle operator any vehicle registered to the State of Washington or its political subdivisions and a vehicle presented for the first reinspection when the initial inspection was conducted by another Contractor. A credit for the Contractor's portion of the regular inspection fees shall be applied to the amount due the State's General Fund for all inspections of these vehicles conducted without charge. This amount may be increased or decreased due to escalation/deescalation and/or material program changes. (see Sections V 15 and VI 6.3) Full payment for the contract services shall be solely from the portion of the inspection fees retained by the Contractor.

The State will not guarantee the Contractor a minimum number of paid inspections and the number of inspections performed will not be used as a basis for adjusting the portion of the inspection fee retained. However, the State does agree to enter into good faith negotiations to amend the contract if any program changes by the State have a significant impact on the Contractor(s) cost and/or revenue.

5.3 VEHICLE EMISSION INSPECTION STATION REQUIREMENTS

5.3.1 Station Site Requirements

1. Permits and Land Use Requirements: The Contractor must obtain all permits necessary for the establishment of the station and conform to all zoning and land use requirements.

2. Parking: Two parking spaces reserved for visitors per inspection lane shall be provided at each station.

3. Waiting Area: There shall be a paved waiting lane at least 12 feet wide for each inspection lane. The average length of the waiting lanes at each inspection station must be at least 150 feet.

5.3.2 Inspection Station Requirements
The Contractor shall construct vehicle emission inspection station(s) in accordance with all local, state and federal government requirements including:
1.Testing and Data Handling Equipment: The testing and data handling equipment installed at each vehicle emission inspection station shall meet the requirements of WAC 173-422. If these requirements conflict with or prevents the use of BAR 90 level analyzers these provisions will not

Copyright © 2012 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

apply to the contract. BAR 90 level analyzers are required.
In addition to the requirements of WAC 173-422 the
Contractor shall at no additional cost to the State:
A. design and operate the testing and data system to
print information on inspection forms provided by the State
only if the analyzer readings returned to less than 10 ppm HC within 30
seconds following completion of testing the previous vehicle.
B. design and install the dynamometer needed to conduct transient testing in
one lane at each station. (except in Zone 4)
C. design and install the equipment needed to conduct transient testing in
addition to the regular inspections in one lane of a station in each Zone.
(except Zones l and 4)
D. design and operate computerized test equipment which can connect directly
with the onboard diagnostic system on 1994 and later model gasoline vehicles
under 8500 GVWR.

2.Signs: Each station shall have a sign that reads "State Motor Vehicle
Emission Inspection Station." Letters shall not be smaller than 6 inches
high. Signs for traffic control and visitor information must also be
provided. All signs must meet any State and local code requirements.

3.Government Codes: The station shall conform to all applicable state and
local code requirements including, but not limited to: planning and building
codes, carbon monoxide levels, ventilation, safety and fire regulations.

4.Inspection Lanes: Each lane must accommodate a vehicle with a height of
fourteen feet and a width of eight feet.

5.Equipment Environment: Adequate protection must be provided
for the testing and data handling equipment to allow for operations within
specifications in all weather conditions. Any component of the testing and
data handling equipment which affect the test results shall not be subject to
temperatures beyond its manufacturers specifications for such equipment.

6.Backup Personnel and Equipment: Adequate back up personnel and equipment
shall be available to ensure compliance with waiting time and staffing
requirements.

7.Carbon Monoxide Levels: Each station shall have equipment that continuously
monitors and records carbon monoxide levels in covered testing areas. The
equipment shall be so designed as to trigger automatically positive
ventilation at 50 ppm and an audible warning when carbon monoxide reaches 250
ppm. The monitoring equipment shall be located so that measured carbon
monoxide levels are representative of those to which lane operators are
exposed.

The lane doors may be closed while vehicle tests are being conducted only if
a system which removes exhaust products from the vehicle is in use when the
lane door is closed.

If carbon monoxide levels reach 250 ppm, for longer than 30 seconds, no
further vehicles will be allowed to enter the station until carbon monoxide
levels fall below 250 ppm.

8.Office: The station office shall provide the following:
A.A public restroom.
B.Local public telephone service.
C.Response to customer inquiries and complaints in person and over the
telephone during business hours. A recorded message may be used during
operating hours only if it does not exceed 60 seconds and instructs the
caller on how to call station personnel. Two telephone lines must be
reserved for incoming public calls at all times.

D.Ecology public information materials.
E.Certificates of acceptance.

9.Electric Power Outlets: Each station shall provide electric power outlets
in each inspection lane and at an external location suitable for use by
Ecology personnel to diagnosis vehicles that have failed an inspection
conducted by the Contractor using state equipment. These electric power
outlets shall be on a separate 15 ampere circuit.

5.3.3 Shop Drawings
In response to this Invitation to Bid, the bidder must submit a typical
schematic shop drawing of each site and inspection station and an artist's
conception of building and site. Detailed construction plans and blueprints
are not required.

Copyright © 2012 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

5.3.4 State Sales Tax
The Contractor shall pay State retail sales taxes on all purchases of materials equipment and supplies used or consumed in the performance of the contract.

5.4 INSPECTION PROCEDURES

5.4.1 General Requirements
The emission standards, test procedures, and vehicle inspection data handling procedures, established in WAC 173-422 as presently written or as may be amended shall be used by the Contractor with these exceptions:

1. The maximum opacity readings of gasoline vehicles during the test need only be obtained if the vehicle exhaust is noticeable as the vehicle enters the inspection lane. These vehicles will not be failed for exceeding the opacity standards until the Contractor is notified to do so by the State.

2. Checks of the vehicle's onboard diagnostic system will be included in the inspection of 1994 and later model gasoline vehicles. Computerized test equipment which connects directly with the vehicle's onboard diagnostic system must be used to collect this information. Any problem detected shall be considered as indicating the emission control systems are not operating properly and the vehicle will have failed the inspection.

3. Transient exhaust testing shall be conducted using equipment and procedures acceptable to the Environmental Protection Agency. (See Appendix G for the current EPA requirements)

4. The opacity test readings of both diesel and gasoline vehicles and the pass or fail result must be determined, printed and recorded using an automated system.

5. All gasoline vehicles under 8500 GVWR except constant four wheel drive vehicles shall be tested using the Loaded Test sequence.Vehicles which appear to be unsafe to test may be rejected and no fee collected. The Contractor may use the initial idle mode procedures of the two speed test sequence prior to the loaded mode of the loaded test sequence instead of the idle mode following the loaded mode if the vehicle passes the initial idle mode.

6. No vehicle shall fail the inspection due to an missing or inoperative" primary emission control component" or incorrect replacement engine until June 1, 1995 or 24 months following the start date which ever is later. However the results of the equipment check shall be recorded on the inspection form provided the vehicle operator and included in the monthly report as of the start date.

5.4.2 Emission Standards Variations
The emissions standards established in WAC 173-422 are subject to change in the number and types of vehicle classifications and emission levels. The Contractor should design their data handling system to be able to accommodate, without additional cost to the State, changes of the emission standards during the contract period and to allow the classes of vehicles for which emission standards are set to vary up to ten.

5.4.3 Certificates of Acceptance
The Contractor is required to visually inspect the vehicle to verify to the extent possible that the stated repairs have been made and that any emission control equipment installed by the vehicle manufacturer or an aftermarket replacement which is acceptable to the state of California or the U.S. Environmental Protection Agency is installed and operative. On 1994 and newer model gasoline vehicles this inspection shall include a check of the vehicle's onboard diagnostic system.

The Contractor personnel inspecting vehicles before a certificate of acceptance is issued must be able to pass the examination required to become an Ecology authorized emission specialist annually. These personnel must be available at each inspection station during all operating hours.

5.5 OPERATIONS

5.5.1 Hours of Operation
The stations shall be open to the public Monday through Saturday.

The required hours of operation shall be from 9 a.m. to 6 p.m. Monday, Tuesday, Thursday and Friday, 9 a.m. to 8 p.m. Wednesday and 9 a.m. to 2 p.m. on Saturday.

Copyright © 2012 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

Vehicles waiting to be inspected at closing time shall be inspected.

The inspection stations may close on legal holidays as established by State Statute RCW 1.16.050; with the exception that the day immediately preceding Christmas Day will be observed as a holiday in lieu of the day immediately following Thanksgiving Day.

The observed holidays could therefore be:

Sunday	
New Years Day	January 1
Martin Luther King Day	3rd Monday in January
President's Day	3rd Monday in February
Memorial Day	Last Monday in May
Independence Day	July 4
Labor Day	First Monday in September
Veteran's Day	November 11
Thanksgiving Day	4th Thursday in November
Christmas	December 24, 25

Whenever any legal holiday, other than Sunday, falls upon a Sunday, the following Monday shall be the legal holiday. Whenever any legal holiday falls upon a Saturday, the preceding Friday shall be the legal holiday.

5.5.2 Training/Procedures
The Contractor shall adequately train their personnel to perform their required tasks. This training shall include, but need not be limited to, the following:

1.The causes and effects of air pollution,

2.The purpose,function and goal of the inspection program,

3.Inspection regulations and procedures,

4.The rationale for each portion of the inspection procedure,

5.The function of each emission control system,its configuration and its proper inspection (Note that only a visual check that would detect missing, disconnected or otherwise inoperative emission control equipment or incorrect replacement engines is required. No engine components are to be removed or disconnected.)

6.The operation,calibration,and maintenance of the test equipment

7.Quality control procedures and their purpose

8.Public relations

9.Safety and health issues related to the inspection process

10.Emergency procedures including first aid and CPR

Before a trainee can conduct an inspection without assistance, the trainee must pass (a minimum of 80% correct responses) a written test covering all aspects of the training and demonstrate the ability to conduct ten proper inspections without assistance. Ecology shall be notified of any scheduled training and may elect to monitor or participate in any portion of the training. Also at any time a Ecology Representative may conduct either a written or hands on test to determine if an inspector is truly qualified.

A copy of the training manual must be submitted for approval to the Department of Ecology at least one month prior to public inspections and all procedure changes thereafter shall be noted in the training manual and the revisions forwarded to the Department of Ecology.

While any Contractor personnel trained to conduct inspections may do, equipment check, that detect missing,disconnected or inoperative mission control equipment or an incorrect replacement engine must be verified by a member of the Contractor staff qualified to issue an certificate of acceptance.

5.5.3 Interface with Auto Repair Industry
Ecology shall be responsible for all contact with automotive repair businesses. The Contractor shall refer all inquiries regarding repairs and repair business performance to the Department of Ecology, with the following exception: In each zone the Contractor shall track the performance of each Ecology authorized emission specialist as measured by the percentage of successful reinspection over the previous six months. When the number of reinspection in a zone indicate repair work by ten or more specialists exceed

Copyright © 2012 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

12 each during the previous six months the Contractor shall print a list of these specialists. The list shall include information provided by Ecology; the specialist's name and their employer's name, address and phone number. This list shall be accessible to the public at each inspection station in that zone without assistance from the station staff.This listing shall be updated monthly and any alterations or notations made only with Ecology's approval.

5.5.4 Consumer Comments
Forms for the consumer to register comments regarding the operation of the inspection station must be available to each driver. A sign with lettering at least one inch high stating this fact must be readable by the vehicle operator. Any specific complaints shall be responded to in writing and resolved by the

Contractor if possible. The Contractor shall respond within five (5) working days with a copy to Ecology.

A complaint file with response and any action taken must be maintained by the Contractor within the state of Washington. This file must be available for inspection by the State during normal business hours.

5.5.5 Contractor Personnel Attire
Whenever the contractor personnel are in contact with the public, uniform dress and name tags shall be required by the Contractor.

5.5.6 Safety
Contractor to comply with all local, state and federal safety standards.

5.5.7 Cooperation with the Department of Ecology
The Contractor will be required to cooperate with Ecology by;
1.distributing or allowing the distribution of materials related to motor vehicle emissions to the motorist. These materials may include notices, survey forms, and public education material,

2.providing storage for Ecology audit gases and test equipment at the station,

3.allowing Ecology staff to meet at a station vehicle owners with their vehicles to diagnosis using state equipment what caused -these vehicles to have failed an inspection conducted by the Contractor (Ecology staff may choose any inspection lane or external location to diagnosis vehicles),

4.providing refunds (from the State's portion of the fee collected) to any customer at Ecology's written direction without additional charge to the State,

5.devising a means of testing any vehicle that is missing some portion of the exhaust pipe beyond the muffler when so directed by an Ecology representative,

6.retaining all inspection information as it is collected in an automated database for at least 30 months. This real time database shall be available via four active direct dial access to Ecology.

7.issuing a temporary certificate of acceptance when authorized to do so by an Ecology representative. The Contractor shall complete and maintain on file for 45 days an temporary extension form provided by Ecology. After 45 days these forms shall be mailed to Ecology if the customer has not returned for a reinspection,

8.allowing meetings between station personnel and an Ecology representative,

9.obtaining listing of the inspection station telephone number in both the white and yellow pages of the telephone company directory of the primary area served by that inspection station, and listed as "Washington State Motor Vehicle Emission Inspection Station,"

10.providing any required material to Ecology's office in Olympia at the Contractor's expense unless other arrangements are agreed to by Ecology,

11.transmitting electronically on a realtime basis the Washington license number of vehicles meeting the inspection requirements to Ecology or the Department of Licensing automated data base in Thurston County. This data submittal must in a data structure(data type and format) approved by Ecology or the Department of Licensing,

12.conduct transient exhaust testing in addition-to any steady state loaded

Copyright © 2012 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

test conducted in a lane equipped to do so except when all lanes at that station are staffed to inspect vehicles,and

13.include the transient test readings in the monthly data report with the corresponding regular steady state loaded test readings provided the vehicle operator.

5.5.8 Gratuities
The Contractor shall not extend any loan, gratuity or gift of money in any form whatsoever to an employee of the State, nor rent or purchase any equipment or materials from an employee of the State. Prior to operation of the inspection station(s) and annually thereafter, the Contractor shall execute and furnish the Contract Administrator an affidavit certifying compliance with this contract provision.

5.6 DATA AND DOCUMENTATION REQUIREMENTS

5.6.1 Monthly Activity Report
The Contractor will submit monthly activity reports to the Contract Administrator with a copy to Ecology. These activity reports shall outline the Contractor's activities for the month previous, any delays, problems, differences of interpretation, and resolution of any past problems.The first activity report shall be submitted one month after the contract is awarded and each month thereafter.

5.6.2 Monthly Operations Report

Commencing with the operation of the inspection station(s), the Contractor will submit monthly reports within 10 working days of the end of the month to Ecology. The following information shall be reported for each inspection station and for each inspection lane separately for gasoline and diesel vehicles.The data storage system should be designed to retrieve and summarize this information.

1.Total initial inspections made
2.Total vehicles passing initial inspection
3.Total vehicles failing initial inspection
4.Total reinspections made
5.Total vehicles passing reinspection
6.Total vehicles failing reinspection
7.Total vehicles issued certificates of acceptance
8.Total vehicles failing the equipment check and number for each cause
9.Total lane and station down time
10.Total paid inspections
11.Total inspections

5.6.3 Inspection Data Reporting Requirements
The Contractor shall electronically submit to Ecology all collected inspection data daily at a time and location approved by Ecology.

The Contractor shall also, upon request,furnish to Ecology all inspection data collected during a given time period on ASCII formatted(1600 bpi) 9 track magnetic tape(s).

The data structure (data type and record format) of all data submittal, and the equipment used to transmit the data used by the Contractor must either be those to be established by Ecology or expressly preapproved by Ecology. Each data submittal must include the number of each data record item transmitted. All costs of these data submittal shall be the sole responsibility of the Contractor.

5.6.4 Retention of Certificates
A copy of all certificates issued shall be retained by the contractor for at least twelve months.

5.6.5 Acceptance Testing
The Contractor will propose acceptance testing procedures to demonstrate that the inspection, testing and data handling equipment can meet all operational requirements and all bid specifications at each station. The proposed procedures shall be provided to Ecology within 120 days of contract award.

The procedures shall include a description of the inspection and test methods to be employed in demonstrating specified performance for each item of equipment. The procedure will also include checklists indicating acceptable or unacceptable test results or inspections needed to demonstrate compliance with design specifications.

Copyright © 2012 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

The Contractor must be prepared to conduct acceptance tests 45 days prior to the scheduled start date at one inspection station in each zone and at all stations 15 days prior to the scheduled start date. Ecology must have expressly approved the final acceptance test procedures and agreed to the proposed dates before acceptance testing begins.

6.0 PROGRAM ADMINISTRATION REQUIREMENTS

6.1 COLLECTION FEES DEPOSITS ESCROW ACCOUNT

The Contractor is accountable and responsible for the collection of all inspection fees.

All fees collected in excess of the approved contract price are due the State and will be deposited daily into a federally insured financial institution. No later than Friday of each week, all fees due the State from the Contractor, resulting from all inspections conducted through the previous Sunday, shall be transferred to the State Treasurer's Concentration Account via wire transfer. Details on how to process a wire transfer will be provided to the Contractor by Ecology.

For the first six months inspection fees are collected, whenever an amount is transferred to the State Treasurer an equal amount shall be deposited in a joint escrow account with a bank or saving and loan institution of their choice, provided that it is regulated by the State of Washington. The Escrow Agreement is to be executed on State form 05P - FL. 786,1 - 3l - 90 "ESCROW INSTRUCTIONS AND AGREEMENT."(See Appendix E)

The sums deposited therein shall remain in escrow for the duration of the contract and may be withdrawn at any time by the State for failure of the Contractor to submit residual payments on time or meet other contractual obligations including interest at one percent per month on any balance due, if the contractor is over thirty days late in transferring funds. In The event of termination for breach, all funds in the account will be withdrawn by the State to partially compensate the State for the costs of obtaining a replacement Contractor(s) including any increase in the portion of the inspection fee to be retained by the Contractor(s). Additionally such withdrawal shall not limit the States' right to any other remedy provided in the contract or by law. The Contract Administrator shall approve total withdrawal

of the account upon termination or completion of the contract if all obligations of the Contractor both financial and otherwise have been satisfied.

The State shall have the right to audit the Contractor's records and recordkeeping system and procedures to substantiate that the Contractor has properly collected and accounted for the proper amount. The Contractor shall be required to furnish copies of relevant reports, financial statements, and other information which may be reasonably requested by the State in carrying out said audits. If as the result of an audit any discrepancies are found, the Contractor shall be provided adequate time to respond to said discrepancies.

6.2 ACCOUNTABILITY FOR FORMS

Pre-numbered vehicle emission inspection forms will be furnished by Ecology without charge. For audit purposes, all of the forms must be accounted for including voided and damaged forms. The Contractor may be required to accept shipment of up to 100,000 inspection forms per station at any one time.The Contractor is solely responsible for the disposal or recycling of forms or copies of forms no longer required. The Contractor may be required to increase the amount of funds transferred to the State Treasurer by $500 for each stolen,missing or unaccounted form not reported missing when the shipping carton containing the forms is opened by the Contractor. The Contractor operating procedures shall require the shipping cartons to be opened only in the presence of at least two of Contractors staff.

6.3 CHANGES

The state may at any time direct the Contractor to commence amended performance. In such event, the Contractor or the State may be entitled to an equitable adjustment in the contract price to reflect the changes costs, fixed and variable,of amended performance. The Contractor shall not however delay implementing amended performance pending agreement on any price adjustment.

The state shall have the right to request detailed cost and pricing data to audit the Contractor's books and records to verify the appropriateness of any

Copyright © 2012 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

additional compensation due the Contractor. Material changes in inspection procedures, contract provisions,and any changes in contract pricing shall be documented in writing by issuance of a contract change notice by the contract administrator.

6.4 LIQUIDATED DAMAGES AND PAYMENT ADJUSTMENTS

Any of the following occurrences will result in damage to the State: (1) Failure to commence inspections on the scheduled start date.(2) Failure to provide inspections after station open; (3) Questionable inspections; (4) Excessive waiting times; (5) Failure to meet minimum staffing levels. The amount of such damages will be difficult to calculate. Therefore, by submitting a bid in response to this document, the Contractor agrees that, it shall be entitled to reduced or no compensation, or pay liquidated damages, as set forth below. It is agreed that such reduced compensation or liquidated damages are a reasonable estimation of the actual damages to the State which will result from the events specified, and shall not be viewed in any sense as a penalty.

6.4.1 Failure to Meet Implementation Date
The State at any time may in writing demand adequate assurance that the scheduled start date will be met at all inspection stations in a zone.

Should acceptable assurance not be forthcoming in a reasonable period of time, the State may declare the contract in breach, and terminate the contract. In such event, the Contractor shall remain liable to the State for any damages it incurs as a result of such breach. Alternately the State may elect to require the Contractor to pay liquidated damages to the State in the amount of $1,000 for each working day after the scheduled start date for each station for which it has not been notified in writing is ready to provide inspection services pending satisfactory completion of acceptance testing.

The Contractor shall not however be required to pay liquidated damages for delays beyond their reasonable control that are attributable solely to extraordinary delays in obtaining local government approvals that were unforeseen/unavoidable by the Contractor. In the event the Contractor provides written notice and explanation of such delay and the State subsequently deems the Contractor is due relief from liquidated damages an extension of the inspection program scheduled start date will be granted equal to the actual number of days attributable to the local government delay. Such relief/extension will not be granted for normal time frames of local jurisdictions for routine processing and approvals. An extension may also be granted for any delay by the State in the award of contract(s) beyond 30 days from date of bid opening. Contractor(s) shall not be provided lost revenue compensation for any extension period(s) granted.

The Contractor is required to provide monthly progress reports and immediate written notice if the scheduled start date will not be met and submit a date by which the Contractor will be ready to conduct inspections at all of its inspections stations in a zone.

Once the Contractor notifies the State the scheduled start date will be missed, or when the State has reason to believe the scheduled start date may be missed,the State reserves the right to establish a new start date for any zone until after the satisfactory completion of the acceptance testing of all the Contractors stations in that zone. The Contractor agrees not to hold the State liable for any revenue lost because of the new start dates.

6.4.2 Failure to Provide Inspections after Inspection Station Opening:
After the inspection station is open to the public, the Contractor shall pay liquidated damages at $125 for each whole hour the inspection station could not provide inspections of gasoline powered vehicles during the required operating hours.

6.4.3 Incorrect or Questionable Inspections
It is the Contractor's responsibility to correct any incorrect inspection report. If an incorrect inspection report results in an additional inspection being performed, no additional payment will be collected from the vehicle operator.

The Contractor will adjust the next weekly transfer of funds to the State Treasurer by the following amounts when Ecology notifies the Contract in writing that questionable inspections have been performed.

1.Analyzer Audit Failure:If Ecology audits determine that an analyzer exceeds

Copyright © 2012 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

the tolerances for accuracy, drift,repeatability, response time, flow restriction, or interference, all inspections performed since the last Ecology audit or verified multipoint calibration (whichever is most recent) will be considered questionable.

The Contractor shall pay liquidated damages to the State in the amount of $250.00 for each Ecology analyzer audit failure.

2.Invalid Lanes: Payment will not be allowed for inspections performed at an invalid lane. An invalid lane is a inspection location that at the time of inspection: 1) Has not been formally accepted by Ecology during contract acceptance testing; 2) Has been ordered closed in writing by an Ecology representative for miscalibration or malfunction; 3) Has not undergone the calibration requirements specified in WAC 173-422.

3.Incorrect Inspection Procedure: If the inspection was not performed according to WAC 173-422 payment will not be allowed.

6.4.4 Excessive Waiting Time:
Waiting time is a measure of the Contractor's ability to serve the public. The average waiting time shall not exceed 15 minutes

whether vehicles are the inspection station or on the public street. The Contractor shall be considered in violation of the contract whenever the average waiting time exceeded 15 minutes, or if the line of waiting vehicles extend onto the public street for more than 10 minutes, unless the Contractor can document all lanes were operational and fully staffed during the 30 minute data collection period.

The payment to the Contractor for inspections conducted during each violation of the 15 minute waiting time standard will be prorated using the utilization factor determined by Ecology for that 30 minute data collection period. (See example calculations, Appendix F)

The Contractor will adjust the next weekly transfer of funds to the State taking into account notice of violations and the prorated payments. These payment adjustments apply only to waiting time violations of which any of the Contractor personnel at the inspection station are notified in writing by an Ecology representative that day.

6.4.5 Minimum Staffing Level:
During certain times and days of the month demand for inspections will be much than at other times. Historically there has been increased demand for inspections during the last week of the month. To ensure prompt service to the public, the State may require that each inspection lane at an inspection station be operational and individually staffed during any period. Each period shall not be less than four hours and the total of these periods will not exceed 48 hours at an inspection station in any month.

Thirty days advance written notice of required full staff periods will be provided by the State to the Contractor. Note: The office is required to be staffed at all times, whether a required full staff period or not. To the extent possible, maintenance should not be scheduled during full staffing periods.

The payment to the Contractor for inspections conducted during a required full staff period, will be prorated (on the basis that the sum of all lanes is equal to 1.00) if at any time during this period less than full staffing is detected in any lane or the office. Not staffing the office will be considered a violation at any time equivalent to not staffing a lane during a required full staff period. If less than full staffing is detected, it will be presumed to have existed since the station was required to be fully staffed, or the end of the last observation by an Ecology representative, whichever is later. If the Contractor can demonstrate personnel to individually staff each lane and the office were at the station and inspections were being conducted

in all lanes during a period in question, then the required staffing requirements will be considered met for that period.

The Contractor will adjust the next transfer of funds to the State Treasurer taking into account the notice of violations and the prorated payments.These payment adjustments apply only to time periods of which any of the Contractor personnel at the inspection station are notified in writing by an Ecology representative of a staffing violation.

6.5 CONFLICT OF INTEREST

Copyright © 2012 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

The successful bidder shall submit to the Contract Administrator a signed affidavit that they have no financial interests in any automotive repair business in the State of Washington nor will they become engaged in any such enterprise during the life of the contract.

No other business shall be conducted by the Contractor or other party on the station property. The contractor shall not allow automotive repair at the station or at any property owned or controlled the Contractor by the public, the Contractor, or any third party without Ecology approval unless minor emergency service is needed.

SECTION VI

APPENDIX A

CHAPTER 70.120 RCW
MOTOR VEHICLE EMISSION CONTROL

<TABLE>
<C> <S>
Sections

</TABLE>

RCW 70.120.010 DEFINITIONS. Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Department" means the department of ecology.

(2) "Director" means the director of the department of ecology.

(3) "Fleet" means a group of fifteen or more motor vehicles registered in the same name and whose owner has been assigned a fleet identifier code by the department of licensing.

(4) "Motor vehicle" means any self-propelled vehicle required to be licensed pursuant to chapter 46.16 RCW.

(5) "Motor vehicle dealer" means a motor vehicle dealer, as defined in RCW 46.70.011, that is licensed pursuant to chapter 46.70 RCW.

(6) "Person" means an individual, firm, public or private corporation, association, partnership, political subdivision of the state, municipality, or governmental agency.

(7) The terms "air contaminant," "air pollution," "air quality standard," "ambient air," "emission," and "emission standard" have he meanings given them in RCW 70.94.030. [1991 c 199 Section 201; 1979 ex.s. c 163 Section 1.]

FINDING--1991 C 199: See note following RCW 70.94.011.

EFFECTIVE DATES--SEVERABILITY--CAPTIONS NOT LAW--1991 C 199; See RCW 70.94 through 70.94.906.

SEVERABILITY--1979 EX.S. C 163: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the

provision to other persons or circumstances is not affected." [1979 ex.s. c 163 S 19.]

RCW 70.120.020 PROGRAMS. (EFFECTIVE UNTIL JANUARY 1, 1993.) (1) The department shall conduct the following programs in a manner that will enhance the successful implementation of the air pollution control system established for motor vehicles by this chapter:

Copyright © 2012 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

(a) A voluntary motor vehicle emissions inspection program;

(b) A public educational program regarding the health effects of air pollution emitted by motor vehicles; the purpose, operation, and effect of emission control devices and systems; and the effect that proper maintenance of motor vehicle engines has on fuel economy and air pollution emission; and

(c) A public notification program identifying the geographic areas of the state that are designated as being noncompliance areas and emission contributing areas and describing the requirements imposed under this chapter for those areas.

(2)(a) The department, the superintendent of public instruction, and the state board for community college education shall develop cooperatively, after consultation with automotive trades joint apprenticeship committees approved in accordance with RCW 49.04.040, a program for granting certificates of instruction to persons who successfully complete a course of study, under general requirements established by the director, in the maintenance of motor vehicle engines, the use of engine and exhaust analysis equipment, and the repair and maintenance of emission control devices. The director may establish and implement procedures for granting certification to persons who successfully complete other training programs or who have received certification from private organizations which meet the requirements established in this subsection.

(b) The department shall make available to the public a list of those persons who have received certificates of instruction under subsection (2)(a) of this section. [1989 c 240 Section 5; 1979 ex.s. c 163 Section 2.]

SEVERABILITY--1979 EX.S. C 163: Sec note following RCW 70.120.010.

RCW 70.120.020 PROGRAMS. (EFFECTIVE JANUARY 1, 1993.) (1) The department shall conduct a public educational program regarding the health effects of air pollution emitted by motor vehicles; the purpose, operation, and effect of emission control devices and systems; and the effect that proper maintenance of motor vehicle engines has on fuel economy and air pollution emission and a public notification program identifying the geographic areas of the state that are designated as being noncompliance areas and emission contributing areas and describing the requirements imposed under this chapter for those areas.

(2)(a) The department shall grant certificates of instruction to persons who successfully complete a course of study, under general requirements established by the director, in the maintenance of motor vehicle engines, the use of engine and

exhaust analysis equipment, and the repair and maintenance of emission control devices. The director may establish and implement procedures for granting certification to persons who successfully complete other training programs or who have received certification from public and private organizations which meet the requirements established in this subsection, including programs on clean fuel technology and maintenance.

(b) The department shall make available to the public a list of those persons who have received certificates of instruction under subsection (2)(a) of this section. [1991 c 199 Section 202; 1989 c 240 Section 5; 1979 ex.s. c 163 Section 2.]

INTENT--1991 C 199: "(1) It is the intent of the legislature that the state take advantage of the best emission control systems available on new motor vehicles. The department shall conduct a study to determine if requiring new vehicles sold in the state to meet California vehicle emission standards will provide a significant benefit to attainment of ambient air quality standards in this state. The department shall report the findings of its study and its recommendations to the appropriate standing committees of the legislature. The department shall not adopt the California vehicle emission standards unless authorized by the legislature.

(2) In the event that California vehicle emission standards are adopted, the department shall not include a program for in-use testing and recall of vehicles required to meet California emission standards." [1991 c 199 Section 229.]

FINDING--1991 C 199: See note following RCW 70.94.011.

EFFECTIVE DATES--SEVERABILITY--CAPTIONS NOT LAW--1991 C 199: See RCW 70.94.904 through 70.94.906.

SEVERABILITY--1979 EX.S. C 163: See note following RCW 70.120.010.

RCW 70.120.070 VEHICLE INSPECTIONS--FAILED--CERTIFICATE OF ACCEPTANCE. (EFFECTIVE UNTIL JANUARY 1, 1993.) (1) Any person:

(a) Whose motor vehicle is tested pursuant to this chapter and fails to comply with the emission standards established for the vehicle; and

(b) Who, following such a test, expends more than fifty dollars on a 1980 or earlier model year motor vehicle or expends more than one hundred fifty dollars on a 1981 or later model year motor vehicle for repairs solely devoted to meeting the emission standards and that are performed by a certified emission specialist authorized by RCW 70.120.020(2)(a); and

(c) Whose vehicle fails a retest, may be issued a certificate of acceptance if (i) the vehicle has been in use for more than five years or fifty thousand miles, and (ii) any component of the vehicle installed by the manufacturer for the purpose of reducing emissions, or its appropriate

Copyright © 2012 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

replacement, is installed and operative.
(d) To receive the certificate, the person must document compliance with (b) and (c) of this subsection to the satisfaction of the department.
(2) Persons who fail the initial tests shall be provided with information regarding the availability of federal warranties

and certified emission specialists.
[1989 c 240 Section 6; 1980 c 176 Section 4; 1979 ex.s. c 163 Section 7.]

SEVERABILITY--1979 EX.S. C 163: See note following RCW 70.120.010.

RCW 70.120.070 VEHICLE INSPECTIONS--FAILED--CERTIFICATE OF ACCEPTANCE. (EFFECTIVE JANUARY 1. 1993.) (1) Any person:
(a) Whose motor vehicle is tested pursuant to this chapter and fails to comply with the emission standards established for the vehicle; and
(b) Who, following such a test, expends more than one hundred dollars on a 1980 or earlier model year motor vehicle or expends more than one hundred fifty dollars on a 1981 or later model year motor vehicle for repairs solely devoted to meeting the emission standards and that are performed by a certified emission specialist authorized by RCW 70.120.020(2)(a); and
(c) Whose vehicle fails a retest, may be issued a certificate of acceptance if (i) the vehicle has been in use for more than five years or fifty thousand miles, and (ii) any component of the vehicle installed by the manufacturer for the purpose of reducing emissions, or its appropriate replacement, is installed and operative.
To receive the certificate, the person must document compliance with (b) and (c) of this subsection to the satisfaction of the department.
Should any provision of (b) of this subsection be disapproved by the administrator of the United States environmental protection agency. all vehicles shall be required to expend at least four hundred fifty dollars to qualify for a certificate of acceptance.
(2) Persons who fail the initial tests shall be provided with information regarding the availability of federal warranties and certified emission specialists. [1991 c 199 Section 203; 1989 c 240 Section 6; 1980 c 176 Section 4; 1979 ex.s. c 163 Section 7.]

FINDING--1991 C 199: See note following RCW 70.94.011.
EFFECTIVE DATES--SEVERABILITY--CAPTIONS NOT LAW--1991 C 199: See RCW 70.94.904 through 70.94.906.
SEVERABILITY--1979 ex.s. c 163: See note following RCW 70.120.010.

RCW 70.120.080 VEHICLE INSPECTIONS--FLEETS. (EFFECTIVE UNTIL JANUARY 1, 1993.) The director may authorize an owner or lessee of a fleet of motor vehicles, or the owner's or lessees agent, to inspect the vehicles in the fleet and issue certificates of compliance for the vehicles in the fleet if the director determines that: (1) The directors emission and inspection standards will be complied with; and (2) certificates will be issued only to vehicles in the fleet and only when appropriate. [1979 ex.s. c 163 Section 8.]

SEVERABILITY--1979 EX.S. C 163: See note following RCW 70.120.010.

RCW 70.120.080 VEHICLE INSPECTIONS--FLEETS. (Effective January 1, 1993.) The director may authorize an owner or lessee of a fleet of motor vehicles, or the owner's or lessee's agent, to inspect the vehicles in the fleet and issue certificates of compliance for the vehicles in the fleet if the director determines that: (1) The director's inspection procedures will be complied with; and (2) certificates will be issued only to vehicles in the fleet that meet emission and equipment standards adopted under RCW 70.120.150 and only when appropriate.
In addition, the director may authorize an owner or lessee of one or more diesel motor vehicles with a gross vehicle weight rating in excess of eight thousand five hundred pounds, or the owner's or lessee's agent, to inspect the vehicles and issue certificates of compliance for the vehicles. The inspections shall be conducted in compliance with inspection procedures adopted by the department and certificates of compliance shall only be issued to vehicles that meet emission and equipment standards adopted under RCW 70.120.150.
The director shall establish by rule the fee for fleet or diesel inspections provided for in this section. The fee shall be set at an amount necessary to offset the department's cost to administer the fleet and diesel inspection program authorized by this section.
Owners, leaseholders, or their agents conducting inspections under this section shall pay only the fee established in this section and not be subject to fees under RCW 70.120.170(4). [1991 c 199 Section 205; 1979 ex.s. c 163 Section 8.]
FINDING--1991 C 199: See note following RCW 70.94.011.
EFFECTIVE DATES--SEVERABILITY--CAPTIONS NOT LAW--1991 C 199: See RCW

Copyright © 2012 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

70.94.904 through 70.94.906.
SEVERABILITY--1979 EX.S. C 163: See note following RCA 70.120.010.

RCW 70.120.100 VEHICLE INSPECTION--COMPLAINTS. The department shall investigate complaints received regarding the operation of emission testing stations and shall require corrections or modifications in those operations when deemed necessary.
The department shall also review complaints received regarding the maintenance or repairs secured by owners of motor vehicles for the purpose of complying with the requirements of this chapter. When possible, the department shall assist such owners in determining the merits of the complaints. [1979 ex.s. c 163 Section 10.]
SEVERABILITY--1979 EX.S. C 163: See note following RCW 70.120.010.

RCW 70.120.120 RULES. (EFFECTIVE UNTIL JANUARY 1, 1993.) The director shall adopt rules implementing and enforcing this chapter and RCW 46.16.015(2)(g) in accordance with chapter 34.05 RCW. Notwithstanding the provisions of chapter 34.05 RCW, any rule implementing and enforcing RCW 70.120.150(5) may not be adopted until it has been submitted to the standing committees on ecology of the house of representatives and senate for review and

approval. The standing committees shall take into account when considering proposed modifications of emission contributing boundaries, as provided for in RCW 70.120.150(5), alternative plans for traffic rerouting and traffic bans that may have been prepared by local municipal corporations for the purpose of satisfying federal emission guidelines. [1989 c 240 Section 8; 1979 ex.s. c 163 Section 13.]
SEVERABILITY--1979 EX.S. C 163: See note following RCW 70.120.010.

RCW 70.120.120 RULES. (EFFECTIVE JANUARY 1, 1993.) The director shall adopt rules implementing and enforcing this chapter in accordance with chapter 34.05 RCW. The department shall take into account when considering proposed modifications of emission contributing boundaries, as provided for in RCW 70. 120. 150(6), alternative transportation control and motor vehicle emission reduction measures that are required by local municipal corporations for the purpose of satisfying federal emission guidelines. [1991 c 199 Section 206; 1989 c 240 Section 8; 1979 ex.s. c 163 Section 13.]

FINDING 1991 C 199: See note following RCW 70.94.011.
EFFECTIVE DATES--SEVERABILITY--CAPTIONS NOT LAW--1991 C 199: See RCW 70.94.904 through 70.94 906.
SEVERABILITY--1979 EX.S. C 163: See note following RCW 70.120.010.

RCW 70.120.130 AUTHORITY. The authority granted by this chapter to the director and the department for controlling vehicle emissions is supplementary to the department's authority to control air pollution pursuant to chapter 70.94 RCW. [1979 ex.s. c 163 Section 14.]
SEVERABILITY-1979 EX.S. C 163: See note following RCW 70. 120.010.

RCW 70.120.150 VEHICLE EMISSION STANDARDS--DESIGNATION OF NONCOMPLIANCE AREAS AND EMISSION CONTRIBUTING AREAS. (EFFECTIVE UNTIL JANUARY 1 1993.) The director:
(1) Shall adopt motor vehicle emission standards to ensure that no less than seventy percent of the vehicles tested comply with the standards.
(2) Shall designate a geographic area as being a "noncompliance area" for motor vehicle emissions if (a) the department's analysis of the data, recorded for a period of no less than one year, at the monitoring sites indicates that the standard has or will probably be exceeded, and (b) the department determines that the primary source of the contaminant being monitored at the sites is motor vehicle emissions.
(3) Shall reevaluate noncompliance areas if the United States environmental protection agency modifies the relevant air quality standards, and shall discontinue the program if compliance is indicated and if the department determines that the area would continue to be in compliance after the program is

discontinued. The director shall notify persons residing in noncompliance areas of the reevaluation.
(4) Shall analyze information regarding the motor vehicle traffic in a noncompliance area to determine the smallest land area within whose boundaries are present registered motor vehicles that contribute significantly to the violation of motor vehicle-related air quality standards in the noncompliance area. The director shall declare the area to be an "emission contributing area." An emission contributing area established for a carbon monoxide or oxides of nitrogen noncompliance area must contain the noncompliance area within its boundaries. An emission contributing area established for an ozone noncompliance area located in this state need not contain the ozone noncompliance area within its boundaries if it can be

Copyright © 2012 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

proven that vehicles registered in the area contribute significantly to violations of the ozone air quality standard in he noncompliance area. An emission contributing area may be established in this state for violations of federal air quality standards for ozone in an adjacent state if (a) the United States environmental protection agency designates an area to be a "nonattainment area for ozone" under the provisions of the federal Clean Air Act (42 U.S.C. 7401 et. seq.), (b) the nonattainment area encompasses portions of both Washington and the adjacent state, and (c) it can be proven that vehicles registered in this state contribute significantly to the violation of the federal air quality standards for ozone in the adjacent state's portion of the nonattainment area.

(5) Shall designate areas as being noncompliance areas or emission contributing areas, and shall establish the boundaries of such areas by rule. The director may also modify boundaries. In establishing the external boundaries of an emission contributing area, the director shall use the boundaries established for ZIP code service areas by the United States postal service.

(6) May make grants to units of government in support of planning efforts to reduce motor vehicle emissions n areas where emission control inspections are not required. [1989 c 240 Section 2.]

RCW 70.120.150 VEHICLE EMISSION AND EQUIPMENT STANDARDS --DESIGNATION OF NONCOMPLIANCE AREAS AND EMISSION CONTRIBUTING AREAS. (EFFECTIVE JANUARY 1, 1993.) The director:

(1) Shall adopt motor vehicle emission and equipment standards to: Ensure that no less than seventy percent of the vehicles tested, comply with the standards on the first inspection conducted, meet federal clean air act requirements, and protect human health and the environment.

(2) Shall adopt rules implementing the smoke opacity testing requirement for diesel vehicles that ensure that such test is objective and repeatable and that properly maintained engines that otherwise would meet the applicable federal emission standards, as measured by the new engine certification test, would not fail the smoke opacity test.

(3) Shall designate a geographic area as being a noncompliance area' for motor vehicle emissions if (a) the

department's analysis of emission and ambient air quality data, covering a period of no less than one year, indicates that the standard has or will probably be exceeded, and (b) the department determines that the primary source of the air contaminant is motor vehicle emissions.

(4) Shall reevaluate noncompliance areas if the United States environmental protection agency modifies the relevant air quality standards, and shall discontinue the program if compliance is indicated and if the department determines that the area would continue to be in compliance after the program is discontinued. The director shall notify persons residing in noncompliance areas of the reevaluation.

(5) Shall analyze information regarding the motor vehicle traffic in a noncompliance area to determine the smallest land area within whose boundaries are present registered motor vehicles that contribute significantly to the violation of motor vehicle-related air quality standards in the noncompliance area. The director shall declare the area to be an "emission contributing area." An emission contributing area established for a carbon monoxide or oxides of nitrogen noncompliance area must contain the noncompliance area within its boundaries. An emission contributing area established for an ozone noncompliance area located in this state need not contain the ozone noncompliance area within its boundaries if it can be proven that vehicles registered in the area contribute significantly to violations of the ozone air quality standard in the noncompliance area. An emission contributing area may be established in this state for violations of federal air quality standards for ozone in an adjacent state if (a) the United States environmental protection agency designates an area to be a "nonattainment area for ozone" under the provisions of the federal Clean Air Act (42 U.S.C. 7401 et. seq.), and (b) it can be proven that vehicles registered in this state contribute significantly to the violation of the federal air quality standards for ozone in the adjacent state's nonattainment area.

(6) Shall, after consultation with the appropriate local government entities, designate areas as being noncompliance areas or emission contributing areas, and shall establish the boundaries of such areas by rule. The director may also modify boundaries. In establishing the external boundaries of an emission contributing area, the director shall use the boundaries established for ZIP code service areas by the United States postal service.

(7) May make grants to units of government in support of planning efforts to reduce motor vehicle emissions. [1991 c 199 Section 207; 1989 c 240 Section 2.]

FINDING--1991 C 199: See note following RCW 70.94.011.

EFFECTIVE DATES--SEVERABILITY--CAPTIONS NOT LAW--1991 C 199: See RCW 70.94.904 through 70.94.906.

RCW 70.120.160 NONCOMPLIANCE AREA--ANNUAL REVIEW. (1) The director shall review annually the air quality and forecasted air quality of each area

Copyright © 2012 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

in the state designated as a noncompliance area for motor vehicle emissions.

(2) An area shall no longer be designated as a noncompliance area if the director determines that:

(a) Air quality standards for contaminants derived from motor vehicle emissions are no longer being violated in the noncompliance area; and

(b) The standards would not be violated if the emission inspection system in the emission contributing area was discontinued and the requirements of RCW 46.16-.015 no longer applied. [1989 c 240 Section 3.]

RCW 70.120.170 MOTOR VEHICLE INSPECTIONS REQUIRED--FEES--RESULTS--CERTIFICATE OF COMPLIANCE. (EFFECTIVE UNTIL JANUARY 1, 1993.) (1) The department shall administer a system for biennial inspection of emissions of all motor vehicles registered within the boundaries of each emission contributing area. Persons residing within the boundaries of an emission contributing area shall register their motor vehicle within that area, unless business reasons require registration outside the area. Requests for exemption from inspection for business reasons shall be reviewed and approved by the director.

(2) The director shall:

(a) Adopt procedures for conducting emission tests for motor vehicles. The tests shall include idle and high revolution per minute tests.

(b) Adopt criteria for calibrating emission testing equipment. Electronic equipment used to test for emissions standards provided for in this chapter shall be properly calibrated. The department shall examine frequently the calibration of the emission testing equipment used at the stations.

(c) Authorize, through contracts, the establishment and operation of inspection stations for conducting the vehicle emission tests authorized in this chapter. No person contracted to inspect motor vehicles may perform for compensation repairs on any vehicles. No public body may establish or operate contracted inspection stations. Any contracts must be let in accordance with the procedures established for competitive bids in chapter 43.19 RCW.

(3) Subsection (2)(c) of this section does not apply to volunteer motor vehicle inspections under RCW 70.120.020(1)(a) if the inspections are conducted for the following purposes:

(a) Auditing;

(b) Contractor evaluation;

(c) Collection of data for establishing calibration and performance standards; or

(d) Public information and education.

(4) (a) The director shall establish by rule the fee to be charged for emission inspections. The inspection fee shall be a standard fee applicable state-wide or throughout an emission contributing area and shall be no greater than eighteen dollars. Surplus moneys collected from fees over the amount due the contractor shall be paid to the state and deposited in the general fund. Fees shall he set at the minimum whole dollar amount required to (i) compensate the contractor, and (ii) offset

the general fund appropriation to the department to cover the administrative costs of the motor vehicle emission inspection program.

(b) Before each inspection, a person whose motor vehicle is to be inspected shall pay to the inspection station the fee established under this section. The person whose motor vehicle is inspected shall receive the results of the inspection test. If the inspected vehicles emissions comply with the standards established by the director, the person shall receive a dated certificate of compliance. If the inspected vehicle's emissions do not comply with those standards, one retest of the vehicles emission shall he afforded without charge.

(5) All units of local government and agencies of the state with motor vehicles garaged or regularly operated in an emissions contributing area shall test the emissions of those vehicles biennially to ensure that the vehicle's emissions comply with the emission standards established by the director. A report of the results of the tests shall he submitted to the department. [1989 c 240 Section 4.]

RCW 70.120.170 MOTOR VEHICLE EMISSION INSPECTIONS--FEES--CERTIFICATE OF COMPLIANCE--STATE AND LOCAL AGENCY VEHICLES. (EFFECTIVE JANUARY 1, 1993.) (1) The department shall administer a system for emission inspections of all motor vehicles registered within the boundaries of each emission contributing area. Under such system a motor vehicle shall be inspected biennially except where an annual program would be required to meet federal law and prevent federal sanctions. In addition, motor vehicles shall be inspected at each change of registered owner of a licensed vehicle.

(2) The director shall:

(a) Adopt procedures for conducting emission inspections of motor vehicles. The inspections may include idle and high revolution per minute emission tests. The emission test for diesel vehicles shall consist solely of a smoke opacity test.

Copyright © 2012 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

(b) Adopt criteria for calibrating emission testing equipment. Electronic equipment used to test for emissions standards provided for in this chapter shall be properly calibrated. The department shall examine frequently the calibration of the emission testing equipment used at the stations.

(c) Authorize, through contracts, the establishment and operation of inspection stations for conducting vehicle emission inspections authorized in this chapter. No person contracted to inspect motor vehicles may perform for compensation repairs on any vehicles. No public body may establish or operate contracted inspection stations. Any contracts must be let in accordance with the procedures established for competitive bids in chapter 43.19 RCW.

(3) Subsection (2)(c) of this section does not apply to volunteer motor vehicle inspections under RCW 70.120.020(1) if the inspections are conducted for the following purposes:

(a) Auditing;

(b) Contractor evaluation;

(c) Collection of data for establishing calibration and performance standards; or

(d) Public information and education.

(4)(a) The director shall establish by rule the fee to be charged for emission inspections. The inspection fee shall be a standard fee applicable state-wide or throughout an emission contributing area and shall be no greater than eighteen dollars. Surplus moneys collected from fees over the amount due the contractor shall be paid to the state and deposited in the general fund. Fees shall be set at the minimum whole dollar amount required to (i) compensate the contractor or inspection facility owner, and (ii) offset the general fund appropriation to the department to cover the administrative costs of the motor vehicle emission inspection program.

(b) Before each inspection, a person whose motor vehicle is to be inspected shall pay to the inspection station the fee established under this section. The person whose motor vehicle is inspected shall receive the results of the inspection. If the inspected vehicle complies with the standards established by the director, the person shall receive a dated certificate of compliance. If the inspected vehicle does not comply with those standards, one reinspection of the vehicle shall be afforded without charge.

(5) All units of local government and agencies of the state with motor vehicles garaged or regularly operated in an emissions contributing area shall test the emissions of those vehicles annually to ensure that the vehicles emissions comply with the emission standards established by the director. All state agencies outside of emission contributing areas with more than twenty motor vehicles housed at a single facility or contiguous facilities shall test the emissions of those vehicles annually to ensure that the vehicles' emissions comply with standards established by the director. A report of the results of the tests shall be submitted to the department. [1991 c 199 Section 208:1989 c 240 Section 4.]

FINDING--1991 C 199: See note following RCW 70.94.011.

EFFECTIVE DATES--SEVERABILITY--CAPTIONS NOT LAW--1991 C 199: See RCW 70.94.904 through 70.94.906.

RCW 70.120.180 STUDIES. (1) The department shall identify expected carbon monoxide emission trends over the next five years after January 1, 1990, without the motor vehicle emission program and report to the appropriate standing committees of the legislature by January 1, 1991.

(2) The department shall examine available testing data to determine vehicle subpopulations and incremental emission increases associated with subpopulations failing the emission test. This information shall be reported to the appropriate standing committees of the legislature by January 1, 1992. [1989 c 240 Section 10.]

RCW 70.120.190 USED VEHICLES. (1) Motor vehicle dealers selling a used vehicle not under a new vehicle warranty shall

include a notice in each vehicle purchase order form that reads as follows: "The owner of a vehicle may be required to spend up to (a dollar amount established under RCW 70.120.070) for repairs if the vehicle does not meet the vehicle emission standards under this chapter. Unless expressly warranted by the motor vehicle dealer, the dealer is not warranting that this vehicle will pass any emission tests required by federal or state law."

(2) The signature of the purchaser on the notice required under subsection (1) of this section shall constitute a valid disclaimer of any implied warranty by the dealer as to a vehicle's compliance with any emission standards.

(3) The disclosure requirement of subsection (1) of this section applies to all motor vehicle dealers located in counties where state emission inspections are required. [1991 c 199 Section 210.]

FINDING--1991 C 199: See note following RCW 70.94.011.

Copyright © 2012 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

EFFECTIVE DATES--SEVERABILITY--CAPTIONS NOT LAW--1991 C 199: See RCW 70.94.904 through 70.94.906.

RCW 70.120.200 ENGINE CONFORMANCE. Engine manufacturers shall certify that new engines conform with current exhaust emission standards of the federal environmental protection agency. [1991 c 199 Section 211.]

FINDING 1991 C 199: See note following RCW 70.94.011.

EFFECTIVE DATES--SEVERABILITY--CAPTIONS NOT LAW--1991 C 199: See RCW 70.94.904 through 70.94.906.

RCW 70.120.210 CLEAN-FUEL PERFORMANCE AND CLEAN-FUEL VEHICLE EMISSIONS SPECIFICATIONS. By July 1, 1992, the department shall develop, in cooperation with the departments of general administration and transportation, and the state energy office, aggressive clean-fuel performance and clean-fuel vehicle emissions specifications including clean-fuel vehicle conversion equipment. To the extent possible, such specifications shall be equivalent for all fuel types. In developing such specifications the department shall consider the requirements of the clean air act and the findings of the environmental protection agency, other states, the American petroleum institute, the gas research institute, and the motor vehicles manufacturers association. [1991 c 199 Section 212.]

FINDING--1991 C 199: See note following RCW 70.94.011.

EFFECTIVE DATES--SEVERABILITY--CAPTIONS NOT LAW--1991 C 199: See RCW 70.94.904 through 70.94.906.

Clean-fuel grants: RCW 70.94.960.

RCW 70.120.220 CLEAN FUEL--BIENNIAL REPORT TO LEGISLATURE. The department, in cooperation with the departments of general administration and transportation, the utilities and transportation commission, and the state energy office, shall biennially prepare a report to the legislature starting July 1, 1992, on:

(1) Progress of clean fuel and clean-fuel vehicle programs in reducing automotive emissions;

(2) Recommendations for enhancing clean-fuel distribution systems;

(3) Efforts of the state, units of local government, and the private sector to evaluate and utilize "clean fuel" or "clean-fuel vehicles"; and

(4) Recommendations for changes in the existing program to make it more effective and, if warranted, for expansion of the program. [1991 c 199 Section 215.]

FINDING--1991 C 199: See note following RCW 70.94.011.

EFFECTIVE DATES--SEVERABILITY--CAPTIONS NOT LAW--1991 C 199: See RCW 70.94.904 through 70.94.906.

RCW 70.120.901 CAPTIONS NOT LAW. Section headings as used in this act do not constitute any part of law. [1989 c 240 Section 11.]

RCW 70.120.902 EFFECTIVE DATE--1989 C 240. This act shall take effect January 1, 1990. [1989 c 240 Section 14.]

SECTION VI

APPENDIX B

CHAPTER 173-422 WAC
MOTOR VEHICLE EMISSION INSPECTION

<TABLE>
<C> <C>
WAC

Copyright © 2012 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

</TABLE>

WAC 173-422-010 PURPOSE. This chapter implements the Washington Clean Air Act. chapter 70.94 RCW, as supplemented by the motor vehicle emission inspection provisions codified as chapter 70.120 RCW.

Motor vehicles are the primary emitters of carbon monoxide and emit significant quantities of hydrocarbons and oxides of nitrogen. Emission controls required by the federal government are designed to reduce motor vehicle related air pollution. However, the effectiveness of these controls is substantially reduced through deterioration, maladjustment and tampering. Motor vehicle emission inspection serves to identify high polluting vehicles and to reduce emissions, when such can be accomplished at reasonable cost. These rules establish the emission standards, testing procedures, and associated activities necessary to implement a program of air pollution prevention and control involving motor vehicle emission inspections. [Statutory Authority: RCW 70-.120.120, 43.21A.080, 70.94.331 and 70.94.141(1). 83- 23-115 (Order DE 83-31), Section 173-422-010, filed 11/23/83, effective 1/2/84. Statutory Authority: RCW 70.120.120. 80-03-070 (Order DE 79-35), Section 173-422-010, filed 2/28/80.]

WAC 173-422-020 DEFINITIONS. Unless a different meaning is clearly indicated by context, the following definitions will apply:

(1) "Accuracy" means the degree of correctness by which the true value of a measured sample is determined.

(2) "Calibration gases" mean a blend of hydrocarbon (propane), carbon monoxide (CO), and carbon dioxide using nitrogen as carrier gas. The concentrations are to be traceable to within two percent of NBS standards.

(3) "Certificate of acceptance" means an official form, issued by someone authorized by the department, which certifies that all of the following conditions have been met: The recipient's vehicle initially failed to comply with applicable emission standards, the recipient has provided original receipts proving that more than fifty dollars or one hundred fifty dollars on a 1981 or later model motor vehicle were spent after the first test and before the final test on repairs performed by a "certiFied emission specialist" solely to meet emission standards, the vehicle on final reinspection again failed to meet such standards, and the repair information section of the test report has been completed and the vehicle has been in use for more than five years or fifty thousand miles, and any component of the vehicle installed by the manufacturer for the purpose of reducing emissions, or its appropriate replacement, is installed and operative.

(4) "Certificate of compliance" means an official form, issued by someone authorized by the department, which certifies that the recipients vehicle on inspection complied with applicable emission standards.

(5) "Certified emission specialist" means an individual who has been issued a certificate of instruction by the department as authorized in RCW 70.120.020(2)(a) and has maintained the certification by meeting requirements old WAC 173-422-190(2).

(6) "Dealer" means a motor vehicle dealer, as defined in RCW 46.70.011, that is licensed pursuant to chapter 46.70 RCW.

(7) "Department" means the department of ecology.

(8) "Drift" means the change in the reading of the analyzer to a given sample over a period of time with no adjustment to the analyzer having been made between the initial and final measurements.

(9) "Emission contributing area" means a land area within whose boundaries are registered motor vehicles that contribute significantly to the violation of motor vehicle related air quality standards in a noncompliance area. (The inspection program implemented by this chapter applies only to vehicles registered in emission contributing areas.)

(10) "Farm vehicle" means any vehicle other than a farm tractor or farm implement which is designed and/or used primarily in agricultural pursuits on firms for the purpose of transporting machinery, equipment, implements, farm products, supplies, and/or farm labor thereon and is only incidentally operated on or moved along public highways for the purpose of going from one farm to another.

(11) "Fleet" means a group of twenty-five or more motor vehicles owned or leased concurrently by one person.

(12) "Gaseous fuel" means liquefied petroleum gases and natural gases in liquefied or gaseous forms.

(13) "Gross vehicle weight (GVW)" means the manufacturer stated gross vehicle weight rating.

Copyright © 2012 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

(14) "HC and CO emissions" means the concentration of hydrocarbons (measured as n-hexane) and carbon monoxide in the engine exhaust.

(15) "Motor vehicle" means any self-propelled vehicle required to be licensed pursuant to chapter 46.16 RCW.

(16) "Motorcycle" means every motor vehicle having a saddle for the use of the rider and designed to travel on not more than three wheels in contact with the ground, but excluding a farm tractor.

(17) "NBS" means National Bureau of Standards.

(18) "Noncompliance area" means a land area within whose boundaries any air quality standard for any air contaminant from the emissions of motor vehicles will probably be exceeded.

(19) "PPM" means parts per million by volume.

(20) "Repeatability" means the ability of an analyzer to report the same value for successive measurements of the same sample.

(21) "Response" means how quickly there is a change in reading following a change in concentration at the sample probe inlet.

(22) "Sensitivity" means the smallest change in the value of a measured sample that can be detected by the analyzer.

(23) "Zero calibration gases" means air or nitrogen in which total impurities do not exceed 0.01 percent. [Statutory Authority: Chapter 70.120 RCW. 90-06-062, Section 173-422-020. filed 3/6/90. effective 4/6/90. Statutory Authority: RCW 70.120.120, 43.21A.080. 70.94.331 and 70.94.141(1). 83-23-115 (Order DE 83-31). Section 173-422-020, filed 11/23/83, effective 1/2/84. Statutory Authority: RCW 70.120.120. 80-03-070 (Order DE 79-35), Section 173-422-020, filed 2/28/80.]

WAC 173-422-030 VEHICLE EMISSION INSPECTION REQUIREMENT. All motor vehicles, not specifically exempted by WAC 173-422-170, which are registered or reregistered within the boundaries of an emission contributing area, as specified in WAC 173-422-050, are subject to the vehicle emission inspection requirements of this chapter. Neither the department of licensing nor its agents may issue or renew a motor vehicle license for any vehicle registered in an emission contributing area, as that area is established under RCW 70.120.040, unless the application for issuance or renewal is: (1) Accompanied by a valid certificate of compliance issued pursuant to RCW 70.120.060, 70.120.080, or 70.120.090 or a valid certificate of acceptance issued pursuant to RCW 70.120.070; or (2) exempted from this requirement pursuant to RCW 46.16.015(2). The certificates must have a date of validation which is within ninety days of the date of application for the vehicle license or license renewal. Certificates for fleet vehicles may have a date of validation which is within twelve

months of the assigned license renewal date. [Statutory Authority: RCW 70.120.120, 43.21A.080, 70.94.331 and 70.94.141(1). 83-23-115 (Order DE 83-31), Section 173-422-030, filed 11/23/83, effective 1/2/84. Statutory Authority: RCW 70.120.120. 80-03-070 (Order DE 79 35), Section 173-422-030, filed 2/28/80.]

WAC 173-422-035 REGISTRATION REQUIREMENTS. (1) Persons residing in emission contributing areas as defined under WAC 173-422-050 shall register their motor vehicles within that area, unless business reasons require registration outside of the area.

(2) Any person who violates this section is subject to a civil penalty not to exceed one hundred dollars.

(3) Any civil penalty imposed by the department hereunder shall be appealable to the pollution control hearings board as provided for in chapter 43.21 B RCW. [Statutory Authority: Chapter 70.120 RCW. 90-06-062. Section 173-422-035, filed 3/6/90, effective 4/6/90.]

WAC 173-422-040 NONCOMPLIANCE AREAS. The following areas are designated noncompliance areas for the air contaminants specified: Carbon monoxide

(1) The city of Seattle.

(2) The city of Bellevue.

(3) The city of Spokane.

(4) The city of Tacoma.

(5) The city of Vancouver.

(6) The city of Yakima.

(7) The city of Everett. [Statutory Authority: Chapter 70.120 RCW. 90-06-062. Section 173-422-040,filed 3/6/90, effective 4/6/90. Statutory Authority: RCW 70.120.120, 43.21A.080, 70.94.331 and 70.94.141(1). 83-23-115 (Order DE 83-31), Section 173-422-040, filed 11/23/83, effective 1/2/84. Statutory Authority: RCW 70.120-.120. 82-02-027 (Order DE 81-32), Section 173-422-040, filed 12/31/81: 80-03-070 (Order DE 79-35), Section 173-422-040, filed 2/28/80.]

WAC 173-422-050 EMISSION CONTRIBUTING AREAS. Emission contributing areas within which the motor vehicle emission inspection program applies are designated by the following United States Postal Service ZIP codes as of the effective dates set forth below:

(1) Puget Sound Region (effective January 1, 1982)

Copyright © 2012 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

98004	98039
98005	98040
98006	98041
98007	98043
98008	98046
98009	98052
98011	98053
98012	98055
98020	98056
98021	98057

98027	98062
98028	98063
98033	98072
98034	98073
98036	98083
98037	98101 thru 98199,
	inclusive except 98110

(2) Spokane Region (effective July 1, 1985)

99201	99207
99202	99208
99203	99212
99204	99216
99205	99218
99206	

[Statutory Authority: RCW 70.120.120. 84-09-087 (Order DE 84-7), Section 173-422-050, filed 4/18/84. Statutory Authority: RCW 70.120.120, 43.21A.080, 70.94.331 and 70.94.141(1). 83-23-115 (Order DE 83-31), Section 173-422-050, filed 11/23/83, effective 1/2/84. Statutory Authority: RCW 70.120.120. 82-02-027 (Order DE 81-32), Section 173-422-050, filed 12/31/81: 80-03-070 (Order DE 79-35), Section 173-422-050, filed 2/28/80.]

WAC 173-422-060 EMISSION STANDARDS. Motor vehicles subject to this chapter shall meet the following emission standards prior to receiving a certificate of compliance.

STANDARDS

<TABLE>
<CAPTION>

Model Year	CO(%)	HC (ppm)
<S>	<C>	<C>
68-74	6.0	1000
75 and later	3.0	600

</TABLE>

Except 1981 and later model vehicles manufactured with a catalytic converter the standards are:

1.2	220

[Statutory Authority: Chapter 70.120 RCW. 90-06-062, Section 173-422-060, filed 3/6/90, effective 4/6/90. Statutory Authority: RCW 70.120.120, 43.21A.080, 70.94.331 and 70.94.141(1). 83-23-115 (Order DE 83-31), Section 173-22-060, filed 11/23/83, effective 1/2/84. Statutory Authority: RCW 70.120.120. 82-02-027 (Order DE 81-32), Section 173-422-060, filed 12/31/81; 80-03-070 (Order DE 79-35), Section 173-422-060, filed 2/28/80.]

WAC 173-422-070 TEST PROCEDURES. All persons certified by, or under contract to, the department to conduct motor vehicle emission inspections shall use the following test procedures. Variations to the procedures specified may be used if approved by the department after receipt of evidence that such changes will not interfere with the validity of the test.

(1) A two-speed (idle and 2500 rpm) test with the transmission in neutral or park shall be used to measure vehicle exhaust emissions for carbon monoxide, hydrocarbons, and carbon dioxide. A vehicle with an automatic transmission may be tested in drive for the idle test if the idle rpm in neutral or park exceeds 1200 rpm. However, the idle rpm as tested cannot exceed 1200 rpm unless allowed to do so by the vehicle manufacturers specifications.

(2) The engine shall be at normal operating temperature during the emission test with all accessories off.

Copyright © 2012 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

(3) Any vehicle causing an unsafe condition, such as the continuous leaking of any fluid onto the floor, may be rejected from the inspection site.

(4) Vehicles shall be approximately level during the test.

(5) Vehicles with more than one exhaust pipe shall be tested by sampling each tail pipe and averaging the results, unless the exhaust pipes originate from a common point in the exhaust system. Simultaneous sampling from multiple exhaust pipes may also be used.

(6) The following steps shall be taken to prevent excessive dilution. The exhaust sample probe must be inserted at least ten inches into the tail pipe. If this is not possible, an extension boot shall be used. The exhaust emission test results shall not be recorded if the carbon dioxide concentration does not meet or exceed five percent.

(7) If the engine stalls during the test, the engine shall be restarted and one additional attempt will be made to complete the test.

(8) If a vehicle is capable of being operated with either gasoline or gaseous fuels, the vehicle shall be tested using the fuel it is operating on when it enters the testing facility.

(9) If a multiple range analyzer is used, the exhaust analyzer range shall be selected so that the standard for the vehicles being tested is between twenty-five percent and seventy-five percent of full scale if possible.

(10) Before testing a 1981 and later model Ford Motor Company vehicle with a gross vehicle weight of 8500 pounds or less, or a 1984 85 Honda Prelude, the engine shill be turned off and then restarted.

(11) Increase the engine speed to 2500 +300 rpm.

(12) Insert the probe into the tailpipe. After at least thirty seconds record the exhaust emissions averaged over the last five seconds.

(13) Slowly reduce the engine speed to idle (less than 1200 rpm). After at least thirty seconds or when the readings have stabilized at a level meeting the emission standards record the exhaust emissions averaged over the last five seconds.

(14) When readings from multiple exhaust pipes are averaged, steps 10, 11, 12, and 13 shall be repeated for all exhaust pipes. [Statutory Authority: Chapter 70.120 RCW. 90-06-062, Section 173-422-070, filed 3/6/90, effective 4/6/90. Statutory Authority: RCW 70.120.120, 43.21A.080, 70.94.331 and 70.94.141(1). 83-23-115 (Order DE 83-31), Section 173-422-070, filed 11/23/83, effective 1/2/84. Statutory Authority: RCW 70.120.120. 82-02-027 (Order DE 81-32). Section 173422-070, filed 12/31/81, 80-03-070 (Order DE 79-35), Section 173-422-070, filed 2/28/80.]

WAC 173-422-080 VEHICLE INSPECTION DATA HANDLING PROCEDURES. All persons under contract to the state to conduct motor vehicle emission inspections shall use the following data handling procedures.

(1) The comparison of the test results with the state's emission standards shall be automated.

(2) The emission test results, the comparison with the states emission standards, and certificates of compliance shall be automatically printed.

(3) The required vehicle identification data shall be entered and validated before the emission test is started.

(4) Vehicle identification data flagged as incorrect by the established validation checks shall be corrected before the emission test is started.

(5) The emission test results shall be automatically printed.

(6) All required data shall be automatically printed on the vehicle inspection reports and stored on bulk storage devices.

(7) In the case of data handling equipment problems, the vehicle emission test reports and certificates of compliance may be manually completed, but all the data is required to be included on the bulk storage devices submitted to the department. [Statutory Authority: RCW 70.120.120. 43.21A.080. 70.94.331 and 70.94.141(1). 83-23-115 (Order DE 83-31). Section 173-422-080, filed 11/23/83, effective 1/2/84. Statutory Authority: RCW 70.120.120. 82-02-027 (Order DE 81-32). Section 173-422-080, filed 12/31/81; (80-03-070 (Order DE 79-35). Section 173-422-080, filed 2/28/80.]

WAC 173-422-090 EXHAUST ANALYZER SPECIFICATIONS. Only exhaust analyzers meeting the following specifications at the time of certification testing may be used for certification testing. Any person authorized by the department to certify vehicles is solely responsible for insuring that the testing equipment is operating within the following specifications at the time of certification testing.

(1) Accuracy: The readings or the printed test results of the exhaust analyzers compared to the true value of a measured sample shall have the following accuracy tolerances.

HC - Measured as n - hexane	
200 to 220 ppm	+/-15 ppm
0 to 1000 ppm	+/-30 ppm
1000 to 2000 ppm	+/-100 ppm

Copyright © 2012 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

CO	
1.0 to 1.2%	+/-0.1%
0 to 5%;	+/-0.2%
5 to 10%	+/-0.5%
CO2:	
4 to 6%	+/-1%

(2) Calibration: The analyzer shall have the capability of being calibrated electronically and by gas.

(3) Drift: The drift of the zero reading or any calibration reading of each analyzer shall not exceed 15 ppm HC 0.1% CO or 0.5% CO2 in one hour.

(4) Flow restriction indicator: The analyzer shall be operated within manufacturer's specifications for sample flow. The sampling system shall be equipped with a visual and/or audible warning that sample flow is not within operating requirements.

(5) Interference effects: Sampling the following concentrations of noninterest gases shall not cause the HC reading to change +/-10 ppm: 15% CO2 in N2, 10% CO in N2, 3000 ppm NO in N2, 10% O2 in N2, and 3% H2O vapor in air.

Sampling the following concentrations of noninterest gases shall not cause the CO2 reading to change +/-0.05%: 15% CO2 in N2, 1600 ppm HC in N2, 3000 ppm NO in N2, 10% 02 in N2, and 3% H2O vapor in air.

Sampling the following concentrations of noninterest gases shall not cause the CO: reading to change +/-0.05%: 1600 ppm HC in N2, 10% CO in N2, 3000 ppm NO in N2, 10% 02 in N2, and 3% H2O vapor in air.

(6) Repeatability: The repeatability of the exhaust analyzers used shall be within 10 ppm HC. 0.05% CO and 0.2% CO2 during five successive measurements of the same sample.

(7) Response: The response of the exhaust analyzers shall be at least ninety-five percent of the final value within fifteen seconds.

(8) Sensitivity: The sensitivity of each analyzer shall be equal to or less than 10 ppm HC, 0.05% CO and 0.2% CO2.

(9) Range of measurement: The analyzer shall have a range equal to or greater than 0-2000 ppm HC (n-Hexane), 0 to 10% CO, and 0 to 6% CO2.
[Statutory Authority: Chapter 70.120 RCW. 90-06-062. Section 173-422-090, filed 3/6/90, effective 4/6/90. Statutory Authority: RCW 70.120.120, 43.21A.080, 70.94.331 and 70.94.141(1). 83-23-115 (Order DE 83-31), Section 173-422-090, filed 11/23/83, effective 1/2/84. Statutory Authority: RCW 70.120.120. 82-02-027 (Order DE 81-32). Section 173-422-090, filed 12/31/81, 80-03-070 (Order DE 79-35), Section 173-422-090, filed 2/28/80.]

WAC 173-422-100 TESTING EQUIPMENT MAINTENANCE AND CALIBRATION. (1) Unless alternative procedures have been approved or required by the department all equipment used in the inspection shall be calibrated and maintained according to the manufacturer's specifications and recommendations. Complete logs as approved by the department shall be kept for maintenance, repair, and calibration.

(2) The following procedures shall be followed by all testing facilities unless equivalent procedures have been approved by the department. Exhaust analyzers and all electronic components that could affect the gas concentration results shall be warmed up for at least thirty minutes prior to performing any test on equipment calibration, span, or zero checks:

(a) Each test. Before each test can start, the exhaust analyzer readings must be less than 10 ppm HC, 0.1% CO and 0.5% CO2. If during a test the sampling system flow restriction indicator becomes activated, the test shall bc stopped and restarted after the necessary repairs to the analyzer have been completed.

(b) Hourly check. The exhaust analyzer shall not be used to test vehicles unless within an hour prior to the test it was spanned with a calibration gas. The following procedure shall be used:

(i) Adjust the exhaust analyzer to zero using ambient air or zero calibration gas.

(ii) Adjust the exhaust analyzer using the electronic span.

(iii) Check the calibration of the exhaust analyzer using a calibration gas of approximately twenty to forty percent of each range.

(iv) Adjust and repair as necessary to insure the accuracy specified in WAC 173-422-090.

(c) Weekly check. The exhaust analyzer shall not be used to test vehicles unless a multipoint calibration has been performed within the last seven days. The following procedure shall be used:

(i) Adjust the exhaust analyzer to zero using ambient air or zero calibration gas.

(ii) Adjust the exhaust analyzer using the electronic span.

(iii) Check the calibration of the exhaust analyzer using calibration gases of approximately twenty, forty, sixty, and eighty percent for each range. (CO2 must be present at concentrations of at least 2.0%.)

(iv) Adjust and repair as necessary to insure the accuracy specified in WAC 173-422-090 at each calibration point.

(v) Check the calibration of the exhaust analyzer using a calibration gas with a CO concentration of 1.2 to 2.4%, a HC concentration of 150 to 300 ppm measured as n-hexane, and a CO2 concentration of 4.0 to 6.0%.

(vi) Adjust and repair as necessary to insure the accuracy of the exhaust analyzer is within .05% CO and 6 ppm HC.

Copyright © 2012 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

(d) Repair check. A multipoint calibration as specified in (c) of this subsection shall be performed before the analyzer is used for certification testing following the replacement of an optical or electronic component that can cause a variation in the analyzer reading.

The manufacturer's recommended procedures to determine any change in the correction factor from the propane calibration gas to n-hexane readings shall be followed.

(e) Leak check. The exhaust analyzer shall not be used to test vehicles unless within one week prior to the testing, CO readings have been taken while introducing calibration gas

through the calibration port and through the probe. Discrepancies of over 3% in the readings shall require repair of leaks. No analyzer adjustments shall be permitted during this check. Other leak check procedures may be used if it can be shown to the department's satisfaction that the method identifies leaks as well as the method in this subsection.
[Statutory Authority: Chapter 70.120 RCW. 90-06-062, Section 173-422-100, filed 3/6/90, effective 4/6/90. Statutory Authority: RCW 70.120.120, 43.21A.080, 70.94.331 and 70.94.141(1). 83-23-115 (Order DE 83-31), Section 173-422-100 filed 11/23/83, effective 1/2/84. Statutory Authority: RCW 70.120.120. 82-02-027 (Order DE 81-32), Section 173-422- 100, filed 12/31/81; 80-03-070 (Order DE 79-35), Section 173-422-100, filed 2/28/80.]

WAC 173-422-110 DATA SYSTEM REQUIREMENTS. The data system shall consist of the following units:

(1) Vehicle identification terminal. The vehicle identification terminal shall have a standard typewriter for-matted keyboard with a visual display to verify data entered. The data entered shall be transferred to the programmable processor on command.

(2) Programmable processor. The programmable processor shall perform the following functions:

(a) Accept and validate vehicle and test data required in WAC 173-422-140 from the vehicle identification terminal, exhaust analyzer, or other sources. Indicate on the vehicle identification terminal any data entered that does not meet the validation criteria.

(b) Convert analog emission measurements to digital information for each analyzer range.

(c) Verify that there is no excessive dilution of the exhaust sample by determining the carbon dioxide concentration and provide carbon dioxide output signal to printer and bulk storage device.

(d) Compare test results to the state's emissions standards. Test results shall be determined by averaging five consecutive readings taken at one second intervals, at fifteen seconds after the probe has been inserted into the tail pipe. The results shall be considered stable and recorded if the five readings do not vary more than ten percent of their average or 30 ppm HC, or 0.2% CO, or 1% CO2 from their average, whichever is greater. If stability has not occurred before thirty seconds of testing, the thirty second reading along with four other consecutive readings shall be averaged and recorded as the result.

(e) Outputs vehicle and test data and established standards for report printout.

(f) Outputs vehicle and test data for storage on bulk storage devices.

(3) Report printer. The report printer shall print the vehicle inspection report and the certificate of compliance. The forms used shall be provided or approved by the department.

(4) Bulk storage devices. All data from the vehicle inspection report and the certificate of compliance shall be

written on the bulk storage devices at the same time the printed report(s) are produced.

The data handling system shall be so designed to prevent any data changes on the bulk storage devices that would eliminate or alter the original entry.

Inspection shall be redone if errors result in an incorrect vehicle inspection report.

To insure that the bulk storage devices are compatible with the state's data processing equipment, all bulk storage devices and data handling methods used by the contractor shall be expressly approved by the department.
[Statutory Authority: RCW 70.120.120. 82-02-027 (Order DE 81-32), Section 173-422-110, filed 12/31/81; 80-03-070 (Order DE 79-35), Section 173-422-110, filed 2/28/80.]

WAC 173-422-120 QUALITY ASSURANCE. The department, or its designee, will monitor the operation of each authorized emission testing facility with unannounced, unscheduled inspections to check the calibration and maintenance of the exhaust analyzers, test procedures, and records.

Vehicle inspection reports and fiscal reports submitted Dy inspection station operators will be checked for completeness and accuracy. The department or its designee shall have the right to audit contractor's and

Copyright © 2012 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

subcontractor's records.

The department (or its designee) may conduct unidentified surveillance.

The department (or its designee) may require that the use of an exhaust analyzer be suspended due to a malfunction or incorrect calibration of the analyzer. [Statutory Authority: RCW 70.120.120, 43.21A.080. 70.94.331 and 70.94.141(1). 83-23-115 (Order DE 83-31). Section 173-422-120, filed 11/23/83, effective 1/2/84. Statutory Authority: RCW 70.120.120. 80-03-070 (Order DE 79-35). Section 173-422-120, filed 2/28/80.]

WAC 173-422-130 INSPECTION FEES. The fee for the first emission test on each vehicle applicable to a vehicle license year shall be sixteen dollars. If the vehicle fails, one retest will be provided free of charge at any inspection station operated under contract to the state, provided that the retest is applicable to the same vehicle license year. Any additional retests of a failed vehicle applicable to the same vehicle license year will require the payment of sixteen dollars.

Inspection station operators shall forward to the state treasurer within ten working days, the amount of fees due to the state for inspections conducted during the previous month.

The department or its designee shall have the right to audit any inspection station operator's or contractor's records and procedures to substantiate that the operator or contractor is properly collecting and accounting for such fees. [Statutory Authority: Chapter 70.120 RCW. 90-06-062 Section 173-422-130, filed 3/6/90, effective 4/6/90. Statutory Authority: RCW 90-06-062, 70.120.040(7). 87-02-051. (Order DE 86-32), Section 173-422-130, filed 1/7/87, effective 4/1/87. Statutory Authority: RCW 70.120.120.

82-02-027 (Order DE 81-32). Section 173-422-130, filed 12/31/81; 80-03-070 (Order DE 79-35), Section 173-422-130, filed 2/28/80.]

WAC 173-422-140 INSPECTION FORMS AND CERTIFICATES. All inspection stations shall use inspection forms and certificates provided or approved by the department. Additional information or materials may be provided to the vehicle operator only if approved by the department.

(1) Vehicle inspection report: The driver of each vehicle tested shall be given a vehicle inspection report on a form to be provided or approved by the department. The inspection station operator shall record the following information.

(a) Station number (lane number).

(b) Date and time of test.

(c) Who conducted the test (name or identification number).

(d) Vehicle identification number (VIN).

(e) Odometer reading in thousands of miles.

(g) Vehicle model year.

(h) Make of the vehicle.

(i) Whether or not the vehicle was manufactured with a catalytic converter (1981 and later model vehicles only).

(j) Gross vehicle weight class.

(k) Emission test results.

(i) Applicable standards.

(m) Whether the vehicle has passed or failed the appropriate emission standards.

(n) The engine speed while the emission readings were taken.

(o) Carbon dioxide reading.

(p) First test or retest.

(q) If available at a retest, the identification number of an ecology authorized emission specialist who repaired the vehicle following the first test.

(2) Certificate of compliance: The driver of a vehicle meeting the appropriate emission standards shall be issued a certificate of compliance.

(3) Certificate of acceptance: If a vehicle has failed to pass the emission test applicable to any vehicle license year, the vehicle owner may request a certificate of acceptance. If the vehicle has been in use for more than five years or fifty thousand miles, and any component of the vehicle installed by the manufacturer for the purpose of reducing emissions, or its appropriate replacement, is installed and operative. To receive the certificate of acceptance the vehicle owner must provide original receipts totalling at least fifty dollars, for 1980 and earlier model year vehicles or at least one hundred fifty dollars for 1981 and later model year vehicles, dated on or between the date of the first test and the final retest, for costs of repairs performed by a "certified emission specialist" solely devoted to meeting the emission standards.

(4) Form storage: Copies of each certificate of compliance/ acceptance, and all vehicle inspection reports shall be kept on file by the contractor and be available for the department's review for one year after they are issued. This requirement includes forms that are voided for any reason.

(5) Reporting: The inspection station operator shall forward to the department within ten working days after the end of each month (a) an

Copyright © 2012 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

approved storage device containing all data collected from each inspection conducted that month, and (b) a copy of all certificates of acceptance issued that month along with the related vehicle inspection reports and repair and/or parts receipts.

Before the storage device is forwarded to the department, a backup bulk storage device shall be in the possession of the contractor. The backup bulk storage device shall be retained for one year and be available to the department upon request. [Statutory Authority: Chapter 70.120 RCW. 90-06-062. Section 173-422-140, filed 3/6/90, effective 4/6/90. Statutory Authority: RCW 70.120.120, 43.21A.080, 70.94.331 and 70.94.141(1). 83-23-115 (Order DE 83-31), Section 173-422-140, filed 11/23/83, effective 1/2/84. Statutory Authority: RCW 70.120.120. 82-02-027 (Order DE 81-32), Section 173-422-140, filed 12/31/81, 80-03-070 (Order DE 79-35). Section 173-422-140, filed 2/28/80.]

WAC 173-422-145 FRAUDULENT CERTIFICATES OF COMPLIANCE/ ACCEPTANCE. (1)(a) Obtaining or attempting to obtain a certificate of compliance by (i) providing false information or (ii) any fraudulent means; or

(b) Obtaining or attempting to obtain a certificate of acceptance (i) through the use of receipts or other documentation containing false information, or (ii) any fraudulent means shall be construed as a violation of these rules implementing chapter 70.94 RCW as supplemented by chapter 70.120 RCW.

(2) Any person who commits such violation or who aids or abets another in committing the same shall be subject to a civil penalty not to exceed two hundred fifty dollars for each violation.

(3) For the purposes of this section the term "expended" refers to the net actual cost to the vehicle owner in the purchase of repairs or parts derived after the amount of any rebate, discount or cash-return has been subtracted.

(4) Any civil penalty imposed by the department hereunder shall be appealable to the pollution control hearing board as provided for in chapter 43.21B RCW. [Statutory Authority: Chapter 70.120 RCW. 90-06-062, Section 173-422-145, filed 3/6/90, effective 4/6/90. Statutory Authority: RCW 70.120.120. 43.21A.080, 70-.94.331 and 70.94.141(1). 83-23-115 (Order DE 83-31), Section 173-422-145, filed 11/23/83, effective 1/2/84.]

WAC 173-422-150 INSPECTION PERSONNEL REQUIREMENTS. (1) Training. All inspection personnel must successfully complete a training course approved by the department.

(2) Inspection personnel identification. Whenever inspection personnel are in contact with the public they shall wear identification tags visible to the motorist. [Statutory Authority: RCW 70.120.120. 80-03-070 (Order DE 79-35), Section 173-422-150, filed 2/28/80.]

WAC 173-422-160 FLEET AND GOVERNMENT VEHICLE TESTING REQUIREMENTS. Self-inspection of vehicles by a fleet or government agency operator may be authorized by the department. The department may also authorize emission inspection of fleet vehicles by an automotive service or testing facility engaged for such activity. Authorizations to conduct emission tests and issue certificates of compliance under this section are limited to vehicles within the fleet or fleets requesting such authorization. Any person or facility conducting fleet tests under authorization of this section must meet all requirements of this section.

(1) The exhaust analyzers used for certification testing shall meet the specifications in WAC 173-422-090 except for those that pertain to CO2. (CO2 does not need to be measured.)

(2) All persons engaged in testing of fleet vehicles must comply with all provisions of this chapter except WAC 173-422-080, 173-422-100 (2)(b)(iii) and (iv) and (c)(iii) and (iv), 173-422-110, 173-422-130, 173-422-140, and 173-422-150. The checks specified in WAC 173-422-100 (2)(c) except (c)(iii) and (iv), in addition to being required weekly, shall be performed after each relocation of the analyzer.

(3) All persons conducting tests for the purpose of issuing certificates for fleets shall be ecology certified emission specialists.

(4) The department will provide test forms upon request. Legibly completed forms with appropriate signature(s) will constitute certificates of compliance for licensing purposes. Any person conducting testing under this section shall forward to the department within ten working days after the end of each month, a copy of each certificate of compliance issued during that month. Copies of each certificate of compliance shall be retained by the person issuing the certificate for at least two years from date of issuance. Alternative arrangements for providing and storing this information using automated data storage devices may be required by the department after one years' notice.

Forms must be purchased from the department in advance of issuance through payment of sixteen dollars to the department for each certificate requested. Refunds or credit may be given for unused certificates returned to the department.

Payment for fleet forms is waived for government fleets.

Test forms provided under this section are official documents. Persons receiving the forms from the department are accountable for each form

Copyright © 2012 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

provided.

Voided forms must be handled the same as certificates of compliance. One copy shall be sent to the department within ten days after the end of the month in which the form was voided and one copy shall be retained by the person accountable for the forms for at least two years after date of voiding. Refunds will not be made for voided forms.

(5) All persons authorized to conduct fleet or government vehicle inspections under this section shall be subject to performance audits and compliance inspections by the department, during normal business hours.

(6) Fleet vehicles may be inspected any time between their scheduled license renewals.

(7) Certificates of acceptance may not be issued under this section. [Statutory Authority: Chapter 70.120.RCW. 90-06-062, Section 173-422-160, filed 3/6/90, effective 4/6/90. Statutory Authority: RCW 70.120.120, 43.21A.080, 70.94.331 and 70.94.141(1). 83-23-115 (Order DE 83-31), Section 173-422-160, filed 11/23/83, effective 1/2/84. Statutory Authority: RCW 70.120.120. 82-02-027 (Order DE 81-32), Section 173-422-160, filed 12/31/81; 80-03-070 (Order DE 79-35), Section 173-422-160, filed 2/28/80.]

WAC 173-422-170 EXEMPTIONS. The following motor vehicles are exempt from the inspection requirement:

(1) Vehicles proportionally registered pursuant to chapter 46.85 RCW.

(2) Vehicles whose model year is 1967 or earlier.

(3) New motor vehicles whose equitable or legal title has never been transferred to a person who in good faith purchases the vehicle for purposes other than resale; this does not exempt motor vehicles that are or have been leased.

(4) Motor vehicles that use propulsion units powered exclusively by electricity.

(5) Motor-driven cycles as defined by RCW 46.04.332.

(6) Motor vehicles powered by diesel engines or two-cycle engines.

(7) Farm vehicles as defined by RCW 46.04.181.

(8) Vehicles exempted from licensing pursuant to RCW 46.16.010.

(9) Mopeds as defined by RCW 46.04.304.

(10) Vehicles garaged and operated out of the emission contributing area.

(11) Vehicles registered with the state but not for highway use.

(12) Used vehicles whose licenses have expired or will expire within thirty days when sold by a Washington licensed motor vehicle dealer.

(13) Motor vehicles fueled exclusively by propane, compressed natural gas, or liquid petroleum gas. [Statutory Authority: Chapter 70. 120 RCW. 90-06-062, Section 173-422-170, filed 3/6/90, effective 4/6/90. Statutory Authority: RCW 70.120.120, 43.21A.080, 70.94.331 and 70.94.141(1). 83-23-115 (Order DE 83-31), Section 173-422-170, filed 11/23/83, effective 1/2/84. Statutory-Authority: RCW. 70.120.120. 82-02-027 (Order DE 81 82). Section 173.422.170, filed 12/31/81: 80-03-070 (Order DE 79-35), Section 173-422-170, filed 2/28/80.]

WAC 173-422-175 FRAUDULENT EXEMPTIONS. (1) Obtaining or attempting to obtain an exemption from mission inspection requirements by false statements, or failure to comply with the exemption procedures established to implement WAC 173-422-170, shall be construed as a violation of these rules implementing chapter 70.94 RCW as supplemented by chapter 70.120 RCW.

(2) Any person who commits such violation or who aids or abets another in committing the same shall be subject to a civil

penalty not to exceed two hundred fifty dollars for each violation.

(3) Any civil penalty imposed by the department hereunder shall be appealable to the pollution control board as provided for in chapter 43.21B RCW. [Statutory Authority: RCW 70.120.120, 43.21A.080, 70.94-.331 and 70.94.141(1). 83-23-115 (Order DE 83-31), Section 173-422-175. filed 11/23/83, effective l/2/84.]

WAC 173-422-180 AIR QUALITY STANDARDS. The air quality standards set forth in chapter 173-415 WAC are the air quality standards applicable to the establishment of noncompliance areas pursuant to this chapter. [Statutory Authority: RCW 70.120.120. 80-03-070 (Order DE 79-35), Section 173-422-180, filed 2/28/80.]

WAC 173-422-190 EMISSION SPECIALIST CERTIFICATION. (1) To become a certified emission specialist an individual shall:

(a) Pass a course of study, approved by the department, on motor vehicle maintenance, engine and exhaust analysis equipment usage, and emission control system repair and maintenance; and

(b) Agree in writing to meet the requirements of subsection (2) of this section.

(2) To maintain certification, a certified emission specialist shall:

(a) Successfully complete a department approved course on emission repair within the second year after the date of certification. and within

Copyright © 2012 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

each second year thereafter:

(b) Sign, including the specialist identification number, all receipts for tune-up and emission repairs or adjustments performed;

(c) Record on all receipts the vehicle's emission readings after the work is completed when an exhaust analyzer is available:

(d) Not tamper with emission control systems, including adjusting an engine outside of the manufacturer's specifications (chapter 173-421 WAC):

(e) Not obtain or attempt to obtain a certificate of -acceptance (repair waiver) by providing false information or by any fraudulent means (WAC 173-422-145); and

(f) Not aid or abet any individual in committing a violation of chapter 173-421 WAC or WAC 173-422-145.

(3) The certification of a certified emission specialist may be revoked for a first violation of chapter 173-422 WAC or WAC 173-422-145, for a period-of no more than one year, and may be permanently revoked for a second violation of chapter 173-421 WAC or WAC 173-422-145.

The certification of a certified emission specialist may be temporarily revoked for violation of subsection (2) of this section and may be permanently revoked for continued willful violation of subsection (2) of this section.

A certified emission specialist whose certification is revoked permanently or temporarily may appeal to the pollution control hearings board as provided for in RCW 43.21B.310.

(4) A certified emission specialist whose certification has been temporarily revoked may reapply for certification twelve

months after the date of revocation by applying to the department and meeting all requirements of subsection (1) of this section. An application for certification by a permanently revoked certified emission specialist will be denied. [Statutory Authority: Chapter 70.120 RCW. 90-06-062, Section 173-422-190, filed 3/6/90, effective 4/6/90.]

WAC 173-422-195 LISTING OF CERTIFIED EMISSIONS SPECIALISTS. (1) A list of certified emission specialists will be available to the public. Specialists will be listed under their employer's shop name when the shop is approved for listing. The list will be updated by the department at least once every six months.

(2) The employer's name and address will be listed by the department, when the employer agrees in writing to:

(a) Use a properly maintained and correctly calibrated exhaust analyzer as a final check for all tune-up and emission repairs or adjustments;

(b) Have all tune-up and emission repairs or adjustments performed by a certified emission specialist;

(c) Require any person performing tune-up and emission repairs or adjustments to sign the customer's receipt for tune-up and emission repairs or adjustments and to record the vehicle's emission readings on the receipt after the work is completed;

(d) Require that all employees not aid or abet any person to tamper with emission control systems, including adjusting a vehicle outside of the manufacturer's specifications (chapter 173-421 WAC); and

(e) Require that all employees not aid or abet any person to obtain a fraudulent certificate of compliance (repair waiver) (WAC 173-422-145).

(3) An employer may be removed from the certified emission specialist list for a first violation of chapter 173-421 WAC or WAC 173-422-145 for a period of no more than one year and may be permanently removed after a second violation of chapter 173-421 WAC or WAC 173-422-145.

An employer may be temporarily removed from the certified emission specialist list when failing to comply with the requirements of subsection (2) of this section and may be permanently revoked for continued and willful violation of subsection (2) of this section.

(4) An employer who has been temporarily removed from the certified emission specialist list may reapply for listing twelve months after the date of removal from the listing by applying to the department and meeting all requirements of subsection (2) of this section. An application for listing from an employer permanently removed from the certified emission specialist list will be denied.

(5) An employer who is removed from a certified emission specialist list or denied listing in a certified emission specialist list may appeal to the pollution control hearings board as provided for in RCW 43.21B.310.

(6) A certified emission specialist whose employer is not listed may request to be placed on a separate list available to the public. The employer's name will not be listed. The

specialist may specify an address and phone number to be included in the list.

(7)(a) An employer approved for listing, may display the state certified emission specialist sign available from the department. Any employer advertising or providing of information to the public based on the department's certification of a certified emission specialist must be able to be discontinued immediately upon revocation of the employer's listing or certification of the certified emission specialist.

Copyright © 2012 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

(b) An employer violating (a) of this subsection shall be subject to a civil penalty not to exceed two hundred fifty dollars for each violation.

(c) A civil penalty imposed by the department may be appealed to the pollution control hearings board as provided for in RCW 43.21B.310.
[Statutory Authority: Chapter 70.120 RCW. 90-06-062. Section 173-422-195, filed 3/6/90, effective 4/6/90]

SECTION VI

APPENDIX C

PROPOSED REGULATION REVISIONS April 21, 1992

WAC 173-422-010 PURPOSE. This chapter implements the Washington Clean Air Act, chapter 70.94 RCW, as supplemented by the motor vehicle emission inspection provisions codified as chapter 70.120 RCW.

Gasoline motor vehicles are the primary emitters of carbon monoxide and emit significant quantities of hydrocarbons and oxides of nitrogen. Diesel motor vehicles are emitters primarily of particulates, hydrocarbons, and oxides of nitrogen. Emission controls required by the federal government are designed to reduce motor vehicle related air pollution. However, the effectiveness of these controls is substantially reduced through deterioration, maladjustment and tampering. Motor vehicle emission inspection serves to identify high polluting vehicles and vehicles with tampered or missing emission controls and to reduce their emissions, when such reduction can be accomplished at reasonable cost. These rules establish the emission standards, testing procedures, and associated activities necessary to implement a program of air pollution prevention and control () resulting from motor vehicle emission inspections.

AMENDATORY SECTION (Amending WSR 90-06-062, filed 3/6/90, effective 4/6/90

WAC 173-422-020 DEFINITIONS. Unless a different meaning is clearly indicated by context, the following definitions will apply:

(1) "Accuracy" means the degree of correctness by which the true value of a measured sample is determined.

(2) "Calibration gases" mean a blend of hydrocarbon (propane), carbon monoxide (CO), and carbon dioxide using nitrogen as carrier gas. The concentrations are to be traceable to within two percent of NBS standards.

(3) "Certificate of acceptance" means an official form, issued by someone authorized by the department, which certifies that all of the following conditions have been met: The recipient's vehicle initially failed (()) the emission (()) inspection, the recipient has provided original receipts proving that more than (()) one hundred dollars or one hundred fifty dollars on a 1981 or later model motor vehicle were sent after the first (()) inspection, and before the final (()) inspection on repairs performed by a "certified emission specialist" solely to (()) reduce emissions (()), the vehicle on final reinspection again failed to meet such standards, and the repair information section of the test report has been completed and the vehicle has been in use for more than five years or fifty thousand miles and any component of the vehicle installed by the manufacturer for

the purpose of reducing emissions, or its appropriate replacement, is installed and operative.

(4) "Certificate of compliance" means an official form, issued by someone authorized by the department, which certifies that the recipient's vehicle on inspection complied with applicable emission inspection standards.

(5) "Certified emission specialist" means an individual who has been issued a certificate of instruction by the department as authorized in RCW 70.120.020 (2)(a) and has maintained the certification by meeting requirements of WAC 173-422-190(2).

(6) "Dealer" means a motor vehicle dealer, as defined in RCW 46.70.011, that is licensed pursuant to chapter 46.70 RCW.

(7) "Department" means the department of ecology.

(8) "Drift" means the change in the reading o the analyzer to a given sample over a period of time with no adjustment to the analyzer having been made between the initial and final measurements.

(9) "Emission contributing area" means a land area within whose boundaries are registered motor vehicles that contribute significantly to the violation of motor vehicle related air quality standards in a noncompliance area. (The inspection program implemented by this chapter applies only to vehicles registered in emission contributing areas.)

(10) "Farm vehicle" means any vehicle other than a farm tractor or farm implement which is designed and/or used primarily in agricultural pursuits on

Copyright © 2012 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

farms for the purpose of transporting machinery, equipment, implements, farm products, supplies, and/or farm labor thereon and is only incidentally operated on or moved along public highways for the purpose of going from one farm to another.

(11) "Fleet" means a group of fifteen or more motor vehicles owned or leased concurrently by one owner assigned a fleet identifier code by the department of licensing.

(12) "Gross vehicle weight rating (GVWR)" means the manufacturer stated gross vehicle weight rating.

(13) "HC and CO emissions" means the concentration of hydrocarbons (measured as n-nexane) and carbon monoxide in the engine exhaust.

(14) "Motor vehicle" means any self-propelled vehicle required to be licensed pursuant to chapter 46.16 RCW.

(15) "Motorcycle" means every motor vehicle having a saddle for the use of the rider and designed to travel on not more than three wheels in contact with the ground, but excluding a farm tractor.

(16) "NBS" means National Bureau of Standards.

(17) "Noncompliance area" means a land area within whose boundaries any air quality standard for any air contaminant from the omissions of motor vehicles will probably be exceeded.

(()) (18) "PPM" means parts per million by volume.

(19) "Primary emission control components" means the components of the vehicle installed by the manufacturer for the purpose of requiring emissions or its replacement which is acceptable to the United States Environmental Protection Agency. These components are the catalytic converter or thermal reactor, the air injection system components, the thermostatic air cleaner, the exhaust gas recirculation system components, the evaporative emission system components including the gas cap, the positive crankcase ventilation system components, and the components that control the air/fuel mixture or ignition timing.

(20) "Repeatability" means the ability of an analyzer to report the same value for successive measurements of the same sample.

(21) "Response" means how quickly there is a change in reading following a change in concentration at the sample probe inlet.

(22) "Sensitivity" means the smallest change in the value of a measured sample that can be detected by the analyzer.

(23) "Zero calibration gases" means air or nitrogen in which total impurities do not exceed 0.01 percent.

AMENDATORY Section (Amending Order DE 83-31, filed 11/23/83), effective 1/2/84)

WAC 173-422-030 VEHICLE EMISSION INSPECTION REQUIREMENT. All motor vehicles, not specifically exempted by WAC 173-422-170, which are registered or reregistered within the boundaries of an emission contributing area, as specified in WAC 173-422-050, are subject to the vehicle emission inspection requirements of this chapter. Neither the department of licensing nor its agents may change the registered owner or may issue or renew a motor vehicle license for any vehicle registered in an emission contributing area, as that area is established under RCW 70.120.040, unless the application for issuance or renewal is: (1) Accompanied by a valid certificate of compliance issued pursuant to RCW 70.120.060, 70.120.080, or 70.120.090 or a valid certificate of acceptance issued pursuant to RCW 70.120.070; or (2) exempted from this requirement pursuant to RCW 46.16.015(2). The certificates must have a date or validation which is within (()) six months of the date of application for the vehicle license (()), license renewal or registered owner change. Certificates for fleet or owner tested vehicles may have a date of validation which is within twelve months of the assigned license renewal date.

AMENDATORY Section (Amending WSR 90-06-062, filed 3/6/90, effective 4/6/90)

WAC 173-422-035 REGISTRATION REQUIREMENTS. (1) Persons residing in emission contributing areas as defined under WAC 173-422-050 shall register their motor vehicles within that area (()).

(2) Any person who violates this section is subject to a civil penalty not to exceed (()) two hundred fifty dollars for each violation.

(3) Any civil penalty imposed by the department hereunder shall be appealable to the pollution control hearings board as provided for in chapter 43.218 RCW.

AMENDATORY Section (Amending Order DE 83-31, filed 11/23/83, effective 1/2/84)

WAC 173-422-040 NONCOMPLIANCE AREAS. The following areas are designated noncompliance areas for the air contaminants specified: Carbon monoxide

(1) The City of Seattle.

(2) The City of Bellevue.

Copyright © 2012 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

(3) The City of Spokane.
(4) The City of Tacoma.
(5) The City of Vancouver
(6) ((
(7))) The City of Everett.

AMENDATORY Section (Amending Order DE 84-7, filed 4/18/84)

WAC 173-422-050 EMISSION CONTRIBUTING AREAS. Emission contributing areas within which the motor vehicle emission inspection program applies are designated by the following United States Postal Service Zip Codes as of ((the effective dates)) January 1, 1992 set forth below:

(1) Puget Sound Region (((

98001	98035	98072
98002	98036	98073
98003	98037	98083
98004	98038	98101 thru 98199,
98005	98039	inclusive except 98110
98006	98040	98201 thru 98208
98007	98041	98258
98008	98042	98270
98009	98043	98271
98011	98046	98275
98012	98047	98290
98020	98052	98327
98021	98053	98332
98023	98054	98335
98025	98055	98338
98026	98056	98344
98027	98057	98352
98028	98058	98354
98031	98059	98371 thru 98374
98032	98062	98387
98033	98063	98388
98034	98064	98390
98071		98401 thru 98499

(2) Spokane Region ((())))

99001	99202
99005	99203
99014	99204
99016	99205
99019	99206
99021	99207
99025	99208
99027	99212
99037	99216
99201	99218

(3) Vancouver Region

98607
98660 thru 98668
98671
98682-86

AMENDATORY Section (Amending Order WSR 90-06-062, filed 3/6/90, effective 4/6/90)

WAC 173-422-060 GASOLINE VEHICLE EMISSION STANDARDS. Gasoline motor vehicles subject to this chapter shall:

(1) With the exception of vehicles whose model year is 1980 or earlier, have the "primary emission control components" installed operative and have an engine that is or was available from the vehicle manufacturer for use with that vehicle or a vehicle of the same or newer model year with the same chassis; and
(2) Meet the following exhaust emission standards prior to receiving a certificate of compliance.

EXHAUST EMISSION STANDARDS

(())

Model Year	CO(%)	HC (ppm)	Opacity (%)

Copyright © 2012 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

68-74 ((75 and later)) 75-80	6.0 3.0	((1000) 900 600	30 30
81-93 (0-8500 GVWR)	1.2	220	30
81-93 (Greater than 8500 GVWR	3.0	400	30
94-99	0.5	100	30

(())

NEW SECTION

WAC 173-422-065 DIESEL VEHICLE EXHAUST EMISSION STANDARDS. Diesel motor vehicles subject to this chapter shall meet following opacity standards using the test procedures specified in WAC 173-422-075.

Model Year	Opacity (%)
1968 - 1973	70
1974 - 1991	60
1992 and later	40

Vehicles tested at locations above 1000 feet altitude will be allowed an additional 10% opacity.

AMENDATORY SECTION (Amending WSR 90-06-062, filed 3/6/90, effective 4/6/90)

WAC 173-422-070 (()) GASOLINE VEHICLE INSPECTION PROCEDURES. All persons certified by, or under contract to, the department to conduct motor vehicle emission inspections shall use the following (()) procedures. Variations to the procedures specified may be (()) established by the department (()) for all or certain vehicles.

(1) The vehicle exhaust emissions of carbon monoxide, hydrocarbons, and carbon dioxide shall be measured using either two-speed (idle and 2500 rpms) test with the transmission in neutral or park (()) or a loaded test with the transmission in drive or in third gear unless the engine speed does not equal or exceed 2500 rpm then second gear shall be used for the loaded mode and in park or neutral for the idle mode. A vehicle with an automatic transmission may be tested in drive for the idle (()) mode if the idle rpm in neutral or park exceeds ((1100 rpm. However, the idle rpm as tested cannot exceed (()) 1100 rpm unless allowed to do so by the vehicle manufacturer's specifications.

(2) The engine shall be at normal operating temperature during the emission test with all accessories off.

(3) Any vehicle causing an unsafe condition, such as the continuous leaking of any fluid onto the floor, may be rejected from the inspection site.

(4) Vehicles shall be approximately level during the test.

(5) Vehicles with more than one exhaust pipe shall be tested by sampling (()) one exhaust pipe (()) if the exhaust pipes originate from a common point in the exhaust system (()) or simultaneously sampling each(()) each exhaust pipe (()).

(6) The following steps shall be taken to prevent excessive dilution. The exhaust sample probe must be inserted at least ten inches into the tail pipe. If this is not possible, an extension boot shall be used. The exhaust emission test results shall not be recorded if the sum of the carbon monoxide and the carbon monoxide concentration does not (()) equal or exceed (()) six percent.

(7) If the engine stalls during the test, the exhaust sample probe shall be removed, the engine (()) restarted, and one additional attempt (()) made to complete the test after reinserting the exhaust sample probe.

(8) ((.

(9))) Two speed test sequence.

(a) Insert the exhaust sample probe.

(b) The pass/fail analysis shall begin after an elapsed time of ten seconds. A pass determination shall be made for the vehicle the idle mode terminated if:

(i) The vehicle shall pass the idle mode test and this mode terminated if, prior to an elapsed time of thirty seconds, exhaust gas concentrations are less than or equal to 100 ppm HC and 0.5 percent CO.

(ii) The vehicle shall pass the idle mode test and this mode terminated if, at any time between an elapsed time of thirty seconds and ninety seconds, the exhaust gas concentrations are less than or equal to the applicable emission standards.

(c) Increase the engine speed to 2500 + 300 rpm.

(d) The pass/fail analysis shall begin after an elapsed time of ten seconds. A pass or fail determination shall be made for the vehicle and the 2500 rpm mode terminated for vehicles that passed the idle mode test as follows:

(i) The vehicle shall pass the 2500 rpm mode test and this mode

Copyright © 2012 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

terminated if, at any time between an elapsed time of thirty seconds and one hundred eighty seconds, the exhaust gas concentrations are less than or equal to the applicable emission standards.

(ii) The vehicle shall pass the 2500 rpm mode test and this mode terminated if, at any time between an elapsed time of thirty seconds and one hundred eighty seconds, the exhaust gas concentrations are less than or equal to the applicable emission standards.

(e) A pass or fail determination shall be made for vehicles that failed the idle mode test and the 2500 rpm mode test terminated at the end of an elapsed time of one hundred eighty seconds.

(f) If the vehicle fails the initial idle mode test and passed the high-speed mode test, a second idle test will be conducted.

(9) Loaded test sequence.

(a) Insert the exhaust sample probe.

(b) The test shall start when the dynamometer speed is within the following limits:

engine cylinders	speed (mph)	brake horsepower
4 or less	22-25	2.8-4.1
5-6	29-32	6.8-8.4
7 or more	32-35	8.4-10.8

If the dynamometer speed falls outside the limits for more than five seconds in one excursion, or fifteen seconds over all excursions, the test shall be restarted.

(c) The pass/fail analysis shall begin after an elapsed time of ten seconds. A pass determination shall be made for the loaded mode and this mode terminated if at any point between an elapsed time of thirty seconds and ninety seconds, the exhaust

gas concentrations are less than or equal to the applicable emission standards.

(d) The idle mode shall start when the dynamometer speed is zero and the vehicle engine speed is less than 1100 rpm. If engine speed exceeds 1100 rpm the idle mode test shall be restarted.

(e) The pass/fail analysis shall begin after an elapsed time of ten seconds. A pass determination shall be made for the vehicle and the idle mode terminated if:

(i) Prior to an elapsed time of thirty seconds, exhaust gas concentrations are less than or equal to 100 ppm HC and 0.5 percent CO.

(ii) At any time between an elapsed time of thirty seconds and ninety seconds, exhaust gas concentrations are less than or equal to the applicable emission standards.

(10) Before (()) failing a 1981-1986 model year Ford Motor Company vehicle with a gross vehicle weight of 8500 pounds or less, or a 1984-85 model year Honda Prelude, the engine shall be (()) shut off for ten seconds and then restarted and the failing mode repeated.

((

.))

NEW SECTION

WAC 173-422-422-075 DIESEL VEHICLE INSPECTION PROCEDURE. Diesel vehicles shall be tested using the following procedure:

(1) with the transmission in neutral move the accelerator pedal from normal idle as rapidly as possible to the full power position, and held in this position for three seconds unless the engine reaches the maximum speed allowed by the vehicle manufacturer as indicated by the vehicle's tachometer then the accelerator pedal shall be immediately released.

(2) Fully release the accelerator pedal so that the engine decelerates to normal idle.

(3) Measure the smoke opacity with an opacity meter continuously during the test.

(4) Repeat the above steps ten times or until three successive maximum opacity measurements meet the standard established in WAC 173-422-065.

AMENDATORY SECTION (Amending W5R 90-06-062, filed 3/6/90, effective 4/6/90)

WAC 173-422-090 EXHAUST GAS ANALYZER SPECIFICATIONS. Only exhaust gas analyzers meeting the following specifications at the time of certification testing may be used for certification testing. Any person authorized by the department to certify vehicles is solely responsible for insuring that the testing equipment is operating within the following specifications at the time of certification testing.

(1) Accuracy: The readings or the printed test results of the exhaust analyzers compared to the true value of a measured sample shall have the following accuracy tolerances.

Copyright © 2012 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

((

EG

__
%))
HC - Measured as n - hexane

0 to 400 ppm	+12 ppm
401 to 1000 ppm	+30 ppm
1001 to 2000 ppm	+80 ppm

CO

0 - 2.00	+0/06
2.01 - 5.00	+0.15
5.01 - 9.99	+0.40

CO2

0 - 4.0	+0.6
4.1 - 14.0	+0.5

(2) Calibration: The analyzer shall have the capability of being calibrated electronically and by gas.

(3) Drift: The drift of the zero reading or any calibration reading of each analyzer shall not exceed 15 ppm HC, 0.1% CO or 0.5% CO2, in one hour.

(4) Flow restriction indicator: The analyzer shall be operated within manufacturer's specifications for sample flow. The sampling system shall be equipped with a visual and/or audible warning that sample flow is not within operating requirements.

(5) Interference effects: Sampling the following concentrations of noninterest gases shall not cause the HC

reading to change +10 ppm: 15% CO in N, 10% CO in N, 3000 ppm NO in N, 10% 0, in N, and 3% HO vapor in air.

Sampling the following concentrations of noninterest gases shall not cause the CO reading to change +/-0.05%: 15% CO in N, 1600 ppm HC in N, 3000 ppm MO in N, 10% 0 in N, and 3% HO vapor in air.

Sampling the following concentrations of noninterest gases shall not cause the CO reading to change ((+/-0.5%)) +0.20%: 1600 ppm HC in N, 10% CO in N, 3000 ppm NO in N, 10% 0 in N, and 3% HC vapor in air.

(6) Repeatability: The repeatability of the exhaust analyzers used shall be within (()) the following tolerances during five successive measurements of the same sample ((v)):

HC,PPM as hexane	0-400	8
	401-1000	15
	1001-2000	30
CO. %	0-2.00	0.03
	2.01-5.00	0.08
	5.01-9.99	0.15
CO. %	0-14.0	0.3

(7) Response: The response of the exhaust analyzers shall be at least ninety percent of the final value within (()) eight seconds.

(8) Sensitivity: The sensibility of each analyzer shall be equal to or less than 10 ppm HC, 0.05% CO and 0.2% CO2.

(9) Range of measurement: The analyzer shall have a range equal to or greater than 0-2000 ppm HC (n-Hexane), 0 to 10% CO, and 0 to 6% CO2.

NEW SECTION

WAC 73-422-095 EXHAUST OPACITY TESTING EQUIPMENT. The exhaust opacity measurement shall be conducted using an opacity meter approved by the department.

The opacity meter shall:

(1) Be a light extinction type opacity meter, contain both an optical detection unit and a control/indicator unit.

(2) Provide for full flow, end-of-line, and continuous measurement of exhaust opacity.

(3) Have an accuracy of plus or minus one opacity percent digit.

(4) Have a reading linearity of one opacity percent digit from 0-100 percent opacity.

(5) Have a drift of less than plus or minus one percent per use.

Copyright © 2012 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

(6) Have a response time of less than 0.140 seconds for a change from 0-95 percent of full scale.
(7) Have a warm-up time of less than one minute,
(8) Have a operating temperature range from 32DEG. -120DEG. F.

AMENDATORY SECTION (AMENDING WSR 90-06-062), Filed 3/6/90, effective 4/6/90)

WAC 173-422-100 TESTING EQUIPMENT MAINTENANCE AND CALIBRATION. (1) Unless alternative procedures have been approved or required by the department all equipment used in the inspection shall be calibrated and maintained according to the manufacturer's specification and recommendations. Complete logs as approved by the Department shall be kept for maintenance, repair, and calibration.
(2) The following procedures shall be followed by all testing facilities unless equivalent procedures have been approved by the department. Exhaust analyzers and all electronic components that could affect the gas concentration results shall be warmed up for at least thirty minutes prior to performing any test on equipment, calibration, span, or zero checks:
(a) Each test. Before each test can start, the zero span setting must be checked on the opacity meter and the exhaust gas analyzer readings must be less than 10 ppm HC, 0.1% CO and 0.5% CO(2). If during a test the sampling system flow restriction indicator becomes activated, the test shall be stopped and restarted after the necessary repairs to the analyzer have been completed.
(b) Hourly check. The exhaust analyzer shall not be used to test vehicles unless within an hour prior to the test it was spanned with calibration gas. The following procedure shall be used:
(i) Adjust the exhaust analyzer to zero using ambient air or zero calibration gas.
(ii) Adjust the exhaust analyzer using the electronic span.
(iii) Check the calibration of the exhaust analyzer using a calibration gas of approximately twenty to forty percent of each range.
(iv) Adjust and repair as necessary to insure the accuracy specified in WAC 173-422-090.
(c) Weekly check. The exhaust analyzer shall not be used to test vehicles unless a multi-point calibration has been performed within the last seven days. The following procedure shall be used:
(i) Adjust the exhaust analyzer to zero using ambient air or zero calibration gas.
(ii) Adjust the exhaust analyzer using the electronic span.
(iii) Check the calibration of the exhaust analyzer using calibration gases of approximately twenty, forty, sixty, and eighty percent for each range. (C0(2) must be present at concentrations of at least 2.0%.)
(iv) Adjust and repair as necessary to insure the accuracy specified in WAC 173-422-090 at each calibration point.
(v) Check the calibration of the exhaust analyzer using a calibration gas with a CO concentration of 1.2 to 2.4%, a HC concentration of 150 to 300 ppm measured as n-hexane, and a CO2 concentration of 4.0 to 6.0%.
(vi) Adjust and repair as necessary to insure the accuracy of the exhaust analyzer is within .05% CO and 6 ppm HC.
(d) Repair check. A multipoint calibration as specified in (c) of this subsection shall be performed before the analyzer is used for certification testing following the replacement of an optical or electronic component that can cause a variation in the analyzer reading.
The manufacturer's recommended procedures to determine any change in the correction factor from the propane calibration gas to n-hexane readings shall be followed.
(e) Leak check. The exhaust analyzer shall not be used to test vehicles unless within one week prior to the testing, CO readings have been taken while introducing calibration gas through the calibration port and through the probe. Discrepancies of over 3% in the readings shall require repair of leaks. No analyzer adjustments shall be permitted during this check. Other leak check procedures may be used if it can be shown to the department's satisfaction that the method identifies leaks as well as the method in this subsection.

AMENDATORY SECTION (Amending Order DE 83-31, filed 11/23/83, effective 1/2/84)

WAC 173-422-120 QUALITY ASSURANCE. The Department, or its designee, may monitor the operation of each authorized emission inspection facility with unidentified or unannounced and unscheduled inspections to check the calibration and maintenance of the exhaust analyzers, test procedures, and records.

Copyright © 2012 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

The department (or its designee) may immediately require the suspension of vehicle inspections in all or part by the inspection facility if violations this chapter are found during an inspection at the inspection facility.

AMENDATORY SECTION (Amending WSR 90-06-062, filed 3/6/90, effective 4/6/90)

WAC 173-422-130 INSPECTION FEES. At an inspection facility operated under contract to the state, the fee for the first emission inspection on each vehicle applicable to a vehicle license year shall be sixteen dollars. If the vehicle fails, one reinspection will be provided free of charge at any inspection station operated under contract to the, provided that the reinspection is applicable to the same vehicle license year. Any additional reinspection of a failed vehicle applicable to the same vehicle license year require the payment of sixteen dollars.

Inspection station operators shall forward to the state treasurer within ten working days, the amount of fees due to the state for inspections conducted during the previous month.

The department or its designee shall have the right to audit any inspection station operator's or contractor's records and procedures to substantiate that the operator or contractor is properly collecting and accounting for such fees.

AMENDATORY SECTION (Amending WSR 90-06-062, filed 3/6/90, effective 4/6/90)

WAC 173-422-140 INSPECTION FORMS AND CERTIFICATES. All inspection facilities shall use inspection forms and certificates provided or approved by the department.

(1) Vehicle inspection report: The driver of each vehicle inspected shall be given a vehicle inspection report on a form to be provided or approved by the department. The

inspection station operator shall record the following information.

(a) Station number (lane number).

(b) Date and time or test.

(c) Who conducted the test (name of identification number).

(d) Vehicle identification number (VIN).

(e) Odometer reading in thousands of miles.

(f) Vehicle license number.

(g) Vehicle model year.

(h) Make of the vehicle.

(i) Manufacturer's gross vehicle weight rating (GVWR).

(j) Emission test results.

(k) Applicable standards.

(l) Whether the vehicle has passed or failed the appropriate emission standards.

(m) What component of the vehicle installed by the manufacturer for the purpose of reducing emissions, or its appropriate replacement is missing or inoperative. (Gasoline vehicles only.)

(n) The engine speed while the emission readings were taken. (Gasoline vehicles only.) RPM

(o) Carbon dioxide reading. (Gasoline vehicles only.)

(p) First inspection or reinspection.

(q) If available at reinspection the identification number of an ecology "Certified emission specialist who repaired the vehicle following the first inspection.

(2) Certificate of compliance: The driver of a vehicle meet the appropriate inspection standards shall be in certificate of compliance.

(3) Certificate of acceptance: If a vehicle has failed to the emission inspection, the vehicle owner may request a certificate of acceptance, the vehicle has been in use for more than five years or fifty thousands miles, and any component of the vehicle installed by the manufacturer for the purpose of reducing emissions, or its appropriate replacement is installed and operative. To receive the certificate of acceptance the vehicle owner must provide original receipts totalling at least one hundred dollars, for 1980 and earlier model year vehicles or at least one hundred fifty dollars for 1981 and later model year vehicles, dated on or between the date of the first test and to final retest, for costs on or between the date of the first test and the final retest, for costs of repair performed by a "certified emission specialist" solely devoted to meeting the emission standards.

(4) Form storage: Copies of each certificate of compliance acceptance, and all vehicle inspection reports shall be kept on file by the contractor and be available for the department's review for two years after they are issued. This requirement include forms that are voided for any reason.

(5) Reporting: The inspection station operator shall forward the department within ten working days after the end of each month an approved

Copyright © 2012 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

storage device containing all data collected from inspection conducted that month, and (b) a copy of all certificates acceptance issued that month along with the related vehicle inspection reports and repair and/or parts receipts.

Before the storage device is forwarded to the department, backup bulk storage device shall be in the possession of the contractor. The backup bulk storage device shall be retained for two years and be available to the department upon requests.

AMENDATORY SECTION (Amending WSR 90-06-062, filed 3/6/90, effective 4/6/90)

WAC 173-22-160 FLEET AND DIESEL OWNER VEHICLE TESTING REQUIREMENTS. The department may authorize emission inspections by fleet operator including government agencies and the owner's of diesel motor vehicles with a gross vehicle weight rating in excess of 8500 pounds or by an automotive service or testing facility engaged by the vehicle owner for such activity. Authorizations to conduct emission tests and issue certificates of compliance under this section are limited to authorized fleet vehicles or diesel vehicles with a gross vehicle weight rating in excess of 8500 pounds.

(1) The exhaust analyzers used for certification testing of gasoline fleet vehicles shall meet the specifications in WAC 173-422-09.

(2) All person engaged in testing of gasoline fleet or diesel vehicles must comply with all applicable provisions of this chapter except WAC 173-422-100 (2) (b) (iii) and (iv) and (c) (iii) and (iv) (()). The checks specified in WAC 173-422-100 (2) (c) except (c) (iii) and (iv), in addition to being required weekly, shall be performed after each relocation of the analyzer.

(3) All persons conducting tests for the purpose of issuing certificates for fleet(s) or diesel vehicles shall be ecology certified emission specialists.

(4) The department will provide test forms upon request legibly completed forms with appropriate signature (s) will constitute certificates of compliance for licensing purposes. Any person conducting testing under this section shall forward to the department within ten working days after the end of each month, a copy of each certificate of compliance issued during that month. Copies of each certificate of compliance shall be retained by the person issuing the certificate for at least two years from date of issuance. Alternative arrangements for providing and/or

storing this information using automated data storage devices may be approved or required by the department (after one years notice).

Forms must be purchased from the department in advance to issuance through payment of sixteen dollars to the department for each certificate requested. Refunds or credit may be given for unused certificates returned to the department. Payment for fleet forms is waived for government fleets.

Test forms provided under this section are official documents.

Persons receiving the forms from the department are accountable for each form provided.

Voided forms must be handled the same as certificates of compliance. One copy shall be sent to the department within ten days after the end of the month in which the form was voided and one copy shall be retained by the person accountable for the forms for at least two years after the date of voiding. Refunds will not be made for voided forms.

(5) All persons authorized to conduct fleet or government vehicle inspections under this section shall be subject to performance audits and compliance inspections by the department, during normal business hours.

(6) Fleet vehicles may be inspected any time between their scheduled license renewals.

(7) Certificates of acceptance may not be issued under this section.

AMENDATORY SECTION (Amending WSR 90-06-062, filed 3/6/90, effective 4/6/90)

WAC 173-422-170 EXEMPTIONS. The following motor vehicles are exempt from the inspection requirement:

(1) Vehicles proportionally registered pursuant to chapter 46.85 RCW.

(2) Vehicles whose model year is 1967 or earlier.

(3) New motor vehicles whose equitable or legal title has never been transferred to a person who in good faith purchases the vehicle for purposes other than resale; this does exempt motor vehicles that are or have been leased.

(4) Motor vehicles that use propulsion units powered exclusively by electricity.

(5) Motor-driven cycles as defined by RCW 46.04.181.

(6) Farm vehicles as defined by RCW 46.04.332.

(7) Vehicles exempted from licensing pursuant to RCW 46.16.010.

(8) Mopeds as defined by RCW 46.04.304.

(9) Vehicles garaged and operated out of the emission contributing area.

(10) Vehicles registered with the state but not for highway use.

Copyright © 2012 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

(11) Used vehicles whose licenses have expired or will expire within thirty days when sold by a Washington licensed motor vehicle dealer.

(12) Motor vehicles fueled by propane compressed natural gas, or liquid petroleum gas and so recognized by the department of licensing.

(13) Motor vehicles whose manufacturer or engine manufacturer provides information that the vehicle cannot meet emission standards because of its design. In lieu of exempting these vehicles alternative standards and/or inspection procedures may be established.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 173-422-080 VEHICLE INSPECTION DATA HANDLING PROCEDURES.

WAC 173-422-110 DATA SYSTEM REQUIREMENTS.

WAC 173-422-150 INSPECTION PERSONNEL REQUIREMENTS.

WAC 173-422-180 AIR QUALITY STANDARDS.

SECTION VI
APPENDIX D

ZONE I VEHICLE EMISSION INSPECTION STATION LOCATIONS
Number of Stations = 2
map

Map of area identifying Zone I. Zone I is identified by including Marysville, Lake Stevens, Everett, Mukilleo, Snohomish.

ZONE II-VEHICLE EMISSION INSPECTION STATION LOCATIONS
Number of Stations = 8
map

Map of area identifying Zone II. Zone II is identified by including Edmonds, Lynnewood, Mt. Lake Terrace, Millcreek, Bothell, Woodinville, Kirkland, Redmond, Bellevue, Issaquoh, and Renton

ZONE III-VEHICLE EMISSION INSPECTION STATION LOCATIONS
Number of Stations = 6
map

Copyright © 2012 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

Map of area identifying Zone III. Zone III is identified by including Gig Harbor, Tacoma, Federal Way, Kent, Maple Valley, Auburn, Pacific, Sumner, Puyallup, Graham, Spanaway, Fort Lewis, Dupont, and Steilacoom.

ZONE IV-VEHICLE EMISSION INSPECTION STATION LOCATIONS
Number of Stations = 1
map

Map of area identifying Zone IV. Zone IV is identified by including Vancouver, Comas, and Washougal.

ZONE V-VEHICLE EMISSION INSPECTION STATION LOCATIONS
Number of Stations = 2
map

Map of area identifying Zone V. Zone V is identified by including Spokane, Otis Richards, Liberty Lake, Green Acres, and Veradale.

SECTION VI

APPENDIX E

WASHINGTON STATE CONTRACT NO. ____

ESCROW NO. ____

Escrow Instructions and Agreement
Department of General Administration
Office of State Procurement
216 General Administration Building-AX-22
Olympia, Washington 98504-0622

TO:

(Bank or Savings and Loan Institution)

(Branch)

(Mailing Address)

(City, State, Zip)

The undersigned, _____ (Contractor), has been directed by the Department of General Administration, Office of State Procurement (OSP) to establish and escrow account with a bank or saving and loan institution of their choice, provided that it is regulated by the State of Washington. The purpose of this escrow agreement is to guarantee that all provisions of the above referenced Washington State contract are satisfactorily performed by the Contractor. The following are the terms, conditions, and instructional for this escrow agreement, which is the only form which will be accepted by OSP.

1. The monies to be deposited shall be used by you to purchase certificate(s) of time deposit or other interest bearing securities agreed upon by you and the Contractor, provided they shall be in a form which shall allow you alone to reconvert them into money, if you are required to do so by OSP as provided in paragraph 5 below.

2. When and as interest accrues and is paid, you shall collect such interest and forward it to the Contractor at its address designated below; unless with your consent, you are otherwise directed in writing by the Contractor.

3. Other than accrued interest you are not authorized to deliver to the

Copyright © 2012 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

Contractor all or any part of the certificate(s) of time deposit or other interest-bearing securities or monies held by you pursuant to this agreement except in accordance with written instructions from OSP by the Contract Administrator assigned to the administration of the above referenced Washington State Contract. Compliance with such instructions shall relieve you of any further liability related thereto.

4. The expiration date of the above referenced contract underlying this agreement is _____. OSP shall advise you in writing of any change in the contract expiration data including additional contract terms and you will be authorized to reinvest the monies held hereunder accordingly.

5. In the event the OSP Contract Administrator orders you to do so in writing and not withstanding any other provisions of this agreement, you shall, within thirty-five (35) calendar days of receipt of such order, reconvert into money the certificate(s) of time deposit or other interest-bearing securities held by you pursuant to this agreement and return such money and any unpaid accrued interest to OSP.

6. Payment of all fees for your servIces shall be the sole responsibility of the Contractor end shall not be deducted from any monies placed with you pursuant to this agreement until and unless the OSP Contract Administrator directs the release to the Contractor of the monies held hereunder; whereupon

you shall be granted a first lien upon such monies released end shall be entitled to reimburse yourself for the entire amount of your fees.

7. If you are made a party to any litigation with respect to the monies held by you hereunder, or if the conditions of this agreement are not promptly fulfilled, or if you are required to render any services not provided for in these instructions, or if there is any assignment of the interests of this escrow or any modification hereof, you shall be entitled to reasonable compensation for such extraordinary services from the Contractor and reimbursement from the Contractor for all costs and expenses, including attorney fees occasioned by such default, delay, controversy or litigation.

8. Should you at any time and for any reason desire to be relieved of your obligations as escrow holder hereunder, you shall give written notice to OSP and Contractor. OSP and Contractor shall, within twenty (20) calendar days of the receipt of such notice, jointly appoint a successor escrow holder and instruct you to deliver all monies held hereunder to said successor. If you are not notified of the appointment of the successor escrow holder within that twenty (20) calendar days, you may return the sub)ect matter hereof to OSP and upon so doing, OSP and Contractor absolve you from all further charges and obligations in connection with this escrow.

9. This agreement shall not be binding until executed by the Contractor and you and accepted by OSP at which time copies of this agreement will be sent to you and the Contractor.

10. This instrument contains the entire agreement between you, the Contractor and OSP with respect to this escrow and you are not a party to nor bound by any instrument or agreement other than this. You shall not be required to take notice of any default or any other matter, nor be bound by nor required to give notice or demand, nor required to take any action whatever except as herein expressly provided. You shall not be liable for any loss or damage not caused by your own negligence or willful misconduct.

11. The foregoing provisions shall be binding upon the assigns, successors, personal representatives and heirs of the parties hereto.

The undersigned have read and hereby approve the instructions as given above governing the administration of this escrow and do hereby execute this agreement on this _____ day of _____, 19___.

(Contractor)	(Bank or Savings and Loan Institution
By	Escrow Account #
(Signature) (Title)	
Uniform Business Identifier (Taxpayer I.D.)	By

Copyright © 2012 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

---------- ----------
(Mailing Address) (Mailing Address)

---------- ----------
(City, State, Zip) (City, State, Zip)

Telephone

The above escrow instructions and agreement received and accepted this
day of , 19 .

Office of State Procurement

By

Telephone: ( )

SECTION VI

APPENDIX F

EXAMPLE OF EXCESSIVE WAITING TIME LIQUIDATED DAMAGE CALCULATIONS

Average Number (AWN) = Sum of Vehicles Waiting for Inspections at 0,10,20,30 minutes/4

0 minutes 10:07 a.m.: 50 cars waiting
10 minutes 10:17 a.m.: 46 cars waiting
20 minutes 10:27 a.m.: 42 cars waiting ANM = 50 + 46 + 42 +42 = 45 vehicles
30 minutes 10:37 a.m.: 42 cars waiting

Average Inspection Frequency (AIF) = Inspections Done During the 30 Minutes
---
30 Minutes

72 Vehicles Inspected from 10:07 - 10:37 = 2.4 Vehicles per minute
---
30 Minutes

Average Waiting Time = Average Number Waiting (ANW)

Average Inspection Frequency (AIF)

Average Waiting Time = 45 vehicles = 18.75 Minutes

2.4 Vehicles per minute

Lane 1 closed 10:09-10:11
Lane 2 closed 10:15-10:20

Were Lanes Operational and Fully Staffed? No

Therefore, Average Waiting Time of 18.75 minutes is a violation

Utilization Factor = Sum of Time Each Lane Operated

Total Available Lane Time

Total Available Lane Time = 30 Minutes x Number of Lanes

Example: Lanes 2,3,4,6 30 Minutes each
Lane 1 28 Minutes = 28+30+30+30+25+30 = .96

Lane 5 25 Minutes 180

Payment = Utilization Factor x Contractor Payment x No. of Paid Inspections During the 30 Minute Period

Copyright © 2012 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

.96 x $9.00 x 62 = $535.68

(100% Payment = $558.00)

SECTION VI

APPENDIX G

United States
Environmental Protection Agency
Air

March 1992

EPA HIGH-TECH I/M Tests: Background Materials for Developing an RFP

Draft

NOTE: All references to evaporative system testing and the following portions of this document do not apply to the Invitation to Bid/Contract:

Sections III, IV, V except for 2
Section VI except for 1, 2, 7 (pass/fail not determined), 8
1J, 5, 6 of Section VII
5, 6 of Section VIII
Section IX.

Table of Contents

I. Introduction

A draft of this document was originally developed for use by Kentucky's Jefferson County Air Pollution Control Distract to assist in the preparation of a Request for Proposal (RFP) for a vehicle Inspection and Maintenance (I/M) program consisting of transient emission testing, transient purge testing and evaporative system pressure testing. Although Kentucky is only required to implement a basic I/M program under the terms of the current Clean Air Act, in its particulars, the Louisville program resembles EPA's currently recommended enhanced I/M program design.

This document was written in RFP style, with references to "the contractor" and "the state" as appropriate. Some of the provisions discussed here are tailored to the specific needs of Louisville, Kentucky and may not fit with other states' needs. EPA's intention is not to recommend specific RFP language, but rather to provide information to states so that they can develop their own RFPs and include specific details on procedures, quality control and other essential program features. Much of the data used in this report was based on the best information available at the time of drafting, but states should be aware that EPA's test programs are continuing to be refined. EPA intends to update estimates of fast-pass and fast-fail rates, overall failure rates, and other test-related information. In addition, EPA will be refining test procedure algorithms to maximize the effectiveness of the tests. For those states needing to move ahead with program development, however, these estimates provide a sound basis for drafting an RFP.

II. General Requirements

The transient dynamometer test will be the IM240 described in EPA Report No. EPA-AA-TSS-91-1.

Copyright © 2012 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

The transient testing system must operate accurately and relIably during all ambient and climatic conditions in which the facility accepts any vehicle for testing. In addition, the transient dynamometer facilities shall comply with QSHA, State, and County background pollution concentration levels and noise levels. The contractor is also responsible for maintaining ambient background pollution concentration levels below those required by the Quality Assurance program.

The contractor shall provide a safe, convenient, and comfortable waiting area for public use during vehicle testing.

III. Number of Transient Test Lanes

The contractor is responsible for determining the actual number of vehicles subject to transient testing, by model year, and making

appropriate assumptions for the numbers of reset and fast-pass vehicles, as a prerequisite to designing a sufficient number of transient lanes to accommodate actual test volume. The network shall be designed so that the average customer wait time conforms with those specified in the RFP (i.e., no longer than a 15 minute wait to begin testing, except for the last 3 days of each month). Furthermore, stations should be sited so that a specified majority of motorists are within a specified distance of a testing site (i.e., such that 80% of all motorists are within 5 miles of a test facility, and 95% are within 12 miles of a test facility) . Once in place, if the number of test lanes or facilities is not adequate to test the number of vehicles in the model year categories specified in the winning contract, the contractor will be responsible for implementing corrective action, such as improving efficiency, constructing additional test lanes, facilities, and the like.

The state will provide an estimate of the number of vehicles by model year, but the contractor is responsible for providing facilities to test the actual number of vehicles in the model years specifIed. As an additional reference on throughput, EPA has an on-going test program in Hammond, Indiana that is conducting transient IM24O tests, evaporative integrity (pressure) tests, and evaporative purge tests on in-use vehicles. Bidders may contact EPA to review this data. for reference purposes, EPA has provided a preliminary failure-rate analysis of the data collected. The failure rates are listed by model year, and on an overall basis for selected cut points, and combinations of cutpoints. Table 1 provides this information for light-duty vehicles, and Table 2 covers light-duty trucks. At some cutpoints for the older model years (e.g., 1983 and 1984), the model-year failure rate was quite high for the sample. It is expected that such high model-year failure rates would drop significantly after the first inspection cycle because the repairs needed to pass a transient I/M test are expected to be durable (as opposed to the short-term repairs often encountered in idle-test based programs, such as temporary idle adjustments, etc.). Bidders should consider, however, the effect that the waiver cost limit may have on the expected decrease in overall retest volume. Bidders may use the information in Tables 1 and 2 as a guide, but may not use it to absolve themselves from the responsibility to provide sufficient facilities to meet the terms of the RFP.

Table 1
LDV Lane IM240 Failure Rates

<TABLE>
<CAPTION>

INDIVIDUAL CUTPOINTS	1983	1984	1985	1986	1987	1988	1989	1990	1991	All
<S>	<C>	<C>	<C>	<C>	<C>	<C>	<C>	<C>	<C>	<C>
0.8 HC	35.8	32.7	24.3	14.7	7.9	4.6	1.2	0.7	0.0	15.3
1.2 HC	23.9	19.5	14.2	7.5	4.5	2.2	1.0	0.4	0.0	9.1
1.6 HC	16.6	11.7	8.3	4.9	2.9	1.7	0.9	0.2	0.0	5.8
2.0 HC	11.6	6.8	5.9	2.3	2.4	1.2	0.7	0.2	0.0	3.8
15 CO	30.6	27.2	18.2	10.9	5.7	3.7	3.3	1.3	0.0	12.6
20 CO	20.7	18.3	12.7	7.8	4.5	2.4	1.2	0.6	0.0	8.5
30 CO	13.6	13.2	6.9	3.4	3.5	1.2	0.9	0.2	0.0	5.3
1.5 NOx	62.4	54.6	39.4	30.0	21.4	13.1	7.3	3.7	0.0	28.8
2.0 NOx	44.5	37.1	25.0	17.4	10.8	4.1	2.4	0.9	0.0	17.6
2.5 NOx	33.4	23.9	15.5	9.9	5.3	1.7	1.0	0.2	0.0	11.1
3.0 NOx	25.0	14.3	10.0	6.4	4.1	0.5	0.9	0.2	0.0	7.4
3.5 NOx	18.3	10.2	6.1	4.6	2.6	0.2	0.3	0.2	0.0	5.1
4.0 NOx	13.4	7.2	4.9	2.4	1.8	0.2	0.2	0.0	0.0	3.6
Purge Only	7.4	7.4	5.2	4.8	3.6	2.9	3.5	1.9	0.0	4.6

Copyright © 2012 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

Pressure Only	9.0	4.2	5.9	3.5	5.2	2.4	3.0	3.7	3.3	4.5
Fail Both Purge and Pressure	1.5	0.8	0.8	0.5	0.6	0.3	0.0	0.4	0.0	0.6
Fail Purge/Pressure/Both	17.9	12.4	11.9	8.8	9.4	5.6	6.5	6.0	3.3	9.7
Sample Size	464	657	639	614	509	589	577	536	30	4615

<CAPTION>

COMBINED CUTPOINTS

HC/CO/NOx Purge/Pressure/Both	1983	1984	1985	1986	1987	1988	1989	1990	1991	All
0.8/15/2/5	65.1	54.8	44.8	28.7	20.8	12.6	10.4	7.6	3.3	30.5
1.2/20/3.0	52.4	41.7	34.7	21.3	17.5	8.7	8.1	6.7	3.3	23.7
1.6/30/3.5	44.4	33	25	16.1	15.1	7.3	7.5	6.3	3.3	19.1
2.0/30/3.5	42.7	31.7	24.1	15.1	15.1	7.3	7.5	6.3	3.3	18.4
1983-87: 1.2/20/3.0 1988+: 0.8/15/2.5	52.4	41.7	34.7	21.3	17.5	12.6	10.4	7.6	3.3	24.6
1983-87: 1.6/30/3.5 1988+: 1.2/20/3.0	44.4	33	25	16.1	15.1	8.7	8.1	6.7	3.3	19.4
1983-87: 2.0/30/3.5 1988+: 0.8/15/2.5	42.7	31.7	24.1	15.1	15.1	12.6	10.4	7.6	3.3	19.6

<CAPTION>

INDIVIDUAL CUTPOINTS	1983	1984	1985	1986	1987	1988	1989	1990	1991	All
1983-87: 2.0/30/3.5 1988+: 1.2/20/3.0	42.7	31.7	24.1	15.1	15.1	8.7	8.1	6.7	3.3	18.7
1983-87: 2.0/30/3.5 1988+: 1.6/30/3.5	42.7	31.7	24.1	15.1	15.1	7.3	7.5	6.3	3.3	18.4

</TABLE>

Table 2
LDV Lane IM240 Failure Rates

<TABLE>
<CAPTION>

INDIVIDUAL CUTPOINTS	1983	1984	1985	1986	1987	1988	1989	1990	1991	All
<S>	<C>	<C>	<C>	<C>	<C>	<C>	<C>	<C>	<C>	<C>
0.8 HC	100.0	36.8	43.8	37.9	22.2	0.0	6.3	6.0	0.0	18.1
1.2 HC	50.0	21.5	25.0	20.7	2.8	0.0	3.1	0.0	0.0	7.7
1.6 HC	50.0	10.5	18.8	10.3	2.8	0.0	0.0	0.0	0.0	4.5
2.0 HC	50.0	5.3	12.5	3.4	2.8	0.0	0.0	0.0	0.0	2.7
15 CO	50.0	26.3	31.3	13.8	13.9	3.0	0.0	0.0	0.0	9.5
20 CO	50.0	15.8	25.0	10.3	5.6	0.0	0.0	0.0	0.0	5.9
30 CO	0.0	5.3	6.3	10.3	2.8	0.0	0.0	0.0	0.0	2.7
2.0 NOx	100.00	68.4	50.0	48.3	25.0	6.1	6.3	6.0	0.0	23.9
2.5 NOx	100.0	47.4	50.0	44.8	11.1	3.0	0.0	0.0	0.0	16.7
3.0 NOx	100.0	36.8	37.5	37.9	8.3	3.0	0.0	0.0	0.0	13.5
3.5 NOx	100.0	36.8	25.0	24.1	8.3	3.0	0.0	0.0	0.0	10.8
4.0 NOx	50.0	26.3	12.5	10.3	5.6	3.0	0.0	0.0	0.0	6.3
Purge Only	0.0	15.8	6.3	3.4	2.8	6.1	3.1	0.0	0.0	4.1
Pressure Only	0.0	0.0	0.0	0.0	2.8	0.0	0.0	4.0	0.0	1.4
Fail Both Purge and Pressure	0.0	5.3	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.5
Fail Purge/Pressure/Both	0.0	21.1	6.3	3.4	5.6	6.1	3.1	4.0	0.0	6.0
Sample Size	2	19	16	29	36	33	32	50	5	222

<CAPTION>

COMBINED CUTPOINTS

Copyright © 2012 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

HC/CO/NOx Purge/Pressure/Both	1983	1984	1985	1986	1987	1988	1989	1990	1991	All
0.8/15/2/5	100.0	73.7	56.3	62.1	33.3	12.1	9.4	10.0	0.0	30.2
1.2/20/3.0	100.0	63.2	43.8	37.9	22.2	9.1	6.3	4.0	0.0	21.2
1.6/30/3.5	50.0	52.6	25.0	24.1	16.7	9.1	3.1	4.0	0.0	15.3
1983-87: 1.2/20/3.5	100.0	63.2	43.8	37.9	22.2	12.1	9.4	10.0	0.0	23.4

<CAPTION>

COMBINED CUTPOINTS

HC/CO/NOx Purge/Pressure/Both	1983	1984	1985	1986	1987	1988	1989	1990	1991	All
1988+: 0.8/15/3.0	.0									
1983-87: 1.6/30/4.0 1988+: 1.2/20/3.5	50.0	52.6	25.0	24.1	16.7	9.1	6.3	4.0	0.0	15.8
1983-87: 1.6/30/4.0 1988+: 0.8/15/3.0	50.0	52.6	25.0	24.1	16.7	12.1	9.4	10.0	0.0	18.0

</TABLE>

Additionally, when using only hydrocarbon (HC) and carbon monoxide (CO) failure criteria a preliminary EPA analysis estimated that slightly under 50% of the 1984 and newer vehicles tested would meet a fast-pass exhaust emission criteria of 1.1 gpm HC and 5 gpm CO by second 93 in the IM24O (i.e., Bag 1). The contractor should be aware, however, that a small portion of fast-pass purge vehicles may need to be operated until second 190.

As experience is gained on the throughput capabilities, failure rates, fast-pass rates, and fast-fail rates, the state may elect (at no cost to itself) to increase the model years covered, or tighten the standards to take advantage of the improved network efficiency, thereby increasing the number of transient tests to be conducted for a fixed number of existing transient test lanes. If, subsequently, the average wait time exceeds specifications, the state may elect to readjust the model year coverage downward, with the understanding that such coverage shall not fall below the range originally specified in the contract.

IV. Vehicle Standards

The contractor shall make provisions to allow for a phase in of emissIon standards, as well as potential future changes in the numerical levels of the following standards at no cost to the state. Potential future standards would be limited to one set of changes per year. Implementation of the initial phase-in standards will be at the discretion of the state at the time of program implementation. Implementation of intermediate phase-in standards will be limited to once per quarter during the first year and a half of implementing pass/fail standards on the transient test.

1. Exhaust Standards

All 1984 and later model year light-duty vehicles and light-duty trucks (EPA classes LDT1 and LDT2) exceeding the gram per mile (gpm) limits listed in Table 3 on the IM240 transient driving cycle shall fail the exhaust portion of the test. The phase-in standards shall apply for at least one calendar year from program implementation. However, the contractor shall make provisions that will allow the state to exercise (at no cost) alternate phase-in standards necessary to arrive at the final standards specified with a minimum disruption to the public. If needed, as determined by the state, the contractor shall also provide for phase-in and final standards for light-duty trucks with test weights above and below a value selected by the state

(e.g., LDT1 and LDT2) . The state shall be able to implement standards below the final standards specified (at no cost to the state); however, the contractor is not obligated to exceed the maximum throughput of the specified final standards if the state Implements lower standards.

Copyright © 2012 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

Table 3
Overall Emission Test Standards

<TABLE>
<CAPTION>

	Phase-In Standards		Final Standards	
	LDV	LDT	LDV	LDT
<S>	<C>	<C>	<C>	<C>
NEWEST 4 MY				
HC	1.2 gpm	1.2 gpm	0.8 gpm	0.8 gpm
CO	20.0 gpm	20.0 gpm	15.0 gpm	15.0 gpm
NOx	3.0 gpm	3.5 gpm	2.5 gpm	3.0 gpm
OTHER MYS				
HC	2.0 gpm	2.0 gpm	0.8 gpm	0.8 gpm
CO	30.0 gpm	30.0 gpm	15.0 gpm	15.0 gpm
NOx	3.5 gpm	4.0 gpm	2.5 gpm	3.0 gpm

</TABLE>

2. Purge Standards

Vehicles with an evaporative purge rate measuring less than one liter over the transIent dynamometer test shall fail the evaporative purge test. Additionally, vehicles with a missing or obviously damaged canister shall be failed for a malfunctioning canister.

3. Integrity Standards

Vehicles which cannot maintain a pressure of 8 inches of water for 2 minutes (or equivalent as demonstrated by an acceptable alternative procedure) shall fail the evaporative integrity test. Additionally, vehicles shall fail the evaporative integrity test if the canister is missing or obviously damaged, if evaporative hoses are missing or obviously disconnected, or if the gas cap is missing. If it is determined that a vehicle's gas cap appeared to be insufficiently tightened after it has failed the integrity test, the gas cap shall be properly (not excessively) tightened, and the test shall be repeated.

4. Retest Standards

Standards for retest vehicles shall be the same as the initial test standards. Retest vehicles shall be retested against all standards (i.e., exhaust, purge, and integrity) regardless of the initial failure category.

5. Fast-Pass Standards

The contractor shall make provisions that would allow the implementation of fast-pass routines (at no cost to the state) to increase lane throughput. Before implementing any fast-pass routines that are proposed by the contractor, the contractor shall obtain authorization from the state to implement such proposals. Exhaust fast-pass routines will likely be based on the level of emissions in Bag 1 (see Section V), the level during certain modes of the driving circle, or a combination of the two that is below a projected level. The contractor may also choose to store second-by-second readings from each vehicle which, upon analysis of the data base created by these readings, might allow a vehicle to meet a fast-pass criteria before the end of Bag 1. Purge fast-pass routines will likely be based on the measured purge flow exceeding the minimum purge level by some point In the driving cycle. Integrity fast-pass routines will likely be based on minimum parameters developed for the integrity test.

At the state's discretion, the implementation of a fast-pass routine may quickly pass all cars meeting the criteria, or may only quickly pass cars meeting the criteria when there is a backup of vehicles waiting for a test.

6. Fast-Fail Standards

The contractor shall make provisions that would allow the implementation of fast-fail routines (at no cost to the state) to increase lane throughput. Before implementing any fast-fail routines that are proposed by the contractor, the contractor shall obtain authorization from the state to implement such proposals. Exhaust fast-fail routines will likely be based on the level of

Copyright © 2012 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

emissions in Bag 1, the level during certain modes of the driving cycle, or a combination of the two exceeding a pre-selected level. It is also likely that any fast-fail routine will use an initial portion of the transient cycle for vehicle preconditioning before making a fail decision on some other portion of the cycle. Purge fast-fail routines will likely be based on a measured purge flow significantly below the minimum purge level by some point in the driving cycle, or obviously disconnected purge hoses. In the case of low purge flow, a

vehicle shall not be failed for purge flow until after 190 seconds of the IM240, unless the contractor makes provisions for fast-fail test duration by manufacturer. Integrity fast-fail routines will likely be based upon minimum parameters developed for the integrity test, such as failure to achieve initial evaporative system test pressure. Obviously disconnected evaporative system hoses, a missing canister, or a missing gas cap shall be used to place a vehicle in the fast-failing category.

At the state's discretion, the implementation of a fast-fail routine may quickly fail all cars meeting the criteria, or may only quickly fail cars meeting the criteria when there is a backup of vehicles waiting for a test.

7. Special Considerations

Some vehicles may be difficult to test on the transient driving cycle or using the purge or vapor-integrity tests. The state will develop procedures as necessary for such vehicles utilizing equipment provided by the contractor. The contractor shall implement such procedures and develop any necessary software at no cost to the state. The contractor may propose to the state, at any time, procedures to minimize the number cars needing specIal consideration; however, all such special procedures shall require state approval prior to implementation.

V. Test Procedures

The contractor shall develop and maintain written, up-to-date procedures for conducting the required tests.

1. Vehicle Prep

- Prior to the dynamometer procedure, the following shall occur:
- All accessories shall be turned off.
- Vehicle Information shall be determined, so that the proper inertia and power absorption can be automatically selected, and so that test data and test status (i.e., initial, retest, etc) can be properly stored for the vehicle.
- The vehicle shall be checked for a missing gas cap. The tightness of the gas cap may also be checked. If

loose, the cap shall be properly (not excessively) tightened, and the owner shall be informed of the air pollution impact of a loose gas cap, and advised that they can do their part to help clean the air by properly tightening the gas cap after refueling.

- The evaporative purge measurement system shall be pneumatically attached to the vehicle.
- The vehicle shall be checked for a missing or obviously damaged evaporative canister, or obviously disconnected evaporative system hoses.
- Preparation equipment for the evaporative integrity analysis system may also be pneumatically attached. However, the preparation equipment shall not interfere with the proper operation of the vehicle's evaporative system.

2. Dynamometer Procedure

The dynamometer procedure shall Include the following events:

- Maneuvering the vehicle onto the dynamometer. Note: the transient driving cycle shall be conducted with the hood up.
- Automatically restraining the vehicle.

Copyright © 2012 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

- Automatically positioning the cooling system, and activating it.

- Sampling the background concentrations for a minimum of 15 seconds prior to the beginning of the transient driving cycle.

- Checking vehicle/dynamometer alignment, and drying wet-tires with the preselected load and inertia weight.

- Allowing the vehicle to idle with a vehicle speed of zero for a minimum of 10 seconds.

- Beginning the transient emission test driving cycle.

- Sampling the emissions over the driving cycle.

- Integrating the exhaust emission concentration (not voltages) over the specified test modes.

- Recording the evaporative purge results.

- Sampling the background concentrations at the conclusion of the driving cycle.

- Deactivating the cooling system, and automatically stowing the cooling system.

- Automatically removing vehicle restraints, and maneuvering the vehicle off the dynamometer.

3. Evaporative System Purge Test Procedures

The purge test procedure shall consist of measuring the totalized purge flow (in standard liters) occurring in the vehicle's evaporative system during the transient dynamometer emission test. The purge flow measurement system shall be connected to the purge portion of the evaporative system in series between the canister and the engine, preferably near the canister.

4. Evaporative System Integrity Test Procedures

The evaporative system integrity analysis system shall determine the ability of a vehicle's evaporatIve system to maintain pressure above 9 inches of water for 2 minutes after being pressurized to 14 (PLUS/MINUS .5) inches of water. All components and lines of the evaporative system between the evaporative canister and the gas cap that primarily convey or control fuel vapor, or separate liquid from vapor shall be checked (components conveying or controlling liquid fuel are not included). Although alternative procedures may be used to increase throughput (subject to the contract equipment specifications), the existing procedure includes:

Connecting the test equipment to the fuel tank canister hose at the canister end. Although not part of the current procedure, it is recommended that the gas cap be checked to determine if it is secured properly during vehicle check-in, and if not, to properly (not excessively) tighten to cap. The tightness of the cap could also be checked before the

system is pressurized at the lane Integrity-checkIng station. For vehicles with obviously loose caps, the owner shall be Informed of the air pollution Impact of a loose gas cap, and advised that they can do their part to help clean the air by properly tightening the gas cap after refueling.

- Pressurizing the system to 14 (+/-O.5) inches of water (without exceeding 26 inches of water system pressure)

- Closing off the pressure source, and sealing the evaporative system.

- Monitoring the pressure decay in the system for up to 2 minutes.

- Removing the gas cap after integrity is established to monitor for a sudden drop in system pressure.

Copyright © 2012 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

- On failed vehicles only, if the gas cap appears loose when checking for fuel tank pressure, and it has not been previously checked for tightness, the cap shall be properly (not excessively) tightened, and the test shall be repeated.

- For vehicles that pass the repeated test after the the gas cap is properly tightened, the owner shall be informed of the air pollution impact of a loose gas cap, and advised that they can do their part to help clean the air by properly tightening the gas cap after refueling.

(INFO BETWEEN PAGE 10 AND 12 MISSING)

average emission index (grams second) values need to be stored.

4. Consumer Report

The contractor shall provide the consumer with a report clearly indicating the pass, fall status, the test scores, and whether the test was an initial test or a retest. Additionally, the consumer report shall provide information on any applicable warranty coverage, and include an inspector's signature block. The specific language on warranty shall conform to EPA I/M regulations and 40 CFR Section 85 Subpart W on warranty statements for the model year of the vehicle at the time of I/M testing. Required changes to the warranty statement shall be at no cost to the state. (NOTE: Because the Clean Air Act of 1990 changed the period of the performance warranty and of the defect warranty for 1995 and later vehicles, the contractor may need to make provisions to give the consumer a different warranty statement depending on the model year of the vehicle, and final EPA guidance.)

The contractor shall provide the consumer with a "retest" report that includes all of the information in the initial test report, but is clearly distinguishable from the initial test report. Additionally, the retest report shall provide information on the change in fuel economy (in an acceptable form to the state and EPA with appropriate caveats based on state and EPA guidance) and the pounds of emissions reduced per 10,000 miles of driving from the required repairs. The state may (at no cost) choose to delay printing of the fuel economy and emission reduction information upon initial start up pending analysis of data collected. The state may also choose to highlight the

emissions reduction with a short spirited statement on the report.

5. Mechanic's Vehicle Report

Anyone seeking to repair an individual vehicle shall be able to obtain from the contractor the vehicle's modal test values, bag values, and the corresponding average values for passing vehicles of the same model year, manufacturer, and engine family. For the evaporative system tests, the contractor shall include information on the type of failure (i.e., integrity or purge), and for integrity tests, the reason for failure (e.g., failed to hold pressure, missing canister, disconnected hoses, etc.). In addition, the contractor shall also make available in a manner similar to the modal information, On-Board Diagnostic (OBD) codes/information, and any tampered components/systems identified, if such information becomes part of the inspection process.

The contractor shall also make available the information in the mechanic's report to the repair industry by electronic means. The electronic access shall be convenient and standardized. The contractor shall consider BAR 90 access methods, emerging Society of Automotive Engineering (SAE) standards, AIAG/ANSI data interchange protocols, and the repair industry's needs and equipment in selecting a convenient and cost effective (to the repair industry) data exchange protocol. The contractor may propose to provide read-only access to data provided to the state, if the access is limited to the test data (requires review and approval by the state), if the access to system is convenient, and if the access equipment is cost effective to the repair industry. The contractor shall be responsible for determining and keeping up with demand for data by electronic means.

6. Service Center Feedback Report

The contractor shall provide a monthly feedback report to each service center that submits more than five vehicles per month for retesting. The feedback report shall be designed and modified as necessary to assist the repair industry in effectively evaluatIng their progress in improving emission repairs. Control chart analysis and input from the repair industry is highly recommended.

Copyright © 2012 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

The following shall be included as a minimum.

- Number of vehicles submitted for retest
- Number of vehicles submitted for retest that failed retest

- Number of vehicles submitted for retest that received waivers
- detest failure rate
- Retest waiver rate
- Number of vehicles that failed multiple retests
- Multiple retest rate
- Contribution of service center to air quality (i.e., total tons, or pounds, of pollution reduced from repairs to vehicles submitted for retest during a given reporting period). The contribution of repairs to vehicles submitted for retest shall be broken out by the following categories, and shall include all pollutants:
  - All repairs
  - Repairs to complying vehicles
  - Repairs to passing vehicles
  - Repairs to waived vehicles
  - Repairs to failed vehicles
- Contribution of service center to energy savings (i.e., fuel economy improvements or savings due to repairs on vehicles submitted for retest during reporting period) The contribution of repairs to vehicles submitted for retest shall be broken out by the following categories, and for each initial failure type (e.g., NOx failure repairs, CO failure repairs, etc.).
  - All repairs
  - Repairs to complying vehicles
  - Repairs to passing vehicles
  - Repairs to waived vehicles

  - Repairs to failed vehicles
- Lost revenue repair rate (i.e., the number of vehicles that failed the retest that were repaired elsewhere relative to the number of vehicles that originally failed the retest).

The contractor shall make available to the state electronically, service center information on all providers submitting vehicles for retest.

7. Calculations

Emissions shall be calculated in grams/mile for the composite test; Bags 1 and 2; and Modes 1 through 9.

The pre-test background concentrations shall be used to adjust the integrated exhaust concentrations as specified in 40 CFR Section 86.144-9O, and as specified in the "Integration" requirements included in Section VII(4)(C) of this document. Pre- and post-test ambient background concentration levels shall be averaged to determine Quality Assurance background validity. All adjusted exhaust emission concentrations shall be converted to mass values using the constants and equations contained in 40

Copyright © 2012 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

CFR Section 86.144. The mass value shall be divided by the appropriate measured distance traveled to obtain grams per mile (gpm). The composite test value shall be calculated to determine pass/fail status as follows:

$$\text{Pass/Fail (gpm)} = \frac{\sum_{sec=0}^{239} \text{grams of emissions}}{\sum_{sec=0}^{239} \text{miles traveled}}$$

An example of a "Bag 2 Accel 2" modal calculation (mode 7) would be:

$$\text{Mode 7 (gpm)} = \frac{\sum_{sec=156}^{187} \text{grams of emissions}}{\sum_{sec=156}^{187} \text{miles traveled}}$$

8. Dynamometer Settings

The contractor shall be responsible for maintaining and updating (at no cost to the state) look-up tables (or an equivalent) for road load absorption settings and inertia weight selections. The updating shall include adding model years and categories, as necessary to reflect the I/M test fleet. EPA will provide (likely on a yearly basis) a listing horse power values (at 50 mph) and/or coast-down times (55 mph to 45 mph), and consolidated vehicle test weights categorized by model year, vehicle market name (e.g., Chevrolet, Buick, Geo, etc.), vehicle identity label (historically referred to as the car "line," e.g.,

Celebrity, Le Sabre, Metro, etc.), and power plant displacement or number of cylinders/displacement.

A. Road Load Setting

The contractor shall convert the EPA-supplied test track (i.e., actual) road load horse power values (or coast-down times) to indicated dynamometer power absorption settings based on the procedures specified in 40 CFR Section 86.118-78, and as specified in the dynamometer equipment specifications.

B. Inertia Weight Selection

The inertia weight selections should not need any modification to be used directly.

C. Default Settings

In some cases, a vehicle may not be in the standard look-up table for power absorption and inertia settings. In those rare cases, and until the look-up table is updated, the contractor may use a default setting based on the number of cylinders in the vehicle's engine. A record of the number of vehicles tested with a default setting, the type of setting, and the facility shall be maintained and available to the state. EPA will likely provide the default settings, which will likely be in the form of the following table. The default table shall be designed to be updated.

Table 5

Possible Default Settings

<TABLE>
<CAPTION>

Number of Cylinders	Actual Road Load Horsepower	Test Weight
<S>	<C>	<C>
3	8.3	2000
4	9.4	2500

Copyright © 2012 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

5		10.3	3000
6		10.3	3000
8	LDV	11.2	3500
8	LDT	12.0	4000
10	LDV	11.2	3500
10	LDT	12.7	4500
12	LDV	12.0	4000
12	LDT	13.4	5000

</TABLE>

VII. Equipment Specifications

1. Dynamometer Specifications

The dynamometer shall accommodate all LDT's and LDV's up to 8500 pounds curb weight. The dynamometer system shall incorporate automatic features that will select the proper road load horsepower and inertia simulation based on the vehicle parameters entered into the test system (or already in the vehicle test record) at the time of vehicle check-in. The contractor may propose a non-automatic system, if the contractor also describes a Quality Assurance method providing equivalent or better assurance of correct selections, and equivalent or better lane throughput.

A. Power Absorption

Range and Absorption Curve - The range of power absorption at 50 mph shall be 4 to at least 30 horsepower. The speed versus horsepower absorption curve shall follow equation [VII-1] between 5 and 60 mph. The absorption shall be adjustable across the specified range at 50 mph in 0.1 horsepower increments. The accuracy of the power absorber shall be +/-0.25 horsepower.

[VII-1] $F = A + \{ (B) * (\text{velocity}) \} + \{ (C) * (\text{velocity})(2) \}$

Parasitic Losses - The selection of the power absorption for each test shall account for parasitic losses in the dynamometer system, such as tire losses, bearing friction, etc. The power setting selected, in combination with the proper inertia test weight for an individual vehicle, shall result in a dynamometer coast-down time (with the test vehicle on the dynamometer) that is within 1 second of the 55 mph to 45 mph coast-down time calculated by equation [VII-2] (in English units) using the procedures in 40 CFR Section 86.118-78 (also see Quality Assurance requirements for periodic calibration).

[VII-2] Coast-down Time =

$$\frac{(0.06073) * (\text{Inertia Weight Selected})}{\text{ARLHP}}$$

where ARLHP = track road load horse power represented by power absorption selection

B. Inertia Simulation

The dynamometer shall be equipped with mechanical inertia weights providing test inertias of 2000 to 5500 pounds, varying by 500 pound increments. It is acceptable to use a base dynamometer inertia of 2000 pounds with three inertia flywheels of 500 pounds, 1000 pounds, and 2000 pounds to provide the specified test weights. The proper inertia weight for any test vehicle must be selectable. The actual inertia weights/flywheels operating during the test must be identified in the Quality Assurance process. Electric inertia simulation, or a combination of electric and mechanical simulation may be used, provided that the performance of the electrically simulated inertia complies with the specifications for electrical Inertia simulation in EPA's "Specifications for Electric Chassis Dynamometers," RFP No. C100081T1.

C. Inertia Weight Selection

For dynamometer systems employing mechanical inertia flywheels, the test system shall be equipped with a method, independent from the flywheel selection system, that identifies which inertia weight flywheels are actually rotating during the test. For systems employing electrical inertia simulation, an algorithm identifying the actual inertia weight curing the test shall be used.

Copyright © 2012 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

D. Rolls

The dynamometer shall he equipped with twin coupled rolls. Either 8.6 inch (PLUS/MINUS 0.04%) diameter rolls or 20.0 inch (PLUS/MINUS 0.04%) diameter rolls may be used. The dynamometer rolls accommodate an inside track width of 36 inches and an outside track width of 108 inches. The roll size, surface finish, and hardness shall be such that tire slippage on the first acceleration of the IM24O is minimized under all weather conditions; that the specified accuracy of the distance measurement is maintained; and that tire wear and noise are minimized.

E. Test Distance/Vehicle Speed

The test system shall measure the distance traveled for each phase or the IM240, and shall also measure the equivalent vehicle speed (i.e., roll speed). The measurement of the actual roll distance for each bag shall be accurate to within PLUS/MINUS 0.01 mile. The measurement of the roll speed shall he accurate to within PLUS/MINUS 0.1 mph.

F. Vehicle Restraint

The test system shall provIde for automatic vehicle restraints, upon operator initiation, that do not require an operator to 'tie-down' the test vehicle. The restraint system shall allow unobstructed vehicle ingress and egress, shall be capable of safely restraining the vehicle under all operating conditions, and shall not damage the vehicle. Operation of the system shall also not damage I/M vehicles, and shall not impart any adverse vertical or horizontal force. Idler rollers may be use in compliance with these requirements. At the conclusion of the test, operator initiation shall cause the restraint system to be stowed in a manner that allows the vehicle to be quickly and safely removed from the dynamometer.

G. Vehicle Cooling

The test system shall provide for a method to prevent over heating of the vehicle in a manner similar or equivalent to that specified in 40 CFR Section 86.135-9O(b). The cooling method shall direct air to the radiator of the test vehicle (typical cooling air speed for such equipment is equivalent to approximately 20 MPH). Care shall be taken to avoid improper cooling of the catalytic convertor. Positioning of the cooling system shall be accomplished quickly and effortlessly through automatic means.

H. System Calibration

The system shall provide for the automatic computation and recording of each dynamometer coast-down check performed (see Quality Assurance procedures). The clock used to check the coast-down time shall be accurate to the nearest 0.01 seconds when totalizing 1000 seconds.

I. Operator Controls

The operator shall have a control console or pendant that can be conveniently operated from the driver's seat of the test vehicle. The control pendant shall allow the test vehicle to be easily and quickly maneuvered onto and off of the dynamometer without damaging the vehicle or the console. The pendant shall provide for the operator to:

activate and deactivate the automatic vehicle restraint system

activate and deactivate the positioning of the vehicle cooling system (if automatic)

automatically over-ride the cooling system control

initiate the transient driving cycle and analysis system sampling, if not automatic (i.e., part of the overall driving cycle)

observe the video driver's trace

observe and verify the test vehicle identification parameters (e.g., manufacturer and model); and the selected inertia weight and the power absorption setting

observe indicated horsepower, and vehicle speed

Copyright © 2012 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

observe test time and coast-down time (if not part of video driver's aide)

activate a "test abort" control

J. Four-Wheel Drive

The contractor shall include as a separate cost option (which the state may exercise) the ability to test four-wheel drive vehicles.

Part-Time Four-Wheel Drive - In general, part-time four-wheel drive vehicles shall be tested in the two-wheel drive mode by the normal testing procedure.

Full-Time Four-Wheel Drive - The contractor shall include separate cost options for one test lane in the I/M network capable of testing full-time four-wheel drive vehicles, and for at least one test lane at each facility capable of testing full-time four-wheel drive vehicles. The method for testing full-time four-wheel drive vehicles shall allow vehicles with different wheel base lengths to be tested, shall allow the application of correct vehicle loading for the IM240 driving cycle, and shall not damage the four-wheel drive system. At a minimum, if front and rear wheel absorbing units are used, they shall maintain speed synchronization to the same tolerances specified in EPA's RFP No. C1000881T1.

2. Driver's Aid

The driver's aid shall be a video-type driver's aid (VDA).

A. Speed-Time Trace

The speed versus time trace for the transient dynamometer test shall conform to the IM240 driving cycle in EPA Report No. EPA-AA-TSS-91-1. However, provisions shall be made such that alternative driving schedules (not to exceed four minutes in length) may be conveniently substituted at the state's request (at no cost to the state).

B. Shift Schedules

EPA's standard shift schedules and procedures shall be used for the transient driving cycle. When testing vehicles equipped with automatic transmissions, the inspector shall use the highest gear selectable (i.e., overdrive, or - when not equipped with overdrive - drive), and shall be allowed to shift automatically. Manual transmissions shall be shifted by the following schedule. Shift marks and gear selection shall be located on the driver's trace. Only shift marks applicable to the number of gears in the transmission need to be used (i.e., all shift marks may appear on the trace).

Table 6

IM240 Shift Schedule

Shift and Sequence	Speed (mph)	Approximate Cycle Time (sec)
1 - 2	15	9.3
2 - 3	25	47.0
Declutch	15	87.9
1 - 2	15	101.5
2 - 3	25	105.5
3 - 2	~17.2	119.0
2 - 3	25	145.8
3 - 4	40	163.6
4 - 5	45	167.0
5 - 6	50	180.0
Declutch	15	234.0

3. Constant Volume Sampler

A Constant Volume Sampling (CVS) system of the Critical Flow Venturi (CFV) type shall be used to collect vehicle exhaust samples. The CVS system and components shall generally conform to the specifications in 40 CFR Section 86.109-90 with the following provisions.

Copyright © 2012 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

A. Mixing Tee

The dilution mixing tee shall be moved to the vehicle tailpipe exit as in Section 86.109-30(a)(2)(iv). The contractor is responsible to insure that the design(s) used collects all of the sample from the variety of exhaust systems in the fleet, and does not cause static pressure variations in the tailpipe of more than +5 inches of water (1.2 kPa). The mixing tee shall have a device for positively locating the tee relative to the tailpipe with respect to distance from the tailpipe, and with respect to positioning the exhaust stream from the tailpipe(s) in the center of the mixing tee flow area. The locating device, or the size of the entrance to the tee shall be such that if a vehicle moves laterally from one extreme position on the dynamometer to the other extreme, that mixing tee will collect all of the exhaust sample. The design of the mixing tee will be evaluated with back to back testing of several vehicles over a range of adverse conditions with a positive connection to the tailpipe (i.e., the

mixing tee will be effectively moved downstream, as in typical FTP testing, for these qualification tests).

B. Dual Exhaust

As indicated above, the contractor is responsible to insure that the design of the sampling system used collects all of the sample from the variety of exhaust systems in the fleet. This responsibility includes dual exhaust systems. In particular, for dual exhaust systems the design used shall insure that each leg of the sample collection system maintains equal flow. The contractor may be required to demonstrate (i.e., measure) that each leg has equal flow (+ 10%) during acceptance testing. In addition, the CVS shall be sized such that the entrance flow velocity of each mixing tee is sufficient to entrain all of the vehicle's exhaust. The design of the dual exhaust system will be evaluated with back to back testing of several vehicles over a range of adverse conditions with a positive connection to the tailpipe (i.e., the mixing tee will be effectively moved downstream, as in typical FTP testing, for these qualification tests).

C. Background Sample

The background sample probe or probes shall collect a background sample near the entrance to the mixing tee. At least three equally spaced locations around the mixing tee shall be used to sample the background.

D. Integrated Sample

A continuous dilute sample shall be provided for integration by the analytical instruments in a manner similar to the method for collecting bag samples as described in Section 86.109.

E. Bag Sample

The CVS system shall also provide for periodically collecting vehicle exhaust in sample bags (at least Bag 1 and Bag 2) simultaneously with the measurement of an integrated sample to conduct Quality Assurance verifications of the integration system.

F. Leak Check

A method to check the vacuum portion of the sample system for leaks shall be provided. The method shall be such that it can be easily performed each time the system integrity is violated (e.g., changing a filter).

G. CVS Flow Size

The CVS system shall be sized in a manner that prevents condensation in the dilute sample over the range of ambient conditions to be encountered during testing. Historically, this has dictated a 700 ACFM system over the more traditional 350 ACFM system. The range of ambient conditions may dictate heated sample lines. The contractor may also choose to use the smaller sized CVS and heated lines to eliminate condensation and to increase measured concentrations for better resolution (however, the 700 ACFM system

Copyright © 2012 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

does reduce the dynamic range of the measured concentrations). Should the contractor choose to use heated sample lines, the sample line and components (e.g., filters, etc.) shall be heated to a minimum of 120 F, shall be monitored and assurance of proper operation shall be covered in the Quality Assurance program.

H. Sample Probe

The sample probe shall be designed such that a continuously proportioned volume of sample is collected for analysis. The system shall have a method for determining if the sample collection system has deteriorated or malfunctioned such that a proportional sample is not being collected. A simple manometer to measure pressure drop across the probe has been used for this function.

I. CVS Compressor

The CVS compressor unit shall be designed to maintain choke flow in the main CVS venturi with an adequate margin, while minimizing down time and maintenance.

J. Materials

All materials in contact with exhaust gas shall be unaffected by and shall not affect the sample (i.e., the materials shall not react with the sample, and neither shall they taint the sample as a result of outgassing). Acceptable materials include stainless steel, teflon, and Tedlar.-Registered Trademark-

4. Emission Analysis System

Upon operator initiation, the emission analysis system shall automatically sample, integrate, and record the specified emission values for HC, CO, CO(2), and NOx. Such initiation may occur automatically upon initiation of the transient cycle, and a

quality control check has been made to insure that the vehicle is in the proper window to begin the transient test.

The emission analysis system shall automatically determine the pass/fail status, and print a consumer report.

A. Analytical Instruments

The analytical instruments shall comply with the methods of detection and the specifications listed below. The instrument ranges specified are based on a 700 ACFM CVS. Use of a different size CVS shall require adjusted ranges with appropriate documentation. Bidders may propose alternative detection methods (e.g., FTIR - Fourier Transform Infrared) provided sufficient engineering information and documentation is provided that will allow an evaluation of the ability of the alternative method to meet the overall accuracy, analytical performance, and integration requirements. The bidder may provide a separate cost proposal as an option for the case of alternative detection methods.

General Requirements - Performance of the analytical instruments with respect to accuracy and precision, drift, interferences, noise, etc. shall be similar to instruments used for testing under 40 CFR Section 86 Subparts B, D, and N. In particular, the analytical instruments are required to operate within the stated environment, and meet or exceed the Quality Assurance requirements throughout the lifetime of the contract.

Total Hydrocarbon Analysis - Total hydrocarbon analysis shall be determined by a flame ionization detector (FID). The analyzer calibration curve shall cover the range of 2 ppmC to 2,000 ppmC. The calibration curve must comply with the Quality Assurance specifications for calibration curve generation.

Carbon Monoxide Analysis - CO analysis shall be determined by Non-Dispersive Infrared (NDIR) . The CO analysis shall cover the range of 10 ppm to 10,000 ppm (1%). In order to meet the calibration curve requirements, two CO analyzer may be required - one from 0 to 1000 or 2000 ppm, and one from 0 to 1% CO. The calibration curve requirements and the Quality Assurance specifications apply to both analyzers.

Copyright © 2012 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

Carbon Dioxide Analysis - CO2 analysis shall be determined by Non-Dispersive Infrared (NDIR) . The CO analysis shall cover the range of 200 ppm to 40,000 ppm (4%) The calibration curve must comply with the Quality Assurance specifications for calibration curve generation.

Oxides of Nitrogen Analysis - NOx analysis shall be determined by chemiluminescence (CL). The NOx measurement shall

be the sum of nitrogen oxide (NO) and nitrogen dioxide (NO2). The NOx analysis shall cover the range of 1 ppm to 500 ppm. The calibration curve must comply with the Quality Assurance specifications for calibration curve generation.

B. System Response Requirements

The governing requirement for system response is the ability of the integration system to measure vehicle emissions to within +5% of that measured from a bag sample simultaneously collected over the same integration period, on both clean and dirty vehicles. Historically, continuously integrated emission analyzers have been required to have a response time of 1.5 seconds or less to 90% of a step change, where a step change was 60% of full scale or better. System response times between a step change at the probe and reading 90% of the change have generally been less than 4 - 10 seconds. Systems proposed that exceed these historical values shall provide an engineering explanation as to why the slower system response of the integrated system will compare to the bag reading within the specified 5%.

C. Integration Requirements

The analyzer voltage responses shall be sampled at 5 Hertz, and the 5 Hertz voltage levels shall be averaged over 1 second intervals. The one-second average voltage levels shall be converted to concentrations by the analyzer calibration curves. The pre-test background concentration (as calculated using methods established in Section 86.144) shall be subtracted from the measured concentrations (also as specified in Section 86.144). The corrected concentrations shall be integrated over the specified bag or mode interval. The grams of emissions per bag or mode shall be determined using the specified equations to combine the integrated concentrations (over the specified bag or mode interval) with the CVS flow integrated over the same interval.

If multiple analyzers are used for any constituent (e.g., CO), the integration system shall simultaneously integrate both analyzers. The integrated values for the lower range analyzer shall be used for the official values, unless the emissions exceed the low range scale by a cumulative amount of 5 seconds (the cumulative amount shall be a variable that can be changed as experience dictates). If the duration of the emission concentrations exceed the cumulative time value, only values from the higher range analyzer shall be used for computing official values. Additionally, background concentration levels shall be read by both analyzers, and the background reading used shall be

the measurement made by the analyzer used to determine the official integrated test values (as specified above).

D. System Design

Materials - All materials in contact with exhaust gas shall be unaffected by and shall not affect the sample (i.e., the materials shall not react with the sample, and neither shall they taint the sample as a result of outgassing) Acceptable materials include stainless steel, teflon, and Tedlar.-Registered Trademark-

Bag Ports - All analysis systems shall have provisions for reading a small volume sample bag, such as daily cross check bags, or integrator checking bags. A portable pump for sampling such bags is permitted.

System Filters - The sample system shall have an easily replaceable filter element to prevent particulate matter from reducing the reliability of the analytical system. The filter element shall provide for reliable sealing

Copyright © 2012 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

after filter element changes. If the sample line is heated, the filter system shall also be heated.

E. Gases

Calibration Gases - Gases used to generate and check calibration curves shall be traceable to NIST Standard Reference Materials (SRM) or CertifIed Reference Materials (CRM) to within 1% by "Gas Comparison" methods.

Span Gases - Gases used to for up-scale span adjustment, cross-check bags, or checks, and for mid-scale span checks shall be traceable to NIST SRM or CRM to within at least 2% by Gas Comparison methods.

Zero Gases - The impurities in zero grade gases shall be known, and shall not exceed 1 ppmC, 2 ppm CO, 400 ppm CO(2), and 0.3 ppm nitric oxide. Zero grade air shall be used for the FID zero gas. Zero grade nitrogen shall be used for CO, CO(2), and NOx zero gas.

FID Fuel - The fuel for the FID shall consist of a mixture of 40% (+/-2%) hydrogen, and the balance nitrogen. The FID oxidizer shall be zero grade air, which can consist of artificial air containing 18 to 21 mole percent of oxygen.

5. Evaporative Purge Analysis System

The evaporative purge analysis system shall measure the instantaneous purge flow (in standard liters/minute) during the transient dynameter cycle, and shall compute the totalized flow (in standard liters) over the cycle. The purge flow measurement system shall be connected to the purge portion of the evaporative system in series between the canister and the engine, preferably near the canister. The purge flow meter (and/or system) shall comply with the following requirements.

- Flow Rate 0 to 50 liters/minute
- Totalized Flow 0 to 200 liters
- Response Time 1 second to 90% of step change
- Accuracy 1% of full scale (rate and total)
- Calibration Gas Air

The process for monitoring the vehicle purge flow, entering it into the data base, and making a pass/fail decision shall be automatic, and not require operator intervention. The test sequence shall be automatically initiated when the transient driving cycle test is initiated. The only operator intervention allowed includes identifying the vehicle, and pneumatically connecting or disconnecting the test equipment to the vehicle and, if necessary, activating an abort sequence.

The system shall have sufficient adapters to connect in a leak-tight manner with the variety of evaporative systems and hose deterioration conditions in the vehicle fleet. To the extent possible, the purge measurement system should identify leaks at the connection to the evaporative system.

6. Evaporative System Integrity Analysis System

The evaporative system integrity analysis system shall determine the ability of a vehicle's evaporative system to maintain a system pressure above 8 inches of water for up to 2 minutes after being pressurized to 14 (+0.5) inches of water. All components and lines of the evaporative system between the evaporative canister and the gas cap (including the gas cap) that primarily convey or control fuel vapor shall be checked (components conveying or controlling liquid fuel are not included). Pressure gauges used for this test shall have an accuracy of 0.3 inches of water (2% of 15) or better. Nitrogen (N2), or an equivalent non-toxic, non-greenhouse, inert gas

(other than Helium), shall be used for pressurizing the evaporative system.

The process for filling the evaporative system, monitoring for

Copyright © 2012 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

compliance, entering it into the data base, and making a pass/fail decision shall be automatic, and not require operator intervention. The only operator intervention allowed includes identifying the vehicle, pneumatically connecting or disconnecting the test equipment to the vehicle, initiating the test sequence and, if necessary, activating an abort sequence.

The process of filling the evaporative system shall not over-pressurize the evaporative system. In general, the pressure in the evaporative system shall not exceed 26 inches of water during the filling process.

The system shall have sufficient adapters to connect in a leak-tight manner with the variety of evaporative systems and hose deterioration conditions in the vehicle fleet. To the extent possible, the integrity system should identify leaks at the connection to the evaporative system.

The evaporative system integrity analysis system shall be equipped with an abort system that positively shuts off and relieves pressure to the vehicle. The abort system shall be capable of being activated quickly and conveniently by the operator should the need arise.

Bidders may propose an alternative procedure to evaluate the integrity of the evaporative system for the purpose of increasing throughput. Such alternatives shall fully describe the process, and shall include engineering rationale and calculations documenting how the alternative procedure provides an equivalent or better evaluation of the evaporative system's integrity than the specified two minute pressure decay method. An alternative integrity checking procedure may also be proposed as an optional procedure. In that case, the bidder shall indicate the effect that the optional procedure has on the required number of test lanes and facilities, as well as effects on cost.

VIII. Quality Assurance Requirements

The contractor is required to develop, maintain, and update a written Quality Assurance plan. The Quality Assurance plan shall be designed and implemented in such a manner that it will identify when the level of accurate tests conducted in the program drops below 95% in any one reporting period. A test is not considered accurate if the actual test results differ from the true values by more than an absolute value of 10% when the true values are above 0.6 times the standard. No specific accuracy requirement is specified for true values below 0.6 times

the standard; however, it is expected that the inherent performance of the analysis systems will maintain reasonable accuracy in this range. Test quality not meeting this Quality assurance goal will require corrective action by the contractor at the contractor's expense.

As a minimum, the contractor shall include the following Quality Assurance procedures, or equivalent, as part of the implemented QA procedures. However, including the specific procedures listed, does not by itself relieve the contractor from the responsibility to meet the overall Quality Assurance goal stated above.

As indicated below, there are two types of assurance procedures; those done upon installation and on a periodic basis thereafter, and those done during each test (Test Assurance Procedures). For those done on a periodic basis, the contractor shall begin with a period at least as stringent as indicated, however, the contractor may (with concurrence of the Project Officer) implement procedures that adjust the frequency of the periodic checks, if based on collected data measuring the system's performance. To assure the overall health of the system, the contractor shall maintain "control charts" of the performance of key parameters in the system. When key parameters approach control chart limits, the contractor shall closely monitor such systems and take such actions as are necessary to prevent such systems from exceeding control chart limits. If any key parameter exceeds the control chart limits, the contractor shall take corrective action to bring the system into compliance with the accuracy and Quality Assurance specifications. Such control charts shall be available to the Project Officer upon request.

In addition to the Quality Assurance checks specified below, the contractor is expected to develop routine maintenance procedures (e.g., periodically lubricate dynamometer bearings) to assure reliability of the testing system over the life of the contract.

1. Dynamometer

A. Periodic

Calibration - Once per week, the calibration of each dynamometer shall be checked by a dynamometer coast-down procedure comparable to EPA National

Copyright © 2012 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

Vehicle and Fuel Emission Lab (NVFEL - formerly the Motor Vehicle Emission Lab (MVEL)) procedure TF-302A or 40 CFR Section 86.118-78. Each prime inertia

weight flywheel (i.e., base dynamometer, base plus 500 pound inertia weight (IW), base plus 1000 pound IW, and base plus 2000 pound IW) shall be checked with at least 2 horsepower settings within the normal range of the inertia weight. The coast-down procedure shall use a vehicle off dyno type method (i.e., if a vehicle is used to motor the dynamometer to the beginning coast-down speed, the vehicle shall be lifted off the dynamometer rolls before the coast-down test begins), or equivalent. If the difference between the measured coast-down time and the theoretical coast-down time is greater than +1 second, a flag shall be set, and corrective action shall be taken to bring the dynamometer into calibration.

Roll Speed - On a daily basis, the roll speed and roll counts shall be checked by an independent means (e.g., photo tachometer, etc). Deviations of greater than +0.2 mph or a comparable tolerance in roll counts shall require corrective action. Alternatively, a redundant roll speed transducer may be used for comparison. Accuracy of redundant systems shall be checked monthly.

B. Test Assurance Procedures

Power Absorption - For each test, the measured horsepower shall be integrated from 55 seconds to 81 seconds (divided by 26 seconds), and compared with the theoretical road load horsepower (for the vehicle selected) integrated over the same portion of the cycle. The same procedure shall be used to integrate the horsepower between 189 seconds to 201 seconds (divided by 12 seconds). If the absolute difference between the theoretical horsepower and the measured horsepower exceeds 0.5 hp, a flag shall be set indicating an invalid test.

The comparison to the theoretical horsepower of the vehicle selected will be an indication of whether the correct horsepower was selected. Deviations between the two points and from the horsepower selected, will provide an indication of the health of the dynamometer horsepower calibration curve.

Distance Traveled - The total number of dynamometer roll revolutions during each Bag shall be measured, and used to calculate the distance traveled. If the absolute difference between the distance calculated from the measured roll revolutions and the theoretical distance for the composite test, and for each Bag, exceeds 0.02 miles, a flag shall be set and corrective action shall be taken to bring the speed and distance measurIng system into compliance.

Inertia Weight Selection- The mass of the actual inertia weights operating (or electrically simulated) during the test cycle shall be compared to the Inertia weight for the vehicle under test. If the operating weights differ from the vehicle specification by more than 100 pounds, a flag shall be set, and the test voided.

2. Driver's Aid

A. Periodic - Not applicable.

B. Test Assurance Procedures

Driver's Trace - All excursions in the transient driving cycle shall be evaluated by the procedures defined in 40 CFR Section 86.115-8(b) (1) and Section 86.115(c), except that a speed tolerance of 4 mph instead of 2 mph shall be used. Excursions exceeding these limits shall set a flag.

3. Constant Volume Sampler

A. Periodic

Flow Calibration - The CVS flow calibration shall be checked every day by a procedure that identifies deviations in flow from the true value. Deviations greater than +4% shall require corrective action. A procedure comparable to SPA NVFEL Test Procedure No. 210 with a Critical Flow Orifice may be used. Alternative procedures will require engineering justification.

Cleaning Flow Passage - The sample probe shall be checked and cleaned (if necessary to maintain proportional ample) at least once per month. Once per year, the CVS venturi passages shall be checked and cleaned, if necessary.

Copyright © 2012 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

Probe Flow - The indicator Identifying the presence of proportional probe flow shall be checked on a daily basis. Lack of proportional flow shall require corrective action.

B. Test Assurance Procedures

Flow Volume - The CVS flow measured by the integrator or each Bag and each Mode shall be compared to an historically derived nominal value for each Bag and Mode. Deviations greater than 2% shall set a flag, indicating a void test.

4. Analysis System

A. Periodic

Calibration Checks - Upon initial operation, calibration curves shall be generated for each analyzer. The calibration curve shall consider the entire range of the analyzer as one curve. At least 6 calibration points plus zero shall be used in the lower portion of the range corresponding to an approximate IM240 emission level of 0 to 2 gpm HC, 0 to 30 gpm CO, 0 to 3 gpm NOx, and 0 to 400 gpm CO(2). For the case where both a low range analyzer and a high range analyzer are used (e.g., CO), the high range analyzer shall use at least 6 calibration points plus zero in the lower portion of the high range scale corresponding to approximately 100% of the full-scale value of the low range analyzer. For all analyzers, at least 6 calibration points shall also be used in the area of the maximum nonlinearity of non-linear instruments, or the upper one third of the linear instruments. Between the range defined by the emission level and the range defined by linearity, an additional 6 calibration points shall be used. Gas dividers may be used to obtain the intermediate points for the general range classifications specified. The calibration curves generated shall be a polynomial of no greater order than 4th order, and shall fit the data within 0.5% at each calibration point. (For reference, see EPA NVFEL procedure No. 204A)

For all calibration curves, curve checks, span adjustments, and span checks, etc., the zero gas shall be considered a down-scale reference gas, and the analyzer zero shall be set at the trace concentration value of the specific zero gas used.

For the emission-specified range, experience with a 700 ACFM CVS has indicated that appropriate emission levels at the defined ranges are approximately 0 to 100 ppmC HC, 0 to 500 ppm CO, 0 to 50 ppm NOx, and 0 to 0.7% CO(2).

The basic curve shall be checked monthly by the same procedure used to generate the curve, and to the same tolerances.

On a daily basis prior to vehicle testing, the curve for each analyzer shall be checked by adjusting the analyzer to correctly read a zero gas and an up-scale span gas, and then by correctly reading a mid-scale span gas within 2% of point. If the analyzer does not read the mid-scale span point within 2%, the system shall lock out. The up-scale span gas shall correspond to the average emission concentration over the test equivalent to approximately 2 gpm HC, 30 gpm CO, 3 gpm NOx, or 400 gpm CO(2). The mid-scale point shall be approximately one half of the up-scale point.

Also on a daily basis and after the up-scale span check, each analyzer in a given facility shall analyze a sample bag filled with a random concentration corresponding to approximately 0.5 to 3 times the cutpoint (in gpm) for the constituent. The value of the random sample may be determined by a gas blender. The deviation in analysis from the sample bag concentration for each analyzer shall be recorded and compared to the historical mean and standard deviation for the analyzers at the facility and at all facilities. Any reading exceeding 3 sigma shall cause the analyzer to be placed out of service.

During the performance of the contract, the contractor may propose to modify the calibration frequencies based on the performance of the system, a control chart analysis, or other pertinent information. Should performance deteriorate as a result of the modification, the state can direct reinstatement of the specified frequencies.

FID Check - Upon initial operation, and after maintenance to the detector, each Flame Ionization Detector (FID) shall be checked, and adjusted if necessary, for proper peaking and characterization by the procedures

Copyright © 2012 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

described in SAE Paper No. 770141. Additionally, every month, the response of each FID to a methane concentration of approximately 50 ppm CH(4) shall be checked. If the response is outside of the range of 1.10 to 1.20, corrective action shall be taken to bring the FID response within this range. The response shall be computed by the following formula:

$$\text{Ratio of Methane Response} = \frac{\text{FID response in ppmC}}{\text{ppm CH(4) in Cylinder}}$$

Spanning Frequency - The zero and up-scale span points shall be checked (and adjusted If necessary) at 2 hour intervals following the daily mid-scale curve check. f the zero or the up-scale span points drift by more than 2% from the previous check (except for the first check of the day), a system flag shall be set and corrective action shall be taken to bring the system into compliance.

During the performance of the contract, the contractor may propose to modify the spanning frequencies based on the performance of the system, a control chart analysis, or other pertinent information. Should performance deteriorate as a

result of the modification, the Project Officer can direct reinstatement of the specified frequencies.

Spanning Limit Checks - The tolerance on the adjustment of the up-scale span point is 0.4% of point. A software algoritin to perform the span adjustment and subsequent calibration curve adjustment shall be used. However, software up-scale span adjustments greater than +10% shall cause a flag to be set requiring system maintenance.

Integrator Checks - Once per week in each test lane, emissions from a randomly selected vehicle with official test value greater than 60% of the standard (determined retrospectively) shall be simultaneously sampled by the normal integration method and by the bag method. The data from each method shall be put into a historical data base for determining normal and deviant performance for each test lane, facility, and all facilities combined. Specific deviations exceeding 5% shall require corrective action.

Interferences - CO and CO(2) analyzers shall be checked for water interference prior to initial service, and on a yearly basis thereafter. The specifications and procedures used shall generally comply with either 86.122-78 or 86 .321-79.

NOx Convertor Checks - The convertor efficiency of the NO2 to NO convertor shall be checked on a weekly basis. The check shall generally conform to 86.123-78 or EPA NOEL Form 305-01. Equivalent methods are acceptable, but are subject to approval by the Administrator.

NO/NOx Flow Balance - The flow balance between the NO and NOx test modes shall be checked weekly. The check may be combined with the NOx convertor check as illustrated in EPA NVFEL Form 305-01.

B. Test Assurance Procedures

System Artifacts (Hang-up) - A comparison shall be made between the background HC reading, the HC reading measured though the CVS sample probe, and the zero gas before each test. Deviations from the zero gas greater than 10 ppmC shall set a flag.

Ambient Background - The average of the pre-test and post-test ambient background level shall be compared to the permissible levels of 10 ppmC HC, 20 ppm CO, and 1 ppm NOx. If the permissible levels are exceeded, the test shall be voided,

and the contractor shall take corrective action to lower the ambient background concentration levels, including, if necessary correcting building ventilation.

5. Evaporative Purge Analysis System Flow Checks

On a daily basis, each flow meter used to measure purge flow shall be checked with simulated purge flow (e.g., auxiliary pneumatic pump) against a

Copyright © 2012 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

reference flow measuring device with performance specification equal to or better than those specified for the purge meter. The check shall include a mid-scale rate check, and a totalized flow check between 10 to 20 liters. Deviations greater than +5% shall require corrective action. On a monthly basis, the calibration of purge meters shall be checked for proper rate and totalized flow with three equally spaced points across the specified ranges. Deviations exceeding the specified accuracy shall require corrective action.

6. Evaporative System Integrity Analysis System Check

Relevant parameters of the evaporative system integrity analysis system shall be checked on a daily basis, or on a periodic basis consistent with good engineering practice as indicated by the various Quality Assurance requirements. At a minimum, systems that monitor pressure leak down shall be checked for integrity. If, after the canister end is capped and is pressurized to 14 inches of water, the pressure loses more than 0.1 inches of water over 5 minutes, corrective action shall be taken. On a weekly basis, pressure measurement devices shall be checked against a reference device equal to or better than the specified performance requirements. Deviations exceeding the performance specifications shall require corrective action.

7. Overall System Performance

A. Periodic

Emission Levels - The contractor shall monitor the average, median, 10th percentile and 90th percentile of the composite emissions (HC, CO, CO(2), and NOx) measured over a defined period for each test lane. The defined period shall be selected and adjusted, if necessary, (and if the state concurs) to assure that a reasonably random sample of vehicles was tested in each lane. Initially, the defined period shall be weekly. Differences in the weekly average (or defined period average) of greater than +/-10% by any one lane from the facility-average or combined facility-average, or by any one facility from the combined facility-average shall require an investigation to determine

whether the single lane or facility has a systematic error. Where it can be determined that the averages from one facility (or facilIties) are offset from the average of the other facilities based on the mix of vehicles tested, the +10% limit shall be compared to the expected offset. If systematic errors are found, such errors shall be corrected.

Pass/Fail Status - The contractor shall monitor the average number of passing vehicles, and the average number of failing vehicles over a defined period for each test lane. The defined period shall be selected and adjusted, if necessary, (and if the state concurs) to assure that a reasonably random sample of vehicles was tested In each lane. Initially, the defined period shall be weekly. Differences in the weekly average (or defined period average) of greater than +15% by any one lane from the facility-average or combined facility-average, or by any one facility from the combined facility-average shall require an investigation to determine whether the single lane or facility has a systematIc error. Where it can be determined that the averages from one facility (or facilities) are offset from he average of the other facilities based on the mix of vehicles tested, the +15% limit shall be compared to the expected offset. If systematic errors are found, such errors shall be corrected.

B. Test Assurance Procedures

Fuel economy - For each test, the health of the overall analysis system shall be evaluated by checking the test vehicle's fuel economy for reasonableness, relative to upper and lower limits for the test inertia and horsepower selected. For each inertia selection, the contractor shall determine the upper fuel economy limit (with state concurrence) using the lowest horsepower setting typically selected for the inertia weight, along with statistical data, est experience, engineering judgement, and possibly EPA guidance. A similar process for the lower fuel economy limit shall be used with the highest horsepower setting typically selected for the inertia weight. For test inertia selections where the range of horsepower settings is greater than 5 horsepower, at least two sets of upper and lower fuel economy limits shall be determined and appropriately used for the selected test inertia. The upper and lower limits shall be variables that can be changed (at no cost to the state) if needed to improve the usefulness of this Quality Assurance Check to flag questionable test results. Flagged tests shall require an Investigation to determine if there is an equipment problem. Flagged tests with fuel economy results in excess of 1.5 times the upper limit shall require an immediate

Copyright © 2012 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

shut down of the test lane to determine the cause of the out-of-limit condition.

8. Control Charts

The contractor shall prepare and use control charts of key system parameters as necessary to determine, forecast, and maintain performance of each test lane, each facility, and all facilities combined within the contract specifications. At a minimum, the contractor shall prepare and maintain control charts for the parameters specified below. However, including the specific control charts listed does not by itself relieve the contractor from the responsibility to meet the overall Quality Assurance goal stated above. Quality control charts shall be made available to the state within 24 hours of a request.

A. Control Charts for Individual Test Lanes

In general, control charts for Individual test lanes shall Include parameters that will allow the cause for abnormal performance of a test lane to be pinpointed to individual systems or components. Test lane control charts shall include at a minimum:

- Overall number of flags set

- Number of specific flags set

- Level of difference between theoretical or selected values and measured values for each flag parameter

- Level of difference between theoretical and measured coast-down times

- Level of difference between theoretical and measured CVS flow

- Level of up-scale span change from last up-scale span (not required if software corrections are tracked)

- Level of mathematical or software correction to the calibration curve as a result of an up-scale span change (if used)

- Level of difference between the analyzer response to the daily cross-check bag, and the bag concentration

- Level of difference between the integrated measurements and the bag measurements

- Level of the FID CH4 response ratio

- Level of the ambient background concentrations

- The average, median, 10th percentile and 90th percentile of the composite emissions (HC, CO, CO(2), and NOx) measured over the defined periodIc basis

- Average number of passing vehicles, and average number of failing vehicles over the defined periodic basis

B. Control Charts for Individual Facilities

Control charts for IndivIdual facilities shall consist of facility-averages of the test lane control charts for each test lane at the facility.

C. Combined Control Charts for All Facilities

Combined control charts for all of the facilities shall consist of an average of the facility-average control charts for each facility.

D. Quality Control Statement

Every three months after commissioning, the contractor shall make a written statement to the state on the precision and accuracy of the tests conducted during the three month period. The analysis supporting the statement shall be included, and may use control charts and/or other Quality Assurance measures as necessary.

IX. Technical Proposal Evaluation

For a technical proposal to be eligible for the zone of competition, it must provide sufficient information to describe how the bidder plans to meet

Copyright © 2012 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

each and every required specification of this RFP. If the RFP Evaluation Committee determines that the elements of the bid proposal (i.e., processes, equipment, etc.) can achieve the transient testing specifications, the technical proposal will be considered in the zone of competition. After determination that a technical proposal is within the zone of competition, it will be evaluated by the following criteria. For evaluation purposes, it is recommended that the technical proposal follow the general

outline of the transient test portion of the RFP, or at least clearly identify what portions of the transient test requirements are being addressed.

1. Throughput Capability

The transient test system will be evaluated based on the ability of the system to meet the required number of tests versus the number of test lanes proposed, as well as the number of lanes per facility and number of facilities. In the case where two bids are comparable in capacity, the bid with the potential/flexibility to Increase the number of vehicles tested will be scored higher.

2. Quality Assurance Program Design

The proposed QA plan will be reviewed to evaluate the ability of the plan to maintain accurate and reliable measurements over the lifetime of the contract. The bid should provide sufficient Information to allow the Evaluation Committee to judge the bidder's commitments. The bid should also include an organization chart of QA functions and responsibilities.

3. Designed-in Flexibility

In many cases, the RFP calls for change in the specified limits, standards, etc. within the program. Bids will be reviewed based on the flexibility designed-in to the transient testing program to change and implement such parameters, as well as the inherent flexibility in the system to accept future changes should they become necessary.

5. Method of Testing/Equipment Selected

The equipment and processes proposed will be evaluated relative to their inherent accuracy capabilities, minimum operator intervention needed (e.g., degree of automation), and creativity used to increase throughput.

6. Durability of Equipment/Maintenance

The transient testing system and the equipment selected will be evaluated on the inherent durability of the system components, and the methods proposed to minimize downtime, and maintain accurate results over the lifetime of the contract.

X. References

1) Title 40 of the Code of Federal Regulations (CFR) Part 86 Subparts B, D, and N, and Part 85 Subpart W

2) EPA NVFEL (formerly MVEL) Quality Assurance Procedures No. 204A, 210, 302A, and Data Form 305-01

3) SAE Recommended Practice J1094a, Constant Volume Sampler System for Exhaust Emissions Measurement

4) SAE Recommended Practice J1151-June83, Methane Measurement Using Gas Chromatography

5) Statistical Design and Analysis of Engineering Experiments, C. Ipson, and N.J. Sheth, McGraw-Hill, 1973, Section 3.1. 3, and Section 13.2 including example 13.10

6) EPA Public Work Shop Proceedings. Specifications and Design Criteria for Electric Chassis Dynamometers, Volumes I, II, and III, November 30, 1990

7) Specifications for Electric Chassis Dynamometers, EPA RFP No. C100081T1

8) EPA Memorandum, Calibration and Maintenance Services, From D. W. Perkins to J. D. Carpenter, May 23, 1987.

Copyright © 2012 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

SECTION VI

APPENDIX H

Form S.F. 351 (Rev. 7/78)	State of Washington BID BOND	DATE BOND EXECUTED

See Instructions to Bidders NOTE: Type or Print in ink

PRINCIPAL (Legal name and business address)	TYPE OF ORGANIZATION (Check one)
	/ /Individual / /Partnership / /Joint Venture / /Corporation
SURETY(IES) (Name(s) and business address(es))	SUM AMOUNT OF BOND (Amount not to exceed)
	Dollars
	$ % of Bid Price

BID IDENTIFICATION

Bid Date	Invitation No.	For Construction	/ / Materials/Supplies/Equipment / / Services

WE, the Principal and Surety(ies), are firmly bound and obligated to the State of Washington in the above sum amount on conditions set forth below, for the payment of which we bind ourselves, our heirs, executors, administrators, and successors, jointly and severally.

THE CONDITION OF THIS OBLIGATION IS SUCH, that the Principal has submitted the bid identified above.

THE ABOVE OBLIGATION shall be void and of no effect if the Principal, upon acceptance of the bid identified above, within the period specified therein for acceptance (sixty [60] days if no period is specified), shall execute such further contractual documents and give bond(s) as may be required by the terms of the bid as accepted within the time specified (ten [10] days if no period is specified) after receipt of the forms by him. Furthermore, in the event of failure to execute additional contractual documents and give bond(s), the above obligation shall be null and void if the Principal pays the State of Washington for any cost of procuring the work which exceeds the amount of his bid.

IN WITNESS WHEREOF, the Principal and Surety(ies) have executed this bond and have affixed their signatures and seals on the date set forth above.

1. NAME OF PRINCIPAL AND	Phone No.	Signature

Copyright © 2012 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

TITLE

L. S.

2.

Phone No. Signature (Corporate Seal)

NAME AND ADDRESS OF SURETY A Liability Limit

L. S.

---

1. NAME AND TITLE (Attorney in Fact) Phone No. Signature (Corporate Seal)

---

2. NAME AND TITLE Phone No. Signature

NAME AND ADDRESS OF SURETY B Liability Limit

L. S.

---

1. NAME AND TITLE (Attorney in Fact) Phone No. Signature (Corporate Seal)

---

2. NAME AND TITLE Phone No. Signature

SECTION VI

APPENDIX I

Form S.F. 352 (Rev. 4/89) State of Washington PAYMENT AND PERFORMANCE BOND DATE BOND EXECUTED

See Instructions to Bidders NOTE: Type or Print in ink

PRINCIPAL (Legal name and business address)

TYPE OF ORGANIZATION (Check one)

/ /Individual
/ /Partnership
/ /Joint Venture
/ /Corporation

SURETY(IES) (Name(s) and business address(es))

CONTRACT DATE

CONTRACT NO.

Copyright © 2012 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

SUM AMOUNT OF BOND _____ _____ _____Dollars ($)

WE, the Principal and Surety(ies), in accordance with the Revised Code of Washington are firmly bound and obligated to the State of Washington in the above sum amount on conditions set forth below and in Contract Bid # for payment of which we bind ourselves, our heirs, executors, administrators, and successors, jointly and severally.

THE CONDITION OF THIS OBLIGATION IS SUCH, that the Principal entered into the contract/bid identified above.

THE ABOVE OBLIGATION shall be void and of no effect if the Principal performs and fulfills all the provisions of such contract and any extensions of modifications thereof that may by the State of Washington, and faithfully pays all laborers, mechanics and subcontractors and materialmen, and all persons who shall supply such person or persons, or subcontractors, with materials and supplies for carrying on of such work, and shall indemnify the State of Washington against any loss or damage directly due to the failure to the Principal to faithfully perform the contract identified above.

IN WITNESS WHEREOF, the Principal and Surety(ies) have executed this payment and performance bond and have affixed their signatures and seals on the date set forth above.

1. NAME OF PRINCIPAL AND TITLE	Phone No.	Signature	
			L. S.
2.	Phone No.	Signature	(Corporate Seal)

NAME AND ADDRESS OF SURETY A		Liability Limit	
			L. S.
1. NAME AND TITLE (Attorney in Fact)	Phone No.	Signature	(Corporate Seal)
2. NAME AND TITLE	Phone No.	Signature	

NAME AND ADDRESS OF SURETY B		Liability Limit	
			L. S.
1. NAME AND TITLE (Attorney in Fact)	Phone No.	Signature	(Corporate Seal)
2. NAME AND TITLE	Phone No.	Signature	

SECTION VII

OFFER AND CONTRACT AWARD

Copyright © 2012 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

SECTION VII
OFFER AND CONTRACT AWARD

OFFER
(FOR BIDDER USE ONLY

The undersigned hereby offers and agrees to furnish materials, equipment and/or services in compliance with all terms, conditions and specifications herein. Submittal of this document with authorized signature(s) constitutes complete understanding and compliance with said terms and conditions and verified that all goods, facilities and/or personnel are available and established at the time of bid submittal.

By:

(Company Name)
(Typed or Printed Name)

(Address)
(Title)

(City) (State) (Zip)
(Bidder's Signature) (Date)

CONTRACT AWARD
(For State of Washington Use Only)

A contract is hereby awarded between the above company and the State of Washington, Office of State Procurement, Purchasing and Contract Administration, to be effective ,
19 . This is a Partial/total award for .

Authorized Signatures

(Contract Administrator) (Date)

(Purchasing Manager) (Date)

BID DOCUMENT CHECKLIST
INVITATION FOR BID NO. 99-92
TITLE: VEHICLE EXHAUST EMISSION INSPECTION PROGRAM

This checklist is provided for bidder's convenience only and identifies the Bid documents that must be submitted with each package in order to be considered responsive:

Please submit a signed original and two copies of complete Bid Response.

Bid Documents too be returned Completed

A. Section VII, entitled: Offer and Contract Award

Copyright © 2012 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

B. 1. Section VIII, Attachment entitled: Bid Information

---

2. Section VIII, Attachment entitled: Price Sheet(s)

---

3. Section VIII, Attachment entitled: Supplemental Information

---

4. Section VIII, Attachment entitled: Site Locations

---

5. Section VIII, Attachment entitled: Time Schedule

---

6. Section VIII, Attachment entitled: Resources Available

---

7. Section VIII, Attachment entitled: References

C. Section IX, - No Bid Response (When Applicable)

NOTE: ANY BID PACKAGES RECEIVED WITHOUT THE ABOVE DOCUMENTS WILL BE DEEMED NONRESPONSIVE AND WILL NOT BE CONSIDERED FOR AWARD.

SECTION VIII

ATTACHMENTS

SECTION VIII ATTACHMENT 1
BID INFORMATION

INVITATION FOR BID NO. 99-92
TITLE: VEHICLE EXHAUST EMISSION INSPECTION PROGRAM

Bidder shall complete the following:

1. Bid Guarantee in the amount of $ 25,000 per zone attached.

2. Performance Guarantee in the amount of $ 100,000 per station will be forwarded within fifteen (15) calendar days of Contract Award.

Bidder to check form of guarantee to be used (See Section V):

____ Performance Bond
____ Escrow agreement
____ Irrevocable letter of credit
____ Certified check
____ Cashiers check

3. Authorized Representative: (See Section V)

Name: _____

Telephone: (___)_____

4. Federal Tax Identification Number:_____

5. FAX Number: (___)_____

Bidder's Company Name_____

SECTION VIII ATTACHMENT 2
PRICE SHEET

INVITATION FOR BID NO. 99-92

Copyright © 2012 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

TITLE: VEHICLE EXHAUST EMISSION INSPECTION PROGRAM

ZONE I (PORTIONS OF SNOHOMISH COUNTY)
ENTER YOUR BID (AMOUNT TO BE RETAINED BY CONTRACTOR) ON THIS ATTACHMENT

$ _____ for each paid test until number of paid tests in a calendar year exceeds 50,000

$ _____ for each paid test beyond 50,000 but before 60,001 in each calendar year

$ _____ for each paid test beyond 60,000 but before 70,001 in each calendar year

$ _____ for each paid test beyond 70,000 but before 80,001 in each calendar year

$ _____ for each paid test beyond 80,000 but before 90,001 in each calendar year
$ _____ for each paid test beyond 90,000 in each calendar year

Firm Name: _____

****

ZONE II (PORTIONS OF KING & SNOHOMISH COUNTIES)

ENTER YOUR BID (AMOUNT TO BE RETAINED BY CONTRACTOR) ON THIS

ATTACHMENT

$ _____ for each paid test until number of paid tests in a calendar year exceeds 300,000

$ _____ for each paid test beyond 300,000 but before 340,001 in each calendar year

$ _____ for each paid test beyond 340,000 but before 380,001 in each calendar year

$ _____ for each paid test beyond 380,000 but before 420,001 in each calendar year

$ _____ for each paid test beyond 420,000 but before 460,001 in each calendar year

$ _____ for each paid test beyond 460,000 in each calendar year

Firm Name: _____

Bidder's Company Name_____

SECTION VIII ATTACHMENT 2
PRICE SHEET

INVITATION FOR BID NO. 99-92
TITLE: VEHICLE EXHAUST EMISSION INSPECTION PROGRAM

ZONE III (PORTIONS OF PIERCE & KING COUNTIES)

ENTER YOUR BID (AMOUNT TO BE RETAINED BY CONTRACTOR) ON THIS ATTACHMENT

$ _____ for each paid test until number of paid tests in a calendar year exceeds 200,000

$ _____ for each paid test beyond 200,000 but before 230,001 in each calendar year

$ _____ for each laid test beyond 230,000 but before 260,001 in each calendar year

$ _____ for each paid test beyond 260,000 but before 290,001 in each calendar year

$ _____ for each paid test beyond 290,000 but before 320,001 in each calendar year

$ _____ for each paid test beyond 320,000 in each calendar year

Firm Name: _____

Copyright © 2012 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

****

ZONE IV (CLARK COUNTY)

ENTER YOUR BID (AMOUNT TO BE RETAINED BY CONTRACTOR) ON THIS ATTACHMENT
$_____ for each paid test until number of paid tests in a calendar year exceeds 40,000

$ _____ for each paid test beyond 40,000 but before 45,001 in each calendar year

$ _____ for each paid test beyond 45,000 but before 50,001 in each calendar year

$ _____ for each paid test beyond 50,000 but before 55,001 in each calendar year

$ _____ for each paid test beyond 55,000 but before 60,001 in each calendar year

$ _____ for each paid test beyond 60,000 in each calendar year

Firm Name: _____

Bidder's Company Name_____

SECTION VIII ATTACHMENT 2
PRICE SHEET

INVITATION FOR BID NO. 99-92
TITLE: VEHICLE EXHAUST EMISSION INSPECTION PROGRAM

ZONE V (SPOKANE COUNTY)

ENTER YOUR BID (AMOUNT TO BE RETAINED BY CONTRACTOR) ON THIS ATTACHMENT
$ _____ for each paid test until number of paid tests in a calendar year exceeds 50,000

$ _____ for each paid test beyond 50,000 but before 60,001 in each calendar year

$ _____ for each paid test beyond 60,000 but before 70,001 in each calendar year

$ _____ for each paid test beyond 70,000 but before 80,001 in each calendar year

$ _____ for each paid test beyond 80,000 but before 90,001 in each calendar year

$ _____ for each paid test beyond 90,000 in each calendar year

Firm Name: _____

Bidder's Company Name_____

SECTION VIII ATTACHMENT 3
SUPPLEMENTAL INFORMATION

INVITATION FOR BID NO. 99-92
TITLE: VEHICLE EXHAUST EMISSION INSPECTION PROGRAM

Bidders shall complete the following required information. Where additional space is needed and/or where specifically requested, submit an attached letter.

Paragraph Reference	Bid Requirements
Section IV para. 14	Identify any subcontractors who will perform services in fulfillment of contract requirements and nature of services performed:

_____

_____

Copyright © 2012 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

_____

_____

_____

_____

Section II para. 2A — AGENCY USERS LOCATIONS The following agencies have been identified as users of this contract.

Agency Name	Location	Contact Person	Phone
Dept. of Ecology Air Quality Program	PO Box 47600 Olympia, WA 98504-7600	John C. Raymond Vehicle Emission Control Coordinator	(206) 459-6261

SECTION VIII ATTACHMENT 4
SITE LOCATIONS

INVITATION FOR BID NO. 99-92
TITLE: VEHICLE EXHAUST EMISSION INSPECTION PROGRAM

Identify/describe all proposed facility locations including documents evidencing ownership or option to buy or lease. Reference Specification par. 4.1, 5.1 and 5.3.3); Special Terms & Conditions, para. 12)

SECTION VIII ATTACHMENT 5
TIME SCHEDULE

INVITATION FOR BID NO. 99-92
TITLE: VEHICLE EXHAUST EMISSION INSPECTION PROGRAM

Provide a time phased, detailed schedule delineating critical tasks to be accomplished including all necessary governmental permits and approvals needed prior to the start of inspections on June 1, 1993. (Reference Specifications para. 4.1. 5.5. and 6.1); Special Terms and Conditions, para 12.

SECTION VIII ATTACHMENT 6
RESOURCES AVAILABLE

INVITATION FOR BID NO. 99-92
TITLE: VEHICLE EXHAUST EMISSION INSPECTION PROGRAM

Identify management personnel qualifications and company financial resources available for the performance of this contract (Reference Special Terms & Conditions para. 12)

SECTION VIII ATTACHMENT 7
REFERENCES

INVITATION FOR BID NO. 99-92
TITLE: VEHICLE EXHAUST EMISSION INSPECTION PROGRAM

Provide a list of contracts of similar size and scope satisfactorily completed/currently being performed by the bidder, parent company or subsidiary. (Identify government organization. description of work, period of performance, dollar magnitude, name and telephone number of government contract administrator. (Reference Special Terms and Conditions para. 12)

NO BID RESPONSE

INVITATION FOR BID NO. 99-92
TITLE: VEHICLE EXHAUST EMISSION INSPECTION PROGRAM
COMMODITY BID LIST NO. 9776-VO1

BID OPENING DATE: June 4, 1992

Copyright © 2012 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

Instructions: Complete the following information, fold as indicated, staple and return as addressed on the reverse side so as to be received at the Office of State Procurement by date and time of bid opening. Notice of "No Bid" in any other form (Postcard, letter, etc.) is not acceptable.

----------Fold----------

_____ We are unable to submit a bid response at this time but desire that you retain our firm on your bid list for the commodity in question.

_____ We are unable to supply the above commodity. Please remove our name from this commodity bid list.

Completion of this form shall constitute a "no bid" response.

----------Fold----------

Supplier#_____

Company Name_____

Address_____

City, State, Zip_____

Signature_____

Revised 4/91

SECTION IX

NO BID RESPONSE

STATE OF WASHINGTON
DEPARTMENT OF GENERAL ADMINISTRATION
OFFICE OF STATE PROCUREMENT

CONTRACT CHANGE NOTICE NO. 2

CONTRACT EXTENSION

CONTRACT NUMBER: 20OA-89

COMMODITY CODE: 9776

CONTRACT TITLE: Vehicle Exhaust Emission Testing

FOR USE BY: Department of Ecology

TERM: January 1, 1993 through May 31, 1993

CONTRACTOR: Vehicle Test Technology, Inc.
1715 114th Ave SE, Ste 220
Bellevue, WA 98004

CONTACT: MickiPhillips
General Manager (new)
PHONE: (206) 451-3847
FAX: (206) 455-5916
FED. I.D. NO: 36-3087021
SUPPLIER NO.: 444

USE DESIGNATION:

MANDATORY:

The Department of Ecology is mandated to utilize this contract for all acquisitions of materials, equipment or services designated herein.

Estimated Contract Value: $2,600,000.00/5 mos.

Contract Pricing: See Attached Section VIII, Attachment 1, Price Sheets

Copyright © 2012 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

Contract Administrator: Charles Van Hall (New)
Phone: (206) 753-1040
SCAN: 234-1040

Ecology Contact: John C. Raymond, Vehicle Emission Control Coordinator
Phone: (206) 459-6261

PURPOSE: Five month extension to allow sufficient start up time for replacement contract 99-92. Note change of contractor contact person and state contract administrator. Contractor to provide new Certificate of Insurance. In all other respects, contract remains unchanged.

REFERENCE: Office of State Procurement extension request letter dated April 16, 1992, Griffin/Carroll; VTTI response dated May 7, 1992, signed by Leo Carroll.

SECTION VIII ATTACHMENT 1
PRICE SHEET

INVITATION FOR BID NO. 200-89
TITLE: VEHICLE EXHAUST EMISSION TEST

CONTINUATION SHEET

SEATTLE AREA BID

ENTER YOUR BID ON THIS ATTACHMENT

$ 12.45 for each paid test until number of paid tests in a calendar year exceeds 300,000

$ 12.35 for each paid test beyond 300,000 but before 320,001 in each calendar year

$ 12.25 for each paid test beyond 320,000 but before 340,001 in each calendar year

$ 12.15 for each paid test beyond 340,000 but before 360,001 in each calendar year

$ 11.00 for each paid test beyond 360,000 but before 400,001 in each calendar year

$ 10.00 for each paid test beyond 400,000 in each calendar year

Firm Name: Vehicle Test Technology, Inc.

NOTE: You must also attach all supporting information required by Section VI, paragraph 7.2, Bid Attachments.

SECTION VIII ATTACHMENT 1
PRICE SHEET

INVITATION FOR BID NO. 200-89
TITLE: VEHICLE EXHAUST EMISSION TEST

CONTINUATION SHEET

SPOKANE AREA BID

ENTER YOUR BID ON THIS ATTACHMENT

$ 12.40 for each paid test until number of paid tests in a calendar year exceeds 50,000

$ 7.00 for each paid test beyond 50,000 but before 60,001 in each calendar year

Copyright © 2012 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

$ 7.00 for each paid test beyond 60,000 but before 70,001 in each calendar year

$ 5.00 for each paid test beyond 70,000 but before 80,001 in each calendar year

$ 0 for each paid test beyond 80,000 but before 100,001 in each calendar year

$ 0 for each paid test beyond 100,000 in each calendar year

Firm Name: Vehicle Test Technology, Inc.

NOTE: You must also attach all supporting information required by Section VI, Paragraph 7.2, Bid Attachments.

STATE OF WASHINGTON
DEPARTMENT OF GENERAL ADMINISTRATION
OFFICE OF STATE PROCUREMENT

CONTRACT NO: 99-92

CONTRACT CHANGE NOTICE NO. 2

CHANGE

EFFECTIVE DATE: APRIL 6, 1993

PURPOSE: Change operational commencement date for Zone 3, Contractor Name and Address Change and Identify new Contract Administrator and Contractor contact.

COMMODITY CODE: 9776

CONTRACT TITLE: Vehicle Exhaust Emission Inspection Program

FOR USE BY: Department of Ecology

TERM: July 6, 1992 THROUGH December 31, 1999

CONTRACTOR: SC Systems Control
8656 154th Ave NE
Redmond, Washington 98052

CONTACT: Michael B. Gallagher
Project Manager
PHONE: (206) 883-3900
FAX: (206) 881-8823
FED ID: 36-3087021
SUPPLIER: 444

USE DESIGNATION:

1. MANDATORY:

State Agencies: State agencies are mandated to utilize this contract for all acquisitions of materials, equipment or services designated herein.

PARTICIPATION:
CURRENT: $0 MBE $0 WBE $0 OTHER $7,500,000 EXEMPT

CONTRACT ADMINISTRATOR: Charles D. Van Hall, C.P.M.
PHONE: (206) 753-1040
SCAN: 234-1040

SPECIAL CONDITIONS:

Zone 3, except North Auburn, shall be operational on Sunday, August 1, 1993, with operations commencing on Monday, August 2, 1993. All other terms and conditions remain unchanged, except that full staffing of all Zone 3 and the Des Moines and Renton stations from Zone 2, will be required until the North Auburn Station or its replacement is operational. See Contract Award Summary.

Copyright © 2012 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

STATE OF WASHINGTON
DEPARTMENT OF GENERAL ADMINISTRATION
OFFICE OF STATE PROCUREMENT

CONTRACT NO: 99-92

CONTRACT CHANGE NOTICE NO. 3

CHANGE

EFFECTIVE DATE: JUNE 1, 1993

PURPOSE: Change operational commencement date for Diesel Inspections and approve the use 1M24O Lane at the Fife location.

COMMODITY CODE: 9776

CONTRACT TITLE: Vehicle Exhaust Emission Inspection Program

FOR USE BY: Department of Ecology

TERM: July 6, 1992 THROUGH December 31, 1999

CONTRACTOR: SC Systems Control
8656 14th Ave NE
Redmond, Washington 98052

CONTACT: Michael Gallagher, PM
PHONE: (206) 883-3900
FAX: (206) 881-8823
FED. I.D. NO.: 36-3087021
SUPPLIER NO.: 444

USE DESIGNATION:

1. MANDATORY:

State Agencies: State agencies are mandated to utilize this contract for all acquisitions of materials, equipment or services designated herein.

PARTICIPATION:
CURRENT: $0 MBE $0 WBE $0 OTHER $7,500,000 EXEMPT

CONTRACT ADMINISTRATOR: Charles D. Van Hall, C.P.M.
PHONE: (206) 753-1040
SCAN: 234-1040

SPECIAL CONDITIONS:

1. This change notice is to confirm the delay of diesel inspection from June 1, 1993 to August 2, 1993. Delay is based on the following information:

The result of Contractor's failure to demonstrate at the April 12, 1993 Marysville Station its capability to perform diesel inspections to the satisfaction on the state.

The concern by DOE that both SC and DOE should focus their efforts on dealing with the startup challenges due to the many changes in the testing of gas vehicles and to ensure a smooth startup.

2. This change notice is also to provide written approval to SC to use the IM240 lane at the Fife motor vehicle emission inspection station for an EPA research project. The results of the project will be shared with DOE for the benefit of the state. No consideration is due the contractor nor the state as a result of this project.

CHANGE NOTICE NUMBER 4

EFFECTIVE DATE: 1 APRIL, 1994

Contract Number: 99-92

Purpose: Line Item Additions

Contract Title: VEHICLE EXHAUST EMISSION INSPECTION PROGRAM

Copyright © 2012 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

Commodity Code: 9776

For Use By: Department of Ecology

Term: July 6, 1992 Through: December 31, 1999

Contractor: SC Systems Control
8656 154th Avenue NE
Redmond, WA 98052

CONTACT: Michael B. Gallagher
PHONE: (206) 883-3900
FED. I.D. NO.: 36-3087021
SUPPLIER NO: 444
FAX NO.: (206) 881-8823

USE DESIGNATION:

MANDATORY:

Department of Ecology is mandated to utilize this contract for all acquisitions of materials, equipment or services designated herein.

CURRENT MWBE PARTICIPATION: $ 7,500,000 OTHER-100% EXEMPT

Contract Administrator: C. Van Hall, C.P.M.
Phone: (206) 753-1040
SCAN 234-1040

Special Conditions:

In accordance with Contract Section IV, Paragraph 31, entitled Additions and Deletions the contractor has proposed, the state has accepted the following modifications:

1. To cover software development cost of $11,104 for a reporting systems to improve customer waiting time. $11,104 and will be deducted from the weekly payments. This payment subject to approval by the state of the reporting formats.

2. To pay reimbursable capital and operational costs at the new Vancouver station, including the IM 240 and reduce interest charges the state will pay the capital costs of $2,651.212 plus interest over a twelve month period starting June 3, 1994.

Payment of item 2 capital costs will be through a weekly payment of $50,985. Operational costs will be paid by an increase in the test fee of $0.49 per test, state wide until contract termination beginning when the new Vancouver station opens.

3. This line item is to confirm that the costs associated with the Teller Machine at the New Vancouver Station will not be a part of this change notice.

4. To cover the additional $275,496 SC management, personnel and direct operating costs for the existing Vancouver Station as the result of the state's under estimation of testing capacity by the state in the Vancouver Zone. Reimbursement will be on the following schedule:

$275.496 divided by 11 months of added costs, times 5 months of added labor already performed, that will be deducted in two payments. The first on June 3, 1994 in the amount of $62,613. The second on June 10, 1994 in the amount of $62,612. The balance of $150.271 will be paid in weekly installments of $6,261,29 until Nov. 30, 1994.

5. To cover the additional remodeling costs for the North Seattle Station. Remodeling is limited to the addition of a cash out office at the cost of $8,558. Payment to be made by deduction from the weekly payment.

6. To cover the costs of operating additional equipment at North Seattle Station. Existing current personnel costs of $55,598 covering the period 1/2/94 through 5/31/94 are to be deducted from the weekly payment. Since the May 94 payment is an estimate the last payment may be adjusted with written approval by the contract administrator. Effective 6/1/94, the personnel costs for the increased capacity at North Seattle will be paid by an increase in the test fee of $ .22 per test, state wide until contract termination.

Copyright © 2012 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

7. To cover the costs of adding IM 240 at the Redmond Station. The one time cost of $126,626.00 is to be deducted from the weekly payments.

8. To cover the $236,459.00 of additional expansion costs at the Vancouver and North Seattle Stations. Payment to be deducted weekly as follows:

April 1, 1994 through May 6, 1994 $38,000.00 per week, with a final payment of

$8,459.00 deducted on May 13, 1994.

Weekly payments can not exceed those authorized by change notice. Copies of all payment documents showing deductions from the weekly payment will be sent to the contract administrator. Documents supporting this change notice number 4 are as follows:

Line items 1, 5 and 7: Three SC Letters all dated April 5, 1994 and one dated April 12, 1994. For line item l only SC letter dated May 24, 1994 applies.

Line item 2 SC FAX proposal dated April 4, 1994 that identify program costs increase beginning June 1, 1994 followed up with SC FAX May 24, 1994.

Line item 3: SC FAX proposal dated April 4, 1994 and SC FAX May 24, 1994.

Line item 4: SC FAX proposal dated April 4, 1994 and SC FAX May 24, 1994.

Line item 6: SC FAX proposal dated April 4, 1994 and SC FAX May 24, 1994.

Line item 8: SC letter dated March 22, 1994, SC FAX dated March 31, 1994, and SC proposed payment schedule dated April l, 1994.

The above are based negotiation/clarification meetings between OSP, Ecology and SC dated January 14, 1994, March 12, 1994 and April 6, 1994 held at the Department of Ecology. The state reserves the right to audit supporting documentation provided by the contractor.

All other contract terms, conditions, provisions and pricing remains unchanged.

CHANGE NOTICE NUMBER 5
EFFECTIVE DATE: AUGUST 3, 1994

CONTRACT NUMBER: 99-92

Purpose: Adjust Line item #2 of Contract Change Number 4

Contract Title: VEHICLE EXHAUST EMISSION INSPECTION PROGRAM

Commodity Code: 9776

For Use By: Department of Ecology

Term: July 6, 1992 Through: December 31, 1999

Term Worth $ 7,500,000 Other - 100% Exempt

Contractor: SC Systems Control
8656 154th Avenue NE
Redmond, Washington 98052

CONTACT: Michael B.Gallagher
PHONE: 206 883 3900
FAX: 206 881 8823
FED.I.D. NO: 36-3087021
SUPPLIER NO: 444

Contract Pricing: See Award Summary and subsequent change notices.

Contract Administrator: C. Van Hall, C.P.M.
Phone: (206) 753-1040
FAX: (206) 586-2426

Special Conditions:

1. Change contract change number 4, item number 2 to read as follows:

Copyright © 2012 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

To pay reimbursable capital and operational costs at the new Vancouver station, including the IM 240 and reduce interest charges the state will pay the capital costs of $2,651,212 plus interest starting June 3, 1994. However due to delay in the new stations opening date, by the contractor, weekly payments and interest shall stop on August 3, 1994 and then shall recommence on Friday April 7, 1995.

Except for the period of August 3, 1994 through April 7, 1995, payments of item 2 capital costs will be through a weekly payment of $50,985. Operational costs will be paid by an increase in the test fee of $0.49 per test, state wide until contract termination beginning when the new Vancouver station opens.

All other terms, conditions and provisions of this contract remain unchanged.

STATE OF WASHINGTON
CURRENT CONTRACT INFORMATION
Reference Date: November 18, 1994

Contract Number: 09992 Revises Contract Number: 99-92

Contract Title: Vehicle Exhaust Emission Inspection Program

Purpose: Establish payment schedule for costs associated with New Vancouver Station and the additional Expansion Costs at Existing Vancouver Station.

Commodity Code: 9776

For Use By: Department of Ecology Exclusions: None

Term: July 6, 1992 Through December 31, 1999

Term Worth: $ 7,500,000

Contractor: SC Systems Control
8656 154th Avenue NE
Redmond, WA 98052

CONTACT: Micki Phillips
PHONE: 206 883 3900
FAX: 206 881 8823
FED. I.D. NO.: 36 3087021
SUPPLIER NO.: 444

Contract Pricing: See Attachment
Contract Administrator: Charles V. Hall
Phone Number: (206) 753-1040

Participation:
Current: Exempt 100%

Note:

I. This contract is exempt from RCW 43.19.1905.

II. This contract is designated as "Mandatory Use."

III. This Current Contract Information follows Contract Change Notice Number 5. Therefore no Contract Change Notice Number 6 will be issued.

IV. Reference SC Letters Dated October 11, 1994, November 3, 8 and 9.

V. All information herein is subject to audit by the state in accordance with original contract/bid provisions.

VI. Current Contract Information will be made available via FAX ON DEMAND Contact the Contract Administrator.

ATTACHMENT
VEHICLE EXHAUST EMISSION INSPECTION PROGRAM
CONTRACT 99-92

ZONE 4

Additional Station in Vancouver with seven IM 240 compatible lanes including four lanes with elector-mechanical dynamometers. Contractor is authorized to recover costs through an increase in the cost per test for the entire statewide program. The state reserves the right to advance pay any capital costs, thereby reducing the additional cost per test for the entire statewide

Copyright © 2012 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

program.

The following summary assumes a startup date of May 1, 1995, an earlier or later start up date must be approved, in writing, by the Contract Administrator as authorized by the Department of Ecology Air Program Manager:

1. CAPITAL COSTS			
Land	497,000		
Construction		1,712,000	.32
Equipment		194,000	.04
Deferred Startup & Other		43,000	.01
Corporate G&A @ 16%		311,840	.06
SUBTOTAL (excluding Land)		2,260,840	.43
FEE @ 15%		413,840	.08
Interest		511,680	.10
TOTAL VANCOUVER CAPITAL COSTS		3,186,196	.60
2. OPERATIONS COSTS			
Labor		597,000	.11
Payroll Burden Rate @ 23%		137,310	.03
SUBTOTAL		734,310	.14
Overhead @ 55%		403,871	.08
SUBTOTAL		1,138,181	.22
Other Operating Costs		595,000	.11
SUBTOTAL LABOR & OTHER		1,733,181	.33
Corporate G&A @ 16%		277,309	.05
SUBTOTAL		2,010,489	.38
Fee & 15%		301,573	.06
Land Interest		212,477	.04
TOTAL OPERATIONS COSTS		2,524,540	.48
3. TOTAL COSTS		5,710,736	1.08
Less State Payments (see contract change #4)		(460,755)	(.09)
Less ECS Savings (See November 8, 1994 letter from SC)		(574,033)	(.11)
4. NET COSTS		4,675,948	.88

Additional cost per test for the entire program beginning 5/1/95 is $0.88.

Land cost is not included in the overall total cost but are recovered by the sale of the property at the end of the program as provided for in the bid. The only cost associated with land is the financing costs and fee.

5. ADDITIONAL EXPANSION COSTS

TOTAL ESTIMATE 1/94 TO 4/95	
PERSONNEL	
Labor	142,679
Payroll Burden Rate @ 23%	32,816
SUBTOTAL	175,495

Copyright © 2012 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

Overhead @ 55%	96,522
SUBTOTAL	272,017
OTHER EXPENSES & COSTS	
Other Direct Costs Sub-total	1,357
Total Personal & Other	273,374
Corporate G & A @ 16%	43,740
SUBTOTAL	317,114
Profit 15%	47,567
SUBTOTAL	364,681
Less $ Change Number 4 item Number 4 Payment of $275,496.	(275,496)
6. TOTAL	$89,185

Payment of $89,185 to be made by deduction of $4,053.86 from the weekly payments to the state starting 12/2/94 and continuing through 4/28/95 for a total of 22 weeks.

STATE OF WASHINGTON
CONTRACT INFORMATION
Reference Date: June 1, 1995

Contract Number: 09992

Contract Title: Vehicle Exhaust Emission Inspection Program

Purpose: Reduce Capitol Costs Associated with Construction of the New Vancouver Vehicle Emission Station by paying the Contractor as noted on Attachment A Cost Summary.

Commodity Code: 9776

For Use By: Department of Ecology

Term: July 6, 1992 Through December 31, 1999

Term Worth: $7,500,000

Contractor: SC Systems Control
8656 154th Avenue NE
Redmond, WA 98052

CONTACT: Micki Phillips
PHONE: (206) 883-3900
FAX: (206) 881-8823
FED. I.D. NO.: 36 3087021
SUPPLIER NO.: 11

Contract Pricing: See Original Bid on File at OSP

Contract Administrator: Charles Van Hall, C.P.M.
Phone Number: (360) 902-7425

Participation:
Current: Exempt 100%

Note:

1. See Attachment A: Cost Summary

2. The state will affirm costs on attachment A by an audit by September 1, 1995 at the Contractor's Offices. Audit to be conducted by Contract Administrator and Ecology Program Personal.

Washington State Department of General Administration
Office of State Procurement, PO Box 41017, Olympia, WA 98504-1017

Copyright © 2012 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

Attachment A: Cost Summary
Contract 09992

Additional Station in Vancouver:

CAPITAL COSTS			
Land	497,000		
Construction		1,712,000	0.32
Equipment		194,000	0.04
Deferred Startup & Other		43,000	0.01
Corporate G&A @ 16%		311,840	0.06
SUBTOTAL (excluding land)		2,260,840	0.43
Fee @ 15%		413,676	0.08
Interest		241,836	0.05
TOTAL VANCOUVER CAPITAL COSTS		2,916,352	0.55
OPERATIONS COSTS			
Labor		597,000	0.11
Payroll Burden Rate @ 23%		137,310	0.03
SUBTOTAL		734,310	0.14
Overhead @ 55%		403,871	0.08
SUBTOTAL		1,138,161	0.22
Other Operating Costs		595,000	0.11
SUBTOTAL LABOR AND OTHER		1,733,181	0.33
Corporate G & A 16%		277,309	0.05
SUBTOTAL		2,010,489	0.38
Fee @ 15%		301,575	0.06
Land Interest		212,477	0.04
TOTAL OPERATIONS COSTS		2,524,540	0.48
TOTAL COSTS		5,440,892	1.03
Less Payments		(460,755)	(0.09)
Less Payment authorized by this document:		(1,200,000)	(0.23)
Less ECS Savings		(574,033)	(0.11)
NET COSTS		3,206,104	0.60
Additional costs per test for the entire program beginning 7/1/95			0.60

STATE OF WASHINGTON
CURRENT CONTRACT INFORMATION
Reference Date: July 26, 1995

Contract Number: 09992

Contract Title: Vehicle Exhaust Emission Inspection Program

Purpose: Authorization to develop a method to provide a passed test report to certain vehicle owners. Authorize Greeter Program. Accept Contractor's Irrevocable Letter of Credit. Payment of Inspection Forms.

Commodity Code: 9776

For Use By: Department of Ecology

Term: July 6, 1992 Through December 31, 1999

Copyright © 2012 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

Term Worth: $7,500,000

Contractor: SC Systems Control
8656 154th Avenue NE
Redmond, WA 98052

CONTACT: Micki Phillips
PHONE: (206) 883-3900
FAX: (206) 881-8823
FED. I.D. NO.: 36 3087021
SUPPLIER NO.: 11

Contract Pricing: See Original Bid on File at OSP

Contract Administrator: Charles Van Hall, C.P.M.
Phone Number: (360) 902-7425

Participation:

Current: Exempt 100%

Note:

1. Authorize an idle test for 1984 through 1987 model year BMW, Volvo, and Peugeot Diesel Vehicles. These vehicles will not be subject to a snap idle test. Contractor will not charge a test fee to these vehicle owners. However, Contractor is still authorized to deduct from the weekly transfer of funds, its portion of the test fee for each of these special tests. Contractor to identify the number of these special tests and their cost by zone with each transfer. This authorization, is temporary in accordance with Department of Ecology's Air Program memos of June 19, 1995 and June 27, 1995.

2. Authorize Greeter Program. Greeters will be positioned at the entrances to the North Seattle, Bellevue, and Kirkland Test Stations during the last three testing days of the each month and on the first two testing days of

the following month. Greeter will turn away those motorists whose vehicle do not need the test, to answer motorists questions, and give out contractor provided maps and directions to stations which have shorter waiting lines. The procedure for the program is outlined in Contractor's Letter of May 4, 1995 to the Contract Administrator and Air Program's FAX of June 27, 1995. Total Additional Transfer to cover the cost of this Program shall not exceed $3000.00 per month and may be canceled at anytime by the state by providing 30 days written notice. Contractor to provide the state a written evaluation of the benefits found from the use of greeters by May 1, 1996.

3. Accept Contractor's Irrevocable Letter of Credit that will replace the current escrow account. Acceptance of the Letter of Credit reduces the Contractor's portion of the test fee by $0.05 or a minimum amount of $260,000.00 over the life of the program. The $260,000.00 minimum will be tracked by the contractor. Reference Contractor Letter of May 12, 1995. Effective date to be upon receipt by the contract administrator of the bank notification. Contract Administrator to advise by Change Notice.

4. Contractor to pay for inspection forms. The state will continue to design and order the inspection forms. The contractor will continue to take delivery and provide storage for the inspection forms. The contractor is authorized to deduct from the weekly transfer the funds the payment for the form order.

STATE OF WASHINGTON
CURRENT CONTRACT INFORMATION
Reference Date: July 26, 1995

Contract Number: 09992

Contract Title: Vehicle Exhaust Emission Inspection Program

Purpose: Authorization to develop a method to provide a passed test report to certain vehicle owners. Authorize Greeter Program. Accept Contractor's Irrevocable Letter of Credit. Payment of Inspection Forms.

Commodity Code: 9776

Copyright © 2012 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

For Use By: Department of Ecology

Term: July 6, 1992 Through December 31, 1999

Term Worth: $7,500,000

Contractor: SC Systems Control
8656 154th Avenue NE
Redmond, WA 98052

CONTACT: Micki Phillips
PHONE: (206) 883-3900
FAX: (206) 881-8823
FED. I.D. NO.: 36 3087021
SUPPLIER NO.: 11

Contract Pricing: See Original Bid on File at OSP

Contract Administrator: Charles Van Hall, C.P.M.
Phone Number: (360) 902-7425

Participation:
Current: Exempt 100%

Note:

1. Authorize an idle test for 1984 through 1987 model year BMW, Volvo, and Peugeot Diesel Vehicles. These vehicles will not be subject to a snap idle test. Contractor will not charge a test fee to these vehicle owners. However, Contractor is still authorized to deduct from the weekly transfer of funds, its portion of the test fee for each of these special tests. Contractor to identify the number of these special tests and their cost by zone with each transfer. This authorization is temporary in accordance with Department of Ecology's Air Program memos of June 19, 1995 and June 27, 1995.

2. Authorize Greeter Program. Greeters will be positioned at the entrances to the North Seattle, Bellevue, and Kirkland Test Stations during the last three

testing days of the each month and on the first two testing days of the following month. Greeter will turn away those motorists whose vehicle do not need the test, to answer motorists questions, and give out contractor provided maps and directions to stations which have shorter waiting lines. The procedure for the program is outlined in Contractor's Letter of May 4, 1995 to the Contract Administrator and Air Program's FAX of June 27, 1995. Total Additional Transfer to cover the cost of this Program shall not exceed $3000.00 per month and may be canceled at anytime by the state by providing 30 days written notice. Contractor to provide the state a written evaluation of the benefits found from the use of greeters by May 1, 1996.

3. Accept Contractor's Irrevocable Letter of Credit that will replace the current escrow account. Acceptance of the Letter of Credit reduces the Contractor's portion of the test fee by $0.05 or a minimum amount of $260,000.00 over the life of the program. The $260,000.00 minimum will be tracked by the contractor. Reference Contractor Letter of May 12, 1995. Effective date to be upon receipt by the contract administrator of the bank notification. Contract Administrator to advise by Change Notice.

4. Contractor to pay for inspection forms. The state will continue to design and order the inspection forms. The contractor will continue to take delivery and provide storage for the inspection forms. The contractor is authorized to deduct from the weekly transfer the funds the payment for the form order.

STATE OF WASHINGTON
CURRENT CONTRACT INFORMATION
Reference Date: November 1, 1995

Contract Number: 09992

Contract Title: Vehicle Exhaust Emission Inspection Program

Purpose: Authorization to perform a trial ASM test in Spokane Region only

Commodity Code: 9776

For Use By: Department of Ecology

Copyright © 2012 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

Term: July 6, 1992 Through December 31, 1999

Term Worth: $7,500,000

Contractor: SC Systems Control
8656 154th Avenue NE
Redmond, WA 98052

CONTACT: Micki Phillips
PHONE: (206) 883-3900
FAX: (206) 881-8823
FED. I.D. NO.: 36 3087021
SUPPLIER NO.: 11

Contract Pricing: See Original Bid on File at OSP

Contract Administrator: Charles Van Hall, C.P.M.
Phone Number: (360) 902-7425

Participation:
Current: Exempt 100%

Note:

Cost Summary for ASM Upgrade for Spokane:

Capital Costs:	Price	QTY	Total
Lane Equipment (a)	1,900	8	$ 15,200
Station Equipment (b)	2,040	2	4,080
Fan & Misc. Parts (c)	1,200	7	8,400
Installation Labor	270	8	2,160
Engineering design documentation (d)	30,600	1	30,600
Software Design	72,650	1	72,650
Subtotal			133,090
Corporate G&A 16%			21,294
Subtotal			154,384
Profit 15%			23,158
Interest (10%)			3,567
Total Capital Cost			$181,109

The $181,109 may be deducted by SC from the weekly payment to the state at the rate of $18,110.90 per week for 10 weeks.

1. Deduction to begin upon completion of work and as approved by the Ecology Air Program manager. SC must also provide the program manager a detailed invoice of work performed, to be used by Ecology to assist it in obtaining Federal Funding for this ASM testing project.

   Operating costs for Six hours per Day for One Lane is $191.00 and may be deducted by SC from the weekly payment to the state. Operating cost covers two inspectors per lane to operate the ASM test. Testing not to extend beyond May 31, 1996 without written authorization from the state.

   (a) SCAMP III upgrade modifications for NOx channel
   (b) NOx cal gas station modification requirements
   (c) Engine cooling fan
   (d) Redesign of SCAMP for NOx, modification and testing of first lane, training and documentation on test and new calibration procedure.

2. Contract 09992 is amended as noted above. All other terms, conditions and contract provisions remain unchanged.

Envirotest Systems Corporation
Spokane ASM Upgrade
Invoice

	Proposal	Actual
Capital Costs:		
Lane Equipment	$15,200	$20,802
Station Equipment	4,080	3,852
Fans & Misc.	8,400	5,868
Installation	2,160	4,280
Engineering Design	30,600	26,900
Software Design	72,650	72,650
	133,090	134,352

Copyright © 2012 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

Corporate G & A	21,294	21,496
	154,384	155,848
Profit	23,158	23,377
Interest	3,567	3,567
Total Capital Costs	$181,109	182,793
Proposal Amount		181,109
Less installation @ $270 x 6 lanes		(1,620)
Amount Due		179,489*
Inspections 2,000 @ $7.27 each		14,540(A)
Total Costs		$194,029

(A) Amount previously paid by State

* Weekly payment of $17,948.90 for 10 weeks

State of Washington
Current Contract Information
Effective Date: July 1, 1996

Contract Number: 09992

Contract Title: Vehicle Exhaust Emission Inspection Program

Purpose: Cost of Living Adjustment

Commodity Code: 9776

For Use By: Washington State Department of Ecology

Term: July 6, 1992 Through: December 31, 1999

Term Worth: $7,500,000

Contractor: Envirotest Systems Corp. (Formally SC)
8656 154th Avenue NE
Redmond, WA 98052
CONTACT: Micki Phillips
PHONE: (206) 883-3900
FAX: (206) 881-8823
FED. I.D. NO.: 36 3087021
SUPPLIER NO.: 11

Order placement address: Same
Ordering procedures: Contact the Contract Administrator

Payment Address: Same

Contract Pricing: All statewide tests are increased by $0.08 (eight u.s. cents) to cover the cost of wage increases for contractor employees.

Contract Administrator: Charles Van Hall, C.P.M.
Phone Number: (360) 902-7425

Fax Machine number: (360) 586-2426.
E-Mail: cvanhal@ga.wa.gov

Participation:
Current: $ MBE none $ WBE none $ OTHER none EXEMPT $7,500,000

MBE % none WBE % none Exempt 100%

Note:

I. This contract is subject to RCW 43.19.1905 which authorizes state

Copyright © 2012 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

agencies to purchase materials, supplies, services, and equipment of equal quantity and quality to those on state contract from non-contract suppliers provided that an agency notifies the Office of State Procurement contract administrator that the pricing is less costly for such goods or services than the price from the state contractor.

If the non-contract supplier's pricing is less, the state contractor shall be given the opportunity to at least meet the non-contractor's price. If the state contractor cannot meet the price, then the state shall purchase the item(s) from the non-contract supplier.

If a lower price can be identified on a repeated basis, the state reserves the right to re-negotiate the pricing structure of this agreement. In the event such negotiations fail, the state reserves the right to delete such item(s) from the contract.

II. This contract is designated as "Mandatory Use" per the contract definitions. If definitions are not attached to this document, they can be obtained by calling (360) 902-7413.

III. Attachments

OFFICE OF STATE PROCUREMENT
PERFORMANCE REPORT

To OSP Customers:

Please take a moment to let us know how our services have measured up to your expectations on this contract. Please copy this form locally as needed and forward to the Office of State Procurement Purchasing Manager. For any comments marked unacceptable, please explain in remarks block.

Procurement services provided: Excellent Good Acceptable Unacceptable

- Timeliness of contract actions
- Professionalism and courtesy of staff
- Services provided met customer needs
- Knowledge of procurement rules and regulations
- Responsiveness/problem resolution
- Timely and effective communications

Comments: _____

_____

_____

Agency: _____ Prepared by: _____

Title: _____

Contract No.: _____ Date: _____

Contract Title: _____ Phone: _____

_____

SEND TO:

Purchasing Manager
Office of State Procurement
PO Box 41017
Olympia, Washington 98504-1017

STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY
P.O. Box 47600
Olympia, Washington 98504-7600
(360) 407-6000
TDD Only (Hearing impaired) (360) 407-6006

May 28, 1996

Copyright © 2012 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

Ms. Melanie Phillips
General Manager
Envirotest Systems Corp.
8656 154th Avenue NE
Redmond, Washington 98052

Dear Ms. Phillips:

Thank you for the successful completion of the trial Acceleration Simulation Mode (ASM) testing in Spokane. This letter is your authorization to deduct $17,948.90 from the weekly payment to the state for ten weeks for the upgrade of the Spokane Emission Check stations to conduct ASM testing.

I greatly appreciate the effort Envirotest made to ensure that we will be able to quickly implement ASM testing, once it becomes an official test.

Sincerely,

Joseph R. Williams
Program Manager
Air Quality Program

JRW:crp
cc: Chuck Van Hall, General Administration
    Glenn Miles, Spokane Regional Transportation Council

Copyright © 2012 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

---

LIQUIDITY LOAN AGREEMENT

among

THE LIQUIDITY LENDERS
FROM TIME TO TIME PARTY HERETO,

MARKET STREET CAPITAL CORP.

ENVIROTEST PARTNERS

and

PNC BANK, NATIONAL ASSOCIATION,
as Administrator and Liquidity Agent

Dated as of November 26, 1996

TABLE OF CONTENTS

Copyright © 2012 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

LIQUIDITY LOAN AGREEMENT

The Liquidity Loan Agreement (this "Agreement") is entered into as of November 26, 1996 among PNC BANK, NATIONAL ASSOCIATION, a national banking corporation (in its individual capacity, "PNC") and each of the parties who has executed as an "Assignee" an Assignment of Liquidity Commitment in the form of Exhibit A hereto (each, an "Assignment")(PNC and each such other Assignee being referred to collectively as the "Liquidity Lenders" and individually as a "Liquidity Lender"), PNC BANK, NATIONAL ASSOCIATION, as agent for the Liquidity Lenders under this Agreement (In such capacity, together with its successors and permitted assigns in such capacity, the "Liquidity Agent"), MARKET STREET CAPITAL CORP., a Delaware corporation (together with its successors and permitted assigns, the "Issuer"), Envirotest partners (formerly known as Envirotest/Synterra Partners), a Pennsylvania partnership (the "Seller") and PNC BANK, NATIONAL ASSOCIATION, as the Administrator for the Issuer in such capacity, together with its successors and permitted assigns in such capacity, the "Administrator").

PRELIMINARY STATEMENTS

(1) Reference is made to (i) Purchase and Sale Agreement dated as of November 26, 1996 (as amended, restated, supplemented or otherwise modified from time to time in accordance with the provisions thereof and in effect, the "Receivables Sale Agreement"), among the Seller and ES Funding Corporation, a Delaware corporation (the "Seller Sub"), and (ii) that certain Receivable Purchase Agreement dated as a November 26, 1996 (as amended, restated, supplemented or otherwise modified from time to time in accordance with the provisions thereof and in effect, the "Receivables Purchase Agreement") among the Issuer, the Administrator, the Liquidity Agent and the

Copyright © 2012 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

Seller Sub, copies of which have been delivered to each Liquidity Lender.

(2) The Issuer has purchased from the Seller Sub all of the Seller Sub's rights (including, but not limited to, all of the Seller Sub's right, title and interest in and to the right to receive payment of the Settlement Receivable Assets, but not its obligations, (the "Purchased Interest") under (i) the Settlement Agreement and (ii) the Receivables Sale Agreement. The Administrator may in the future determine from time to time to have the Issuer fund all or a portion of such purchase with the proceeds of Liquidity Loans made by the Liquidity Lenders hereunder. The Issuer therefore hereby pledges to the Liquidity Agent, for the benefit of the Liquidity Lenders, as security for the Liquidity Loans, a security interest in the Purchased Interest. The Issuer may fund its acquisition of the Purchased Interest through the issuance of commercial paper notes (the "Notes"), through loans or other extensions of credit from various banks and other financial institutions, or by borrowing from the Liquidity Lenders hereunder.

(3) Each Liquidity Lender, by becoming a party hereto agrees to make Liquidity Loans to the Issuer on the terms and conditions set forth in this Agreement (its "Liquidity Commitment") when requested by the Administrator.

NOW, THEREFORE, the parties agree as follows:

1. Certain Defined Terms.

(a) As used in this Agreement, the following terms shall have the following meanings (such meanings to be equally applicable to both the singular and plural forms of the terms defined):

"Administration Account" means the special account (account number 1002420425) of the Issuer maintained at the office of PNC at 249 Fifth Ave., Pittsburgh, Pennsylvania 15222-2707, or such other account as may be so designated in writing by the Administrator to the Seller.

"Administrator" has the meaning set forth in the preamble.

"Affiliate" means, as to any Person, any other Person that, directly or indirectly, is in control of, is controlled by or is under common control with such Person or is a director or officer of such Person, except that with respect to the Issuer, Affiliate shall mean the holder(s) of its capital stock.

"Agent-Related Person" has the meaning specified in Section 6(c).

"Agreement" has the meaning set forth in the preamble.

"Alternate Rate" for any Interest Period means an interest rate per annum equal to (i) .25% per annum above the Eurodollar Rate on the

Copyright © 2012 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

amount of such Liquidity Loan for the first ten (10) Business Days during which such Liquidity Loan remains outstanding and (ii) .75% per annum above the Eurodollar Rate on such outstanding amount thereafter; provided, however, that in the case of any Interest Period on or prior to the first day on which the Administrator shall have been notified by the Issuer or other Program Support Provider that the introduction of or any change in or in the interpretation of any law or regulation makes it unlawful, or any central bank or other Governmental Authority asserts that it is unlawful, for the Issuer or such other Program Support Provider to fund any Capital (based on the Eurodollar Rate) as set forth above (and the Issuer or such other Program Support Provider shall not have

subsequently notified the Administrator that such circumstance no longer exit) the "Alternate Rate" for each such Interest Period shall be an interest rate per annum equal to the Base Rate in effect on each day of such Interest Period.

"Assignment" has the meaning set forth in the preamble.

"Attorney Costs" means and includes all fees and disbursements of any law firm or other external counsel, the allocated cost of internal legal services and all disbursements of internal counsel.

"Bankruptcy Code" means the United States Bankruptcy Reform Act of 1978 (11 U.S.C. Section 101, et seq.), as amended from time to time.

Base Rate" means for any day, a fluctuating interest rate per annum as shall be in effect from time to time, which rate shall be at all times equal to the higher of:

(a) the rate of interest in effect for such day as publicly announced from time to time by PNC in Pittsburgh, Pennsylvania as its reference rate," which is a rate set by PNC based upon various factors, including PNC's costs and desired return, general economic conditions and other factors, and is used as a reference point for pricing some loans, which may be priced at, above, or below such announced rate; and

(b) 0.50% per annum above the latest Federal Funds Rate.

"Borrowing" means as the context may require the Liquidity Loans made, or requested to be made, by all Liquidity Lenders on the same Business Day pursuant to the related Borrowing Notice in accordance with Section 2(a).

"Borrowing Notice" has the meaning set forth in Section 2(a).

Copyright © 2012 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

"Business Day" means any day on which (i) banks are not authorized or required to close in New York City or Pittsburgh, Pennsylvania and (ii) if this definition of "Business Day" is utilized in connection with the Eurodollar Rate, dealings are carried out in the London interbank market.

"Capital" means the purchase price paid by the Issuer to the Seller Sub in respect of the Purchased Interest pursuant to the Receivables Purchase Agreement, as reduced from time to time by collections on the Purchased Interest

distributed and applied on account of such Capital; provided, that if such Capital shall have been reduced by any distribution and thereafter all or a portion of such distribution is rescinded or must otherwise be returned for any reason, such Capital shall be increased by the amount of such rescinded or returned distribution, as though it had not been made.

"Collateral Interest" has the meaning set forth in Section 2(b).

"Commercial Paper Account" has the meaning set forth in the Depositary Agreement dated as of December 15, 1995, between the Issuer and PNC, as depositary, as amended, supplemented or otherwise modified and in effect from time to time.

"CP Rate" means, for any fixed period to the extent the Issuer funds Capital for such Fixed Period by issuing Notes, a rate per annum equal to the sum of (i) the rate (or if more than one rate, the weighted average of the rates) at which Notes of the Issuer having a term equal to such Fixed Period and to be issued to fund such Capital may be sold by any placement agent or commercial paper dealer selected by the Administrator on behalf of the Issuer, as agreed between each such agent or dealer and the Administrator; provided, that if the rate (or rates) as agreed between any such agent or dealer and the Administrator with regard to any Fixed Period for such Capital is a discount rate (or rates), then such rate shall be the rate (or if more than one rate, the weighted average of the rates) resulting from converting such discount rate (or rates) to an interest-bearing equivalent rate per annum, plus (ii) the commissions and charges charged by such placement agent or commercial paper dealer with respect to such Notes.

Discount" means (a) with respect to the Issuer's cost of funding the Capital from time to time:

(i) with respect to the Capital for any Fixed Period to the extent such Capital is funded on the first day of such Fixed Period through the issuance of Notes,

Copyright © 2012 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

$$\frac{CPR \times C \times ED}{360}$$; and

(ii) with respect to the Capital for any Fixed Period to the extent such Capital is not funded on the first day of such Fixed Period through the issuance of Notes,

$$\frac{AR \times C \times ED}{360}$$

where:

AR = the Alternate Rate for the Capital for such Fixed Period

C = the Capital during such Fixed Period

CPR = the CP Rate for the Capital for such Fixed Period

ED = the actual number of days during such Fixed Period

and (b) with respect to the interest accruing in respect of the Purchased Interest from time to time, 6% per annum.

provided, that no provision of this Agreement shall require the payment or permit the collection of Discount in excess of the maximum permitted by applicable law; and provided, further, that Discount for the Capital shall not be considered paid by any distribution to the extent that at any time all or a portion of such distribution is rescinded or must otherwise be returned for any reason.

"Downgrade Collateral Account" has the meaning set forth in Section 11(h).

"Eligible Agent" means an Eligible Institution whose short-term debt is rated by each Rating Agency not lower than the respective current ratings assigned by the Rating Agencies to the Notes.

"Eligible Assignee" means any Eligible Institution (i) whose short-term debt is rated by each Rating Agency not lower than the respective current ratings assigned by the Rating Agencies to the Notes or (ii) whose short-term debt is rated lower than the respective current ratings assigned by the Rating Agencies to the Notes, or is unrated,

Copyright © 2012 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

provided, that a written statement is obtained by the Issuer from each of the Rating Agencies that the rating of the Notes will not be downgraded or withdrawn solely as a result of the assignment of rights and obligations under this Agreement to such Eligible Institution.

"Eligible Institution" means a commercial bank having a combined capital and surplus of at least $250,000,000.

"Eurodollar Reserve Percentage" means, for any Fixed Period, the maximum reserve percentage (expressed as a decimal, rounded upward to the nearest 1/100th of 1 %) in effect on the date LIBOR for such Fixed Period is determined under regulations issued from time to time by the Federal Reserve Board for determining the maximum reserve requirement (including any emergency, supplemental or other marginal reserve requirement) with respect to "Eurocurrency" funding (currently referred to as "Eurocurrency liabilities") having a term comparable to such Fixed Period.

"Face Amount" means, (i) with respect to any Notes issued on a discount basis, the face amount of any such Notes, and (ii) with respect to any Notes issued on an interest bearing basis, the principal amount of, plus the amount of all interest accrued and to accrue thereon to the stated maturity date of any such Notes.

"Fixed Period" means, with respect to the Capital:

(a) initially the period commencing on the date of the purchase by the Issuer of the Purchased Interest and ending such number of days later as the Administrator shall select, subject to the approval of the Administrator, up to 180 days after such date; and

(b) thereafter each period commencing on the last day of the immediately preceding Fixed Period and ending such number of days (not to exceed 180 days) as the Administrator shall select, provided, that

(i) any Fixed Period in respect of which Discount is computed by reference to the Alternate Rate shall be a period from one to and including 180 days, or a period of one, two, three or six months;

(ii) any Fixed Period (other than of one day) which would otherwise end on a day which is not a Business Day shall be extended to the next succeeding Business Day; provided, however, if Discount in respect of such Fixed Period is computed by reference to the Eurodollar Rate, and such Fixed Period would otherwise end on a day which is not a Business Day, and there is no subsequent Business Day in the same calendar month as such day, such Fixed

Copyright © 2012 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

Period shall end on the next preceding Business Day;

(iii) in the case of any Fixed Period of one day, (A) if such Fixed Period is the initial Fixed Period,

such Fixed Period shall be the day of purchase of the Purchased Interest; (B) any subsequently occurring Fixed Period which is one day shall, if the immediately preceding Fixed Period is more than one day, be the last day of such immediately preceding Fixed Period, and, if the immediately preceding Fixed Period is one day, be the day next following such immediately preceding Fixed Period; and (C) if such Fixed Period occurs on a day immediately preceding a day which is not a Business Day, such Fixed Period shall be extended to the next succeeding Business Day; and

(iv) in the case of any Fixed Period which commences before the Termination Date and would otherwise end on a date occurring after the Termination Date, such Fixed Period shall end on such Termination Date and the duration of each Fixed Period which commences on or after the Termination Date shall be of such duration as shall be selected by the Administrator.

"Governmental Authority" means any nation or government, any state or other political subdivision thereof any central bank (or similar monetary or regulatory authority) thereof, any body or entity exercising executive, legislative, judicial, regulatory or administrative functions of or pertaining to government, including without limitation any court, and any Person owned or controlled, through stock or capital ownership or otherwise, by any of the foregoing.

"Indemnified Liabilities" has the meaning specified in Section 6(i).

"Insolvency Proceeding" means (a) any case, action or proceeding before any court or other Governmental Authority relating to bankruptcy, reorganization, insolvency, liquidation, receivership, dissolution, winding-up or relief of debtors, or (b) any general assignment for the benefit of creditors of a Person, composition, marshalling of assets for creditors of a Person; or other similar arrangement in respect of its creditors generally or any substantial portion of its creditors; in each of cases (a) and (b) undertaken under U.S. Federal, state or foreign law, including the Bankruptcy Code.

"Interest Period" means, with respect to any Liquidity Loan, the Fixed Period for the Capital being funded or maintained by the Issuer with the proceeds of such Liquidity Loan.

Copyright © 2012 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

"Issuer" has the meaning set forth in the preamble.

"LIBOR" means the rate of interest per annum determined by the Liquidity Agent to be the arithmetic mean (rounded upward to the nearest 1/16th of 1%) of the rates of interest per annum notified to the Liquidity Agent by each Reference Bank as the rate of interest at which dollar deposits in the approximate amount of the Capital associated with such Fixed Period would be offered to major banks in the London interbank market at their request at or about 11:00 a.m. (London time) on the second Business Day prior to the commencement of such Fixed Period.

"Liquidity Agent" has the meaning set forth in the preamble.

"Liquidity Commitment Amount" means- with respect to each Liquidity Lender, the amount set forth below its signature to this Agreement or in the Assignment pursuant to which it became a Liquidity Lender, as such amount may be reduced or terminated pursuant to Section 2(j) or modified in connection with any subsequent Assignment pursuant to Section 9(b) or in connection with a termination of such Liquidity Lender's Liquidity Commitment pursuant to Section 11(h).

"Liquidity Commitment" has the meaning set forth in paragraph (3) of the Preliminary Statements.

"Liquidity Downgrade Draw" has the meaning set forth in Section 11(h).

"Liquidity Funded Percentage" at any time means a percentage representing the portion of the Purchased Interest in which a security interest has been granted to secure Liquidity Loans made by the Liquidity Lenders hereunder. The Liquidity Funded Percentage shall initially be zero, and shall be increased in connection with each Borrowing hereunder by a percentage determined in accordance with Section 2(a), provided that at no time shall the Liquidity Funded Percentage exceed 100%.

"Liquidity Lender" has the meaning set forth in the preamble.

"Liquidity Loans" has the meaning set forth in Section 2(a).

"Liquidity Termination Date" has the meaning set forth in Section 10 hereof.

"Majority Lenders" means at any time Liquidity Lenders whose Percentages aggregate more than 50%.

Copyright © 2012 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

"MSFC" means Market Street Funding Corporation, a Delaware corporation.

"Notes" means the commercial paper notes issued by the Issuer from time to time to finance the Capital, not to exceed a term of 180 days.

"Outstanding Balance" of any Receivable at any time means the then outstanding principal balance thereof.

"Percentage" means, with respect to each Liquidity Lender, the percentage set forth below its signature to this Agreement or in the Assignment pursuant to which it became a Liquidity Lender, as such percentage may be modified in connection with any subsequent Assignment pursuant to Section 9(b).

"Person" means an individual, partnership, corporation (including a business trust), joint stock company, trust, unincorporated association, joint venture, limited liability company or other entity, or a government or any political subdivision or agency thereof.

"Placement Agent" means, at any time, any Person who has agreed to act as a placement agent for the Notes pursuant to a commercial paper placement agreement which is in effect at such time.

"PNC" has the meaning set forth in the preamble.

"Program Support Provider" means the Liquidity Lender.

"Program Support Agreement means and includes the Liquidity Agreement.

"Purchased Interest" means the rights sold and assigned by the Seller Sub to the Issuer under the Receivables Purchase Agreement.

"Purchase Limit" means $79,405,707.00 as reduced from time to time by collections on the Purchased Interest applied as reductions of Capital.

"Rating Agencies" means, collectively, Moody's Investors Service, Inc. and Standard & Poor's Ratings Services, and their respective successors that are nationally recognized rating agencies.

"Receivables Purchase Agreement" has the meaning set forth in paragraph (1) of the Preliminary Statements.

"Register" has the meaning set forth in Section 3(a) hereof.

Copyright © 2012 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

"Requirements of Law" for any Person shall mean the certificate of incorporation or articles of association and by-laws or other organizational or governing documents of such Person, and any law, treaty, rule or regulation, or determination of or settlement with an arbitrator or Governmental Authority, in each case applicable to or binding upon such Person or to which such Person is subject.

"Scheduled Payment Date" means each of July 31, 1997 and July 31, 1998, as set forth in Section 4 of the Settlement Agreement.

"Seller" has the meaning set forth in paragraph (1) of the Preliminary Statements.

"Seller Sub" has the meaning set forth in paragraph (1) of the Preliminary Statements.

"Settlement Agreement" means that certain General Release and Settlement Agreement, dated December 15, 1995, as amended by Amendment No. l to General Release and Settlement Agreement dated November 26, 1996 by and among the Seller, Envirotest Systems Corp., a Delaware corporation, Envirotest Technologies, Inc., a Delaware corporation and the Commonwealth of Pennsylvania including, without limitation, its agency, the Commonwealth of Pennsylvania, Department of Transportation.

"Settlement Receivable Assets" means the right of the Seller or its assigns to receive payment of the outstanding balance of the Base Settlement Amount (as defined in the Settlement Agreement), together with interest thereon accruing from (but excluding) and after the Closing Date (as defined in the Receivables Purchase Agreement) at the rate of six percent (6.00%) per annum, pursuant to Section 4 of the Settlement Agreement. The Settlement Receivable Assets shall not include (i) the sums due on December 31, 1995 and July 31, 1996 under Section 4 of the Settlement Agreement, together with accrued interest through July 31, 1996 on the unpaid balance of the Base Settlement Amount pursuant to Section 4 of the Settlement Agreement, which the Seller has previously received and are no longer outstanding, (ii) accrued interest from and after July 31, 1996 to and including the Closing Date on the unpaid balance of the Base Settlement Amount pursuant to Section 4 of the Settlement Agreement, which shall remain the property of the Seller, or (iii) any Settlement Amount Increase (as defined in the Settlement Agreement) or any other amount (other than the Base Settlement Amount) payable pursuant to the Settlement Agreement, which shall remain property of the Seller.

Copyright © 2012 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

"Withholding Tax" has the meaning set forth in Section 11(g) hereof.

(b) Unless otherwise defined herein, the terms defined in the Receivables Purchase Agreement are used herein as therein defined.

(c) In this Agreement, in the computation of periods of time from a specified date to a later specified date, the word "from" means "from and including" and the words"to" and "until" each means "to but excluding."

2. Making of Liquidity Loans. (a) Each Liquidity Lender agrees, on the terms and conditions of this Agreement, to make loans to the Issuer (relative to each Liquidity Lender, its "Liquidity Loans"), without recourse to the Issuer except as provided herein, in accordance with its respective Percentage, during the period from the Business Day following the effective date of this Agreement to and including the Liquidity Termination Date, in an aggregate principal amount at any one time outstanding up to but not exceeding such Lender's Liquidity Commitment. Subject to the terms and conditions hereof, the Company may borrow, repay and reborrow Liquidity Loans.

The Administrator shall provide notice of each Borrowing (a "Borrowing Notice") to the Liquidity Agent no later than 1:45 P.M. (New York City time) on the Business Day of such Borrowing and shall specify the date of such Borrowing, the aggregate amount of such Borrowing and the calculation of the Collateral Interest in reasonable detail. The Liquidity Agent shall provide notice of such Borrowing no later than 2:30 P.M. (New York City time) on the Business Day of such Borrowing which notice shall be made by telephone calls or by facsimile to all Liquidity Lenders confirmed (if such notice is by telephone calls) in writing sent by facsimile on the same day to all Liquidity Lenders, and shall specify the date of such Borrowing and the aggregate amount of such Borrowing and the calculation of the Collateral Interest as provided by the Administrator. Such notice shall also specify the Fixed Periods and Discount applicable to the Capital (or any applicable Discount) being funded in connection with such Borrowing. Prior to 4:00 P.M. (New York City time) on the date of such Borrowing, each Liquidity Lender shall pay to the Liquidity Agent for the account of the Issuer in immediately available funds in United States dollars, by depositing to an account designated by the Liquidity Agent (and the Liquidity Agent shall transfer such funds to the Commercial Paper Account prior to 4:30 P.M. (New York City time) on such day, to the extent necessary to pay maturing Notes on such day), an amount equal to such Liquidity Lender's Percentage of the amount of such Borrowing, determined as set forth in the following paragraph. If on the date of any payment of the Base Settlement Amount the Company has insufficient funds to pay

Copyright © 2012 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

maturing Notes the Administrator and the Liquidity Agent shall provide Borrowing Notices and the Liquidity Lenders shall advance funds in accordance with the terms hereof. In the event that Moody's Investors Service, Inc. ("Moody's") lowers its long-term or short-term debt rating of the Commonwealth of Pennsylvania below a rating of "P1," or in the event that the Commonwealth of Pennsylvania is on review by Moody's with negative implications, then until such time as such debt rating is at least "PI" and the Commonwealth of Pennsylvania is no longer on review by Moody's with negative implications, (i) the Administrator and the Liquidity Agent shall provide Borrowing Notices to the Liquidity Lenders and the Liquidity Lenders shall advance funds equal to the full amount of the then outstanding Notes into the Issuer Account (established and maintained under that certain Depositary Agreement, dated as of December 15, 1995, as amended from time to time, between the Issuer and PNC, as depositary), and (ii) the Issuer shall cease to issue any Notes.

In connection with each Borrowing, the Liquidity Funded Percentage shall be increased by a percentage determined by the Administrator as the lowest percentage which will result in an aggregate principal amount of new Liquidity Loans (in accordance with the computation set forth below) sufficient to permit the Issuer to fund the Capital to be funded by such Borrowing. The amount of any Borrowing shall equal the lesser of (i) the Capital (and any accrued and unpaid Discount thereon) being funded in connection with such Borrowing, and (ii) the largest amount that would not cause the aggregate unpaid principal amount of all outstanding Liquidity Loans to exceed the aggregate of the Liquidity Commitments of all the Liquidity Lenders.

Notwithstanding the foregoing, a Liquidity Lender shall not be obligated to make any Liquidity Loan:

(i) to the extent that, after giving effect to such Liquidity Loan and the application of all amounts which are received by such Liquidity Lender on or prior to the day of such Liquidity Loan in respect of all Liquidity Loans made by such Liquidity Lender under this Agreement, the aggregate principal amount of its Liquidity Loans then outstanding under this Agreement would exceed such Liquidity Lender's Liquidity Commitment; or

(ii) if, on the date of the funding of such Liquidity Loan, any of the following events shall have occurred: (a) a payment default by the Commonwealth of Pennsylvania under the Settlement Agreement, which remains uncured for 90 days; (b) the Issuer or the Commonwealth of Pennsylvania commences any Insolvency Proceeding with respect to itself; or (c) any involuntary Insolvency Proceeding is commenced or filed against the Issuer, or the Commonwealth of Pennsylvania and any such proceeding or

Copyright © 2012 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

petition shall not be dismissed within 60 days after commencement or filing.

(b) As collateral security for payment in full of the unpaid principal amount of and interest on the Liquidity Loans made or to be made by the Liquidity Lenders hereunder, the Issuer hereby pledges to the Liquidity Agent, for the benefit of the Liquidity Lenders, a first priority security interest in an undivided portion, equal to the Liquidity Funded Percentage in effect from time to time, of all of the Issuer's right, title and interest in (whether now existing and owned by the Issuer or hereafter arising or acquired) the Purchased Interest (the "Collateral Interest").

The Collateral Interest may constitute all or a portion of the Purchased Interest. The Collateral Interest shall include the right to receive (x) a portion of the distributions with respect to Capital and Discount made to the Issuer in connection with the Purchased Interest and (y) certain related payments, as more fully described in Sections 4(c) and 4(f) hereof. The rights of the Liquidity Lenders to receive payment from the Issuer of principal of the Liquidity Loans shall be limited to the Collateral Interest, and, except to the extent of the Collateral Interest, the Liquidity Agent and the Liquidity Lenders shall have no recourse against the Issuer for payment of such amounts. The rights of the Liquidity Lenders to receive payment from the Issuer of interest on the Liquidity Loans shall be limited to such Liquidity Lenders' claims against the Issuer and the Collateral Interest and, except to the extent of the Collateral Interest, the Liquidity Agent and the Liquidity Lender shall have no recourse against the Issuer for payment of such amounts. The Liquidity Agent agrees not to exercise its rights of foreclosure with respect to the Collateral Interest until such time as the Administrator shall have confirmed in writing to the Liquidity Agent that the Issuer is no longer funding or maintaining its interest in the Purchased Interest with outstanding Notes.

(c) Each Liquidity Lender's obligation hereunder shall be several, such that the failure of any Liquidity Lender to make payment to the Liquidity Agent in connection with any Liquidity Loan requested hereunder shall not relieve any other Liquidity Lender of its obligation hereunder to make its Liquidity Loan. Further, in the event any Liquidity Lender fails to satisfy its obligation to make any Liquidity Loan as required hereunder, upon receipt of notice of such failure from the Liquidity Agent (which the Liquidity Agent agrees to provide), subject to the limitations provided in Section 2(a), the non-defaulting Liquidity Lenders shall make Liquidity Loans in an aggregate principal amount equal to the principal amount of the Liquidity Loan that was to be made by such defaulting Liquidity Lender, pro rata in proportion to their relative Percentages (determined

without regard to the Percentage of the defaulting Liquidity Lender).

Copyright © 2012 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

(d) Unless the Liquidity Agent shall have received notice from a Liquidity Loan prior to 3:30 P.M. (New York City time) on the date of any proposed Borrowing, that such Liquidity Lender 'will not make available to the Liquidity Agent the amount of that Liquidity Lender's Percentage of such Borrowing. the Liquidity Agent may assume that each Liquidity Lender has made such amount available to the Liquidity Agent on the date of such Borrowing and the Liquidity Agent may (but shall not be so required), in reliance upon such assumption. make available to the Issuer on such date a corresponding amount. If and to the client any Liquidity Lender shall not have made its full amount available to the Liquidity Agent, and the Liquidity Agent in such circumstances has made available to the Issuer the corresponding amount, that Liquidity Lender shall on the next Business Day following the date of such Borrowing make such amount available to the Liquidity Agent, together with interest M the Federal Funds Rate for each day during such period. A certificate of the Liquidity Agent submitted to any Liquidity Lender with respect to amounts owing under this clause (d) shall be conclusive, absent manifest error. If such amount is so made available, such payment to the Liquidity Agent shall constitute a Liquidity Loan of such Liquidity Lender and, for all purposes of this Agreement, shall deemed to have been made on the date of such Borrowing. If such amount is not made available to the Liquidity Agent on the next Business Day following the date of such Borrowing (including from amounts funded by the non-defaulting Liquidity Lenders pursuant to Section 2(c)), the Liquidity Agent shall notify the Issuer of such failure to fund and, upon demand by the Liquidity Agent, the Issuer shall pay such amount to the Liquidity Agent for the Liquidity Agent's account, together with interest thereon for each day elapsed since the date of such Borrowing, at a rate per annum equal to the Federal Funds Rate.

(e) Each Liquidity Lender's Liquidity Commitment shall be irrevocable and, subject to the limitations provided in Section 2(a), unconditional from the effective date of this Agreement or as set forth in the applicable Assignment, as the case may be, until the earliest of (i) the Liquidity Termination Date, (ii) the date on which the Liquidity Agent notifies the Liquidity Lender that the Receivables Purchase Agreement has been terminated, the Capital has been reduced to zero and the Discount for the Purchased Interest has been paid in full and (iii) the date on which the Liquidity Lender's obligation to make Liquidity Loans is terminated pursuant to Section 11(h).

(f) Within 10 days after the first Borrowing under this Agreement, the Liquidity Agent shall arrange for the filing of Uniform Commercial Code financing statements, in form and substance satisfactory to the Liquidity Agent, in all

jurisdictions that the Liquidity Agent may deem necessary or desirable in order to perfect the security interest of the Liquidity Agent for the benefit of the Liquidity Lenders contemplated by this Agreement. Upon request, the

Copyright © 2012 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

Liquidity Agent shall furnish to any Liquidity Lender copies of such financing statements (at such Liquidity Lender's sole expense).

(g) This is a revolving loan facility. Accordingly, notwithstanding that any Liquidity Lender may have made Liquidity Loans hereunder for an aggregate principal amount up to such Liquidity Lender's Liquidity Commitment, if and to the extent that such Liquidity Lender shall thereafter have received payments in respect of the outstanding principal amount of its Liquidity Loans pursuant to Section 4(a), such Liquidity Lender shall, subject to the limitations provided in Section 2, and the other terms and provisions of this Agreement, be obligated to make additional Liquidity Loans in accordance with the provisions of Section 2(a) until the Liquidity Termination Date in an amount equal at any time to the excess of its Liquidity Commitment Amount over the aggregate unpaid principal amount of all its Liquidity Loans then outstanding.

(h) The Issuer shall pay to the Liquidity Agent for the account of each Liquidity Lender a commitment fee of .10% per annum on 102% of the Face Amount of outstanding Notes issued to finance the Purchased Interest, computed on an annual basis in arrears, on (i) July 31, 1997 for the period from the Closing Date until July 31, 1997 and (ii) each July 31 (or, if such day is not a Business Day, the next subsequent Business Day) thereafter through the term of this Agreement and (iii) on the Liquidity Termination Date based upon the daily utilization since the previous July 31 on which such a payment was made, as calculated by the Liquidity Agent.

(i) The Issuer shall use the proceeds of the Liquidity Loans solely (x) to repay Notes, or to make provision for the payment of unmatured Notes (and any unsecured indebtedness constituting discretionary advances owed by the Issuer to the Administrator incurred to repay Notes), (y) to fund the Purchased Interest, and (z) to repay any advances outstanding under any other liquidity facility which were used for the purposes described in clauses x) and/or (y) of this Section 2(i). Any proceeds of Liquidity Loans that are to be used to repay Notes that have not then matured shall be invested by the Administrator for the account of the Issuer in investments permitted pursuant to the documents governing the Issuer's securitization program.

(j) The Issuer shall have the right, upon not less than one Business Day's notice to the Liquidity Agent (with a copy to the Administrator), to terminate in whole or reduce ratably in part the unused portion of the Liquidity Commitment Amounts; provided, that no such reduction or termination shall be

permitted if, (i) after giving effect thereto and to any prepayments of the Liquidity Loans made on the effective date thereof, the then outstanding principal amount of all Liquidity Loans of all Liquidity Lenders would exceed the aggregate amount of the Liquidity Commitment of all Liquidity Lenders

Copyright © 2012 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

then in effect or (ii) if after giving effect to such reduction or termination the aggregate Liquidity Commitment Amounts of the Liquidity Lenders would be less than the outstanding Capital of the Purchased Interest together with Discount accrued or to accrue thereon during the current Fixed Periods provided that, after giving effect to any such reduction the aggregate of such Liquidity Commitment Amounts hereunder shall at least equal the Purchase Limit multiplied by 1.02. All accrued commitment fees to, but not including, the effective date of any reduction or termination of the Liquidity Commitments, shall be paid on the effective date of such reduction or termination.

(k) Any Lender may, if it so elects, fulfill its obligations to make or continue Liquidity Loans hereunder by causing one of its branches, agencies or Affiliates to make or maintain such Liquidity Loan; provided, however, that such election shall not relieve such Liquidity Lender of its obligation to make and continue Liquidity Loans hereunder; and provided, further, that such Liquidity Loan shall nonetheless be deemed to have been made and to be held by such Liquidity Lender, and the obligation of the Issuer to repay such Liquidity Loan shall nevertheless be to such Liquidity Lender for the account of such branch, agency or Affiliate.

3. Register; Information Regarding Liquidity Lenders.

(a) The Liquidity Agent will maintain, at its address set forth on the signature page hereof, a copy of this Agreement and all counterpart signature pages hereto, each Assignment delivered to and accepted by it, each notice of revision to the allocation of each Liquidity Lender's Liquidity Commitment Amount and a register (the "Register") for the recordation of the names and addresses of the Liquidity Lenders, their respective Percentages and effective dates, and the Liquidity Termination Date, and the aggregate outstanding Capital ended by Liquidity Loans and the aggregate unpaid principal amount of the Liquidity Loans of each Liquidity Lender from time to time outstanding. The entries in the Register shall be conclusive and binding for all purposes absent manifest error, and the Liquidity Agent, the Issuer, the Administrator and the Liquidity Lenders may treat each Person whose name is recorded in the Register as a Liquidity Lender hereunder for all purposes of this Agreement. The Register shall be available for inspection by the Administrator or any Liquidity Lender at any reasonable time and from time to time upon reasonable prior notice.

(b) Each Liquidity Lender acknowledges that, in connection with the sale of the Notes, certain documents containing information relating to the Liquidity Lenders may be prepared and distributed to purchasers or prospective purchasers of the Notes. To provide the basis for the preparation of such documents and to assist the Placement Agents in their normal credit review procedures, each Liquidity Lender agrees to provide the Administrator and the Liquidity Agent (and through the Administrator, the Placement Agents)

Copyright © 2012 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

with the following documents, promptly upon request therefor by the Administrator: (i) such Liquidity Lender's quarterly and fiscal-year-end financial statements for its last three years, and (ii) such Liquidity Lender's publicly available quarterly and fiscal-year-end financial statements for any fiscal year ending during the term of this Agreement. In addition, each Liquidity Lender agrees to provide to the Administrator and Liquidity Agent any other information that the Administrator or Liquidity Agent reasonably requests for the purpose of the ongoing review of the Issuer and such Liquidity Lender.

4. Distribution of Payments.

(a) The Issuer shall repay the principal amount of each Loan from distributions of amounts received in respect of the Capital in accordance with Section 4(c). The Issuer shall also pay interest on the principal amount of each Liquidity Loan from time to time outstanding, at the Alternate Rate on the principal amount of such Liquidity Loan. The Issuer shall repay all the Liquidity Loans and accrued interest thereon on July 31, 1998 or such later date on which the Purchase Limit is reduced to zero; provided, however, that recourse for repayment of such amounts shall be limited to the Collateral Interest.

(b) The Issuer may on any Business Day prepay the outstanding principal amount of any or all of the Loans in whole or ratably in part, together with accrued interest to the date of such prepayment on the principal amount prepaid and all other payments payable in respect thereof pursuant to this Agreement.

(c) Whenever any payment in respect of Capital or Discount is remitted to the Issuer in connection with the Purchased Interest (including payments made by the Seller on account of deemed collections, which will include any indemnity payments made by the Seller to the Liquidity Agent the Issuer or MSFC pursuant to Article VIII of the Receivables Sale Agreement with respect to any amounts set-off by the Commonwealth against the Settlement Receivable Assets) at any time when any portion of the principal amount of or accrued interest on any Liquidity Loans hereunder remains unpaid, (1) the Administrator shall promptly pay, or cause to be paid, to the Liquidity Agent an amount equal to the sum of (i) the lesser of (x) the amount of such payment in respect of Capital times the Liquidity Funded

Percentage, expressed as a decimal, and (y) the aggregate unpaid principal amount of Liquidity Loans hereunder, plus (ii) the lesser of (x) the portion of such payment representing the Discount on the Capital funded by Liquidity Loans and (y) the amount of accrued interest on the Liquidity Loans, and (2) the Liquidity Agent shall promptly pay, or cause to be paid, out of such funds received by it, to each Liquidity Lender its Percentage of such amount; provided, however, that each Liquidity Lender shall be entitled to interest

Copyright © 2012 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

only from payments in respect of Discount which accrued from and after the date it made a Liquidity Loan relating to such Purchased Interest or if any Discount was included in the amount of such Liquidity Loan.

(d) If, after the Liquidity Agent has paid a Liquidity Lender its Percentage of any such amount pursuant to subsection (a) above, all or any portion of such amount must be returned for any reason (including any Insolvency Proceeding), such Liquidity Lender will repay to the Liquidity Agent promptly the amount the Liquidity Agent paid to such Liquidity Lender and required to be returned, together with such Liquidity Lender's Percentage of any related interest and penalties required to be paid by the Liquidity Agent in connection with such repayment.

(e) After the outstanding principal amount of all Liquidity Loans and accrued interest thereon and all other amounts owing hereunder to the Liquidity Lender has been paid to the Liquidity Lenders (excluding any repayment referred to in subsection (d) above), each Liquidity Lender acknowledges and agrees that any remaining amounts paid in respect of Capital or Discount shall be paid to or retained by the Issuer for its own account.

(f) (i) If the Liquidity Agent or any Liquidity Lender shall have determined that the adoption or the implementation of, or any change in, any applicable law, rule, treaty, regulation, policy, guideline, request or directive, or any change in the interpretation or administration thereof by any governmental authority charged with the interpretation or administration thereof (whether or not having the force of law and whether or not the failure to comply therewith would be unlawful) occurring after the date hereof, or the compliance by the Liquidity Agent or any Liquidity Lender (or any lending office of the Liquidity Agent or any Liquidity Lender) with any request or directive of any such Governmental Authority (whether or not having the force of law and whether or not the failure to comply therewith would be unlawful), or the implementation of any change in any accounting principles applicable to the Liquidity Agent or any Liquidity Lender required by any governmental authority, shall (i) change the basis of taxation of payment to the Liquidity Agent or any Liquidity Lender of any amounts payable to the Liquidity Agent or any Liquidity Lender hereunder, (ii) impose, modify or deem applicable any reserve, special deposit or similar

requirement against assets of or held by, deposits with or for the account of, credit extended by, or commitments made by, the Liquidity Agent or any Liquidity Lender in connection with payments by the Liquidity Agent or any Liquidity Lender hereunder, or (iii) impose on the Liquidity Agent or any Liquidity Lender any other condition regarding this Agreement, and the result of any event referred to in clause (i), (ii) or (iii) above shall be to increase the cost to the Liquidity Agent or any Liquidity Lender of making any payment or maintaining its commitments hereunder, or to reduce the amount of any sum received or receivable by the Liquidity Agent or any Liquidity Lender hereunder (whether of principal, interest or otherwise) in respect

Copyright © 2012 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

thereof, by an amount deemed by the Liquidity Agent to be material (which increase in cost or reduction in amount shall be determined by the Liquidity Agent's reasonable allocation of the aggregate of such increased costs or reductions in amount resulting from such events), then and in any such case, (x) the Liquidity Agent shall promptly notify the Seller in writing of the happening of such event; (y) the Liquidity Agent shall promptly deliver to the Seller a certificate stating the event which has occurred or the reserve requirements or other conditions which have been imposed on the Liquidity Agent or any Liquidity Lender, together with the date thereof, the amount of such increased costs or reductions, and the way in which such amount has been calculated; and (z) the Seller shall pay to the Liquidity Agent and each Liquidity Lender, within 15 days after delivery of the certificate referred to in clause (y) above, such amount or amounts as will compensate the Liquidity Agent and each Liquidity Lender for such increased costs or reductions in amount.

(ii) If the Liquidity Agent shall have determined (through its own means or through notice received by it from a Liquidity Lender) that the adoption of any capital guideline, or any change in any applicable capital guideline, or any change in the interpretation or administration of any capital guideline by any governmental authority charged with the interpretation or administration thereof (whether or not having the force of law and whether or not the failure to comply therewith would be unlawful) occurring after the date hereof, or the compliance by the Liquidity Agent or any Liquidity Lender (or any lending office of the Liquidity Agent or any Liquidity Lender) with any request or directive (whether or not having the force of law and whether or not the failure to comply therewith would be unlawful) of any such Governmental Authority, or with any capital guideline, or the implementation of any change in any accounting principles applicable to the Liquidity Agent or any Liquidity Lender required by generally accepted accounting principles, or by any governmental authority, either (i) increases the amount of capital required to be maintained by the Liquidity Agent or any Liquidity Lender as a direct or indirect consequence of its commitments hereunder, or (ii) reduces the rate of return on the

Liquidity Agent's or any Liquidity Lender's capital as a direct or indirect consequence of its commitments hereunder at a level below that which the Liquidity Agent or such Liquidity Lender could have achieved but for such capital guideline, implementation, change or compliance (taking into consideration the Liquidity Agent's and each such Liquidity Lender's policies with respect to capital adequacy), by an amount deemed by the Liquidity Agent or such Liquidity Lender to be material, then and in any such case, (x) the Liquidity Agent shall promptly notify the Seller in writing of the happening of such event; (y) the Liquidity Agent shall promptly deliver to the Seller a certificate stating the event which has occurred, together with the date thereof, the amount of such increased capital or reduction in the rate of return on the Liquidity Agent's and each such Liquidity Lender's capital, and the way in which such amount has been calculated: and (z) the Seller shall

Copyright © 2012 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

pay to the Liquidity Agent, within 15 days after delivery of the certificate referred to in clause (y) above, such amount or amounts as will compensate the Liquidity Agent and each such Liquidity Lender for the cost of maintaining such increased capital or reduction in the rate of return on the Liquidity Agent's and each such Liquidity Lender's capital.

(iii) All payments under this paragraph (f) shall bear interest thereon at the Base Rate for each day after such payments fall due in accordance with the provisions hereof until payment in full. A certificate delivered by the Liquidity Agent as to the additional amounts payable pursuant to this paragraph (f) shall, in the absence of manifest error, be conclusive evidence of the amount thereof.

The Liquidity Agent and each Liquidity Lender shall also, to the extent related to the portion of the Collateral Interest securing such Liquidity Lender's Liquidity Loans, be entitled to the costs and expenses of the enforcement of the Seller's obligations hereunder.

(g) If any Liquidity Lender shall obtain any payment (whether voluntary, involuntary, through the exercise of any right of set-off, or otherwise) on account of the Liquidity Loans made by it (other than any payment of a type described in subsection (f) above and any repayment in accordance with Section 10(b) of Liquidity Loans made by a non-renewing Liquidity Lender pursuant to such Section 10(b)) in excess of its ratable share of payments on account of the Liquidity Loans obtained by all the Liquidity Lenders, such Liquidity Lender shall forthwith (i) notify the Liquidity Agent (who shall promptly thereafter notify each of the other Liquidity Lenders) of such receipt and (ii) purchase from the other Liquidity Lenders, such participation in Liquidity Loans made by them as shall be necessary to cause such purchasing Liquidity Lender to share the excess payment ratably with each of them; provided, however, that, if all or any portion

of such excess payment is thereafter recovered from such purchasing Liquidity Lender, such purchase from each Liquidity Lender shall be rescinded and such Liquidity Lender shall repay to the purchasing Liquidity Lender the purchase price to the extent of such recovery together with an amount equal to such Liquidity Lender's ratable share (according to the proportion of (i) the amount of such Liquidity Lender's required repayment to (ii) the total amount so recovered from the purchasing Liquidity Lender) of any interest or other amount paid or payable by the purchasing Liquidity Lender in respect of the total amount so recovered. The Issuer agrees that any Liquidity Lender so purchasing a participation from another Liquidity Lender pursuant to this Section 4(g) may, to the fullest extent permitted by law, exercise all its rights of payment (including the right of set-off) with respect to such participation as fully as if such Liquidity Lender were the direct creditor of the Issuer in the amount of such participation.

Copyright © 2012 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

5. Representations and Warranties. (a) None of the Liquidity Agent, the Administrator or the Issuer makes any representation or warranty or assumes any responsibility with respect to:

(i) any statements, warranties or representations made in or in connection with the Receivables Purchase Agreement or the execution, legality, validity, enforceability, genuineness or sufficiency of the Receivables Purchase Agreement or any instrument or document furnished pursuant thereto;

(ii) the value or collectibility of the Purchased Interest;

(iii) the financial condition of the Seller Sub or the ability of the Seller Sub to perform its obligations under, or the performance or observance by the Seller Sub of any of its obligations under, the Receivables Purchase Agreement or any instrument or document furnished pursuant thereto; or

(iv) the financial condition of the Seller or the ability of the Seller to perform its obligations under the Receivables Sale Agreement or any instrument or document furnished pursuant thereto.

(b) The Issuer represents and warrants that:

(i) the Issuer is a corporation duly incorporated, validly existing and in good standing under the laws of the State of Delaware, and is duly qualified to do business and is in good standing in every jurisdiction where the nature of its business requires it to be so qualified, except where

the failure to so qualify would not have a material adverse effect on its business, condition or operations;

(ii) the execution, delivery and performance by the Issuer of this Agreement are within the Issuer's corporate powers, have been duly authorized by all necessary corporate action, and do not contravene (A) the Issuer's charter or by-laws, (B) any law, rule or regulation applicable to the Issuer, (C) any contractual restriction binding on the Issuer or its property or, to the best knowledge of the Issuer, affecting the Issuer or its property or (D) any order, writ, judgment award, injunction or decree binding on the Issuer or its property or, to the best knowledge of the Issuer, affecting the Issuer or its property;

(iii) there is no pending or, to the best knowledge of the Issuer, threatened action or proceeding affecting the Issuer before any court, governmental agency or arbitrator which may materially adversely affect the financial condition or operations of the Issuer or the ability of the Issuer to perform its obligations under this Agreement,

Copyright © 2012 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

or which purports to affect the legality, validity or enforceability of this Agreement;

(iv) no consent of any other Person (including, without limitation, stockholders or creditors of the Issuer), and no consent, license, permit, approval or authorization of, exemption by, notice or report to, or registration, filing or declaration with any governmental authority, is required in connection with the execution, delivery, performance, validity or enforceability of this Agreement by or against the Issuer, except for the filing of Uniform Commercial Code financing statements as contemplated by Section 2(f);

(v) this Agreement has been duly executed and delivered on behalf of the Issuer; and

(vi) this Agreement constitutes a legal, valid and binding obligation of the Issuer enforceable against the Issuer in accordance with its terms, except as enforceability may be limited by applicable bankruptcy, insolvency, reorganization, moratorium or similar laws affecting the enforcement of creditors' rights generally or by general principles of equity.

(c) Each Liquidity Lender represents and warrants that:

(i) it is an Eligible Institution duly incorporated or organized, validly existing and in good

standing under the laws of its jurisdiction of incorporation or organization;

(ii) the execution, delivery and performance by it of this Agreement are within its corporate powers, have been duly authorized by all necessary corporate action, and do not contravene (A) its charter, by-laws, or other organizational documents, or (B) any law, rule or regulation applicable to it (including, without limitation, any such law, rule or regulation regarding per-customer lending limits);

(iii) no consent, license, permit, approval or authorization of, or registration, filing or declaration with any governmental authority, is required in connection with the execution, delivery, performance, validity or enforceability of this Agreement by or against it;

(iv) this Agreement has been duly executed and delivered by it; and

(v) this Agreement constitutes its legal, valid and binding obligation, enforceable against it in accordance with its terms, except

Copyright © 2012 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

as enforceability may be limited by applicable bankruptcy, insolvency, receivership, reorganization, moratorium or similar laws affecting the enforcement of creditors' rights generally or by general principles of equity.

(d) Each Liquidity Lender confirms that such Liquidity Lender has received such documents and information as such Liquidity Lender has deemed appropriate to make its own credit analysis and decision independently and without reliance on the Liquidity Agent, the Administrator or the Issuer, to enter into this Agreement and will, independently and without reliance on PNC, the Liquidity Agent, the Administrator or the Issuer and based on such documents and information as such Liquidity Lender shall deem appropriate at the time, continue to make its own credit decisions in taking or not taking action hereunder. The Administrator shall furnish to the Liquidity Agent, and the Liquidity Agent shall thereafter furnish to each Liquidity Lender, copies of any financial or other documents that the Administrator receives from time to time in connection with the Receivables Purchase Agreement, but neither the Administrator nor the Liquidity Agent assumes any responsibility for the authenticity, validity, accuracy or completeness thereof.

6. The Liquidity Agent and the Administrator. (a) Each Liquidity Lender hereby irrevocably appoints, designates and authorizes the Liquidity Agent to take such action on its behalf under the provisions of this Agreement and the Receivables Purchase Agreement and to exercise such powers and perform such

duties as are expressly delegated to it by the terms of this Agreement or the Receivables Purchase Agreement, together with such powers as are reasonably incidental thereto. Notwithstanding any provision to the contrary contained elsewhere in this Agreement or in the Receivables Purchase Agreement, the Liquidity Agent shall not have any duties or responsibilities, except those expressly set forth herein, nor shall the Liquidity Agent have or be deemed to have any fiduciary relationship with any Liquidity Lender, and no implied covenants, functions, responsibilities, duties, obligations or liabilities shall be read into this Agreement or the Receivables Purchase Agreement or otherwise exist against the Liquidity Agent.

(b) The Liquidity Agent may execute any of its duties under this Agreement or the Receivables Purchase Agreement by or through agents, employees or attorneys-in-fact and shall be entitled to advice of counsel concerning all matters pertaining to such duties. The Liquidity Agent shall not be responsible for the negligence or misconduct of any agent or attorney-in-fact that it selects with reasonable care.

(c) None of the Liquidity Agent, the Administrator or any of their respective Affiliates or any of the officers, directors, employees, agents or attorneys-in-fact of the Liquidity Agent, the Administrator or any of their respective Affiliates (each, an "Agent-Related Person") shall (i) be liable

Copyright © 2012 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

for any action taken or omitted to be taken by any of them under or in connection with this Agreement or the Receivables Purchase Agreement or the transactions contemplated hereby or thereby (except for its own gross negligence or willful misconduct), or (ii) be responsible in any manner to any of the Liquidity Lenders for any recital, statement, representation or warranty made by the Issuer or any Affiliate of the Issuer, or any officer thereof, contained in this Agreement or in the Receivable Purchase Agreement, or in any certificate, report, statement or other document referred to or provided for in, or received by the Liquidity Agent or the Administrator under or in connection with, this Agreement or the Receivables Purchase Agreement, or for the value of or title to the Purchased Interest, or the validity, effectiveness, genuineness, enforceability or sufficiency of this Agreement or the Receivables Purchase Agreement, or for any failure of the Issuer or any other party to the Receivables Purchase Agreement to perform its obligations hereunder or thereunder. No Agent-Related Person shall be under any obligation to any Liquidity Lender to ascertain or to inquire as to the observance or performance of any of the agreements contained -in, or conditions of, this Agreement or the Receivables Purchase Agreement, or to inspect the properties, books or records of the Issuer or any of the Issuer's Affiliates.

(d) The Liquidity Agent shall be entitled to rely, and shall be fully protected in relying, upon any writing, resolution, notice, consent, certificate, affidavit, letter, telegram, facsimile, telex or telephone message, statement or other document or conversation believed by it to be genuine and correct and to have been signed, sent or made by the proper Person or Persons, and upon advice and statements of legal counsel (including counsel to the Issuer), independent accountants and other experts selected by the Liquidity Agent. The Liquidity Agent shall be fully justified in failing or refusing to take any action under this Agreement or the Receivables Purchase Agreement, unless it shall first receive such advice or concurrence of the Majority Lenders as it deems appropriate and, if it so requests, it shall first be indemnified to its satisfaction by the Liquidity Lenders against any and all liability and expense which may be incurred by it by reason of taking or continuing to take any such action. The Liquidity Agent shall in all cases be fully protected in acting, or in refraining from acting, under this Agreement or the Receivables Purchase Agreement in accordance with a request or consent of the Majority Lenders and such request and any action taken or failure to act pursuant thereto shall be binding upon all of the Liquidity Lenders.

(e) The Liquidity Agent shall not be deemed to have knowledge or notice of the occurrence of any Termination Event, unless the Liquidity Agent shall have received written notice from a Liquidity Lender or the Issuer referring to this Agreement, describing such Termination Event and stating that such notice is a "Notice of Termination Event."

Copyright © 2012 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

(f) Each Liquidity Lender acknowledges that none of the Agent-Related Persons has made any representation or warranty to it, and that no act by the Liquidity Agent hereinafter taken, including any review of the affairs of the Issuer, shall be deemed to constitute any representation or warranty by any Agent-Related Person to any Liquidity Lender. Each Liquidity Lender represents to the Liquidity Agent that it has, independently and without reliance upon any Agent-Related Person and based on such documents and information as it has deemed appropriate, made its own appraisal of and investigation into the business, prospects, operations, property, financial and other condition and credit-worthiness of the Issuer, the value of and title to the Purchased Interest, and all applicable bank regulatory laws relating to the transactions contemplated hereby, and made its own decision to enter into this Agreement and to extend its Liquidity Commitment to the Issuer hereunder. Each Liquidity Lender also represents that it will, independently and without reliance upon any Agent-Related Person and based on such documents and information as it shall deem appropriate at the time, continue to make its own credit analysis, appraisals and decisions in taking or not taking action under this Agreement and to make such investigations as it

deems necessary to inform itself as to the business, prospects, operations, property, financial and other condition and creditworthiness of the Issuer. Except for notices, reports and other documents expressly herein required to be furnished to the Liquidity Lenders by the Liquidity Agent, the Liquidity Agent shall not have any duty or responsibility to provide any Liquidity Lender with any credit or other information concerning the business, prospects, operations, property, financial and other condition or creditworthiness of the Issuer which may come into the possession of any of the Agent-Related Persons.

(g) None of the Liquidity Agent, the Administrator or the Issuer shall be liable to any Liquidity Lender in connection with (x) the administration of the Receivables Purchase Agreement or (y) this Agreement or any Borrowings hereunder (except in the case of the Issuer, pursuant to the Issuer's representations in Section 5(b) hereof)), in either case, except for its own gross negligence or willful misconduct. Without limiting the foregoing, the Liquidity Agent, the Administrator and the Issuer:

(i) may consult with legal counsel (including counsel for the Seller), independent public accountants or other experts and shall not be liable for any action taken or omitted to be taken in good faith in accordance with the advice of such counsel, accountants or other experts:

(ii) shall not be responsible for the performance or observance by the Seller Sub of any of the terms, covenants or conditions of the Receivables Purchase Agreement or any instrument or document furnished pursuant thereto;

Copyright © 2012 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

(iii) shall incur no liability by acting upon any notice, consent, certificate or other instrument or writing, or any other communication believed to be genuine and signed, sent or made by the proper party; and

(iv) shall not be deemed to be acting as any Liquidity Lender's trustee or otherwise in a fiduciary capacity hereunder or under or in connection with the Receivables Purchase Agreement or the Purchased Interest.

(h) The Liquidity Agent shall be fully justified in failing or refusing to take any action that is discretionary under this Agreement, the Receivables Purchase Agreement or any other agreement related thereto unless it shall first receive such advice or concurrence of the Majority Liquidity Lenders as it deems appropriate and, if it so requests, it shall first be indemnified to its satisfaction by the Liquidity Lenders against any and all liability and expense which may be incurred by it by reason of taking or continuing to take any such action. The Liquidity Agent shall in all cases be fully protected in acting,

or in refraining from acting, under this Agreement, the Receivables Purchase Agreement or any other agreement in accordance with a request or consent of the Majority Lenders and such request and any action taken or failure to act pursuant thereto shall be binding upon all of the Liquidity Lenders.

(i) Whether or not the transactions contemplated hereby shall be consummated, the Liquidity Lenders shall indemnify upon demand the Agent-Related Persons ratably from and against any and all liabilities, obligations, losses, damages, penalties, actions, judgments, suits, costs, charges, expenses and disbursements (including Attorney Costs) of any kind or nature whatsoever with respect to the execution, delivery, enforcement, performance and administration of this Agreement, the Receivables Purchase Agreement or any document contemplated by or referred to herein or therein or the transactions contemplated hereby or thereby, and with respect to any investigation, litigation or proceeding (including any insolvency proceeding or appellate proceeding) related to this Agreement, the borrowing of Liquidity Loans or the use of the proceeds thereof, whether or not any Agent-Related Person is a party thereto (all of the foregoing, collectively, the "Indemnified Liabilities"); provided, however, that no Liquidity Lender shall be liable for the payment to the Agent-Related Persons of any portion of such Indemnified Liabilities resulting solely from such Person's gross negligence or willful misconduct. Without limitation of the foregoing, each Liquidity Lender shall reimburse the Liquidity Agent upon demand for its ratable share of any costs or out-of-pocket expenses (including Attorney Costs) incurred by the Liquidity Agent in connection with the preparation, execution, delivery, administration, modification,

Copyright © 2012 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

amendment or enforcement (whether through negotiations, legal proceedings or otherwise) of, or legal advice in respect of rights or responsibilities under, this Agreement, the Receivables Purchase Agreement or any document contemplated by or referred to herein to the extent that the Liquidity Agent is not reimbursed for such expenses by or on behalf of the Issuer. The agreements in this subsection (i) shall survive termination of this Agreement, the repayment of all Liquidity Loans and payment of all other obligations hereunder.

(j) PNC and its Affiliates may make loans to, issue letters of credit for the account of, accept deposits from, acquire equity interests in and generally engage in any kind of banking, trust, financial advisory, underwriting or other business with the Issuer, the Seller, the Seller Sub and their respective Affiliates as though PNC were not the Liquidity Agent hereunder and without notice to or consent of the Liquidity Lenders. The Liquidity Lenders

acknowledge that, pursuant to such activities, PNC or its Affiliates may receive information regarding the Issuer, the Seller, the Seller Sub or their respective Affiliates (including information that may be subject to confidentiality obligations in favor of the Issuer, the Seller, the Seller Sub or such Affiliate) and acknowledge that the Liquidity Agent shall be under no obligation to provide such information to them. With respect to its purchases, PNC shall have the same rights and powers under this Agreement as any other Liquidity Lender and may exercise the same as though it were not the Liquidity Agent, and the terms "Liquidity Lender" and "Liquidity Lenders" include PNC in its individual capacity.

(k) The Liquidity Agent may resign at any time by giving 30 days' prior written notice thereof to the Liquidity Lenders, the Administrator and the Issuer. The Liquidity Agent may be removed at any time by the affirmative vote of the Majority Lenders upon 30 days' prior written notice thereof to the Liquidity Agent, the Administrator and the Issuer if the Liquidity Agent shall have engaged in willful misconduct or shall have been grossly negligent in the performance of its duties as Liquidity Agent. Such resignation or removal shall become effective upon the acceptance of appointment by a successor Liquidity Agent as set forth below. The Majority Lenders shall have the right to appoint a successor Liquidity Agent, which shall be an Eligible Agent; provided, that the Issuer shall have the right to approve the successor Liquidity Agent, such approval not to be unreasonably withheld. If no successor Liquidity Agent shall have been so appointed by the Majority Lenders and approved by the Issuer, and shall have accepted such appointment, within 30 days after the prior Liquidity Agent's giving of notice of resignation or the Majority Liquidity Lenders' removal of the prior Liquidity Agent, then the prior Liquidity Agent may, on behalf of the Liquidity Lenders, appoint a successor Liquidity Agent, which shall be

Copyright © 2012 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

an Eligible Agent. In the event the Liquidity Agent ceases to be an Eligible Agent, the Administrator shall appoint an Eligible Agent to succeed such existing Liquidity Agent. Upon the acceptance of any appointment as Liquidity Agent hereunder by a successor Liquidity Agent, such successor Liquidity Agent shall thereupon succeed to and become vested with all the rights, powers, privileges and duties of the prior Liquidity Agent, and the prior Liquidity Agent shall be discharged from its duties and obligations under this Agreement. After any Liquidity Agent's resignation or removal hereunder as Liquidity Agent, the provisions of this Section 6 and Section 11 shall inure to its benefit as to any actions taken or omitted to be taken by it while it was Liquidity Agent under this Agreement. If no successor agent has

accepted appointment as Liquidity Agent by the date which is 30 days following a retiring Liquidity Agent's notice of resignation, the retiring Liquidity Agent's resignation shall nevertheless thereupon become effective and the Liquidity Lenders shall perform all of the duties of the Liquidity Agent hereunder until such time, if any, as the Majority Liquidity Lenders appoint a successor agent as provided for above. The Issuer (or the Administrator on its behalf) shall promptly notify each Rating Agency and the Placement Agents of its receipt of any such notice from the Majority Lenders or the Liquidity Agent with respect to such resignation or removal of the Liquidity Agent.

7. Rights of the Issuer and the Administrator. The Issuer (or the Administrator on behalf of the Issuer) shall retain the exclusive right, in its sole discretion (subject to the next sentence) to exercise any rights and remedies available under the Receivables Purchase Agreement or pursuant to applicable law, including the right to approve any amendment, modification or waiver of the Receivables Purchase Agreement or any instrument or document delivered pursuant thereto. Notwithstanding the foregoing, the Issuer agrees that it shall not (and the Administrator agrees that it shall not, on behalf of the Issuer) without the prior written consent of all Liquidity Lenders, amend, modify or waive any provision of the Receivables Purchase Agreement which would:

(i) reduce the amount of Capital or Discount that is payable on account of the Purchased Interest or delay any scheduled date for payment thereof; or

(ii) modify any yield protection or indemnity provision which expressly inures to the benefit of assignees or participants of the Issuer.

The Issuer (or the Administrator on behalf of the Issuer) agrees to provide to the Liquidity Agent and the Liquidity Agent agrees to provide to the Liquidity Lenders notice of any amendment of or waiver or consent in connection with the Receivables Purchase Agreement promptly after the

Copyright © 2012 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

effectiveness of the same.

8. Obligations of the Liquidity Lenders, Including Confidentiality. Each Liquidity Lender agrees to abide by any obligations set forth in the Receivables Purchase Agreement on the part of an owner of the Purchased Interest, including without limitation any obligations to maintain confidentiality. Furthermore, each Liquidity Lender understands that the Receivables Purchase Agreement itself is a confidential document and such Liquidity Lender agrees that it will not disclose it to any other Person except (a) with the Administrator's prior written consent, (b) to such Liquidity Lender's legal counsel or

auditors if such counsel or auditors agree to hold it confidential, (c) to any regulatory authority having jurisdiction over such Liquidity Lender or (d) as required by law or any court of law in connection with any litigation. Notwithstanding the foregoing, any Liquidity Lender may, in connection with any assignment or proposed assignment pursuant to Section 9 hereof, disclose to the assignee or proposed assignee the Receivables Purchase Agreement or any information relating to the Seller furnished to such Liquidity Lender by or on behalf of the Seller or by the Liquidity Agent or the Administrator; provided, that prior to any such disclosure, the assignee or proposed assignee agrees to preserve the confidentiality of any confidential information (including the Receivables Purchase Agreement) relating to the Seller Sub or the Receivables Purchase Agreement received by it from any of the foregoing entities. The agreements in this Section 8 shall survive termination of the Agreement and payment of all obligations hereunder.

9. Assignability and Purchase Limit. (a) A Person (other than PNC) shall become a party hereto and shall become a Liquidity Lender hereunder upon satisfaction of the conditions set forth in Section 9(b), acceptance and recording of an Assignment by the Liquidity Agent in the Register and the occurrence of the effective date of such Liquidity Commitment (as set forth in such Assignment) and subject to the approval of such Liquidity Lender by the Liquidity Agent and, if required by the Receivables Purchase Agreement, the Seller.

(b) Each Liquidity Lender may assign to any Eligible Assignee all or a portion of its rights and obligations under this Agreement: provided, however, that:

(i) each such assignment shall be of a constant, and not a varying, percentage of the aggregate rights and obligations of the assigning Liquidity Lender under this Agreement (including, without limitation, its Liquidity Commitment and Liquidity Loans),

(ii) the amount of the assigning Liquidity Commitment being assigned pursuant to such assignment shall in no event be less than $20,000,000.00 and shall be in an integral multiple of $10,000,000.00,

Copyright © 2012 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

and, unless such assigning Liquidity Lender is assigning its entire Liquidity Commitment, such assigning Liquidity Lender's retained Liquidity Commitment after giving effect to such assignment shall in no event be less than $20,000,000.00,

(iii) the parties to each such assignment shall execute and deliver an Assignment to the Liquidity Agent, for its acceptance and recording in the Register, and

(iv) the assignee shall deliver to the Liquidity Agent (A) not later than the effective date specified in the Assignment, an enforceability opinion of counsel for such assignee, addressed to the Liquidity Agent, the Administrator, the Issuer and each Rating Agency (and a copy of which may be given to each Placement Agent), in form and substance reasonably satisfactory to such addressees (and the Liquidity Agent shall promptly deliver copies of the same to each of such addressees), and (B) at least five days prior to the effective date specified in the applicable Assignment, the information and financial statements, if any, regarding such assignee described in Section 3(b)(i) hereof and requested to be delivered by the Administrator.

Upon such execution, delivery, acceptance and recording, from and after the effective date specified in the Assignment, (x) the assignee thereunder shall be a party hereto and, to the extent that rights and obligations hereunder have been assigned to it pursuant to this Agreement, have the rights and obligations of a Liquidity Lender hereunder and (y) the Liquidity Lender which is the assignor thereunder shall, to the extent that rights and obligations hereunder have been assigned by it pursuant to this Agreement, relinquish its rights (other than the right to receive payments which accrued in favor of such Liquidity Lender pursuant to Section 4(d) hereof prior to such assignment) and be released from its obligations under this Agreement (and, if such Assignment provides for an assignment of all such assigning Liquidity Lender's Liquidity Commitment, such Liquidity Lender shall cease to be a party hereto).

(c) Upon receipt by the Liquidity Agent of an Assignment executed by an assigning Liquidity Lender and by an assignee who is an Eligible Assignee and the satisfaction of the other conditions set forth in Sections 9(a) and (Lb, the Liquidity Agent shall (i) accept such Assignment, (ii) record the information contained therein in the Register and (iii) give prompt notice thereof to the Administrator, the Issuer, the Seller and each Rating Agency. The assigning Liquidity Lender shall pay to the Liquidity Agent an assigning fee equal to $2,500 for each assignment hereunder.

(d) The Liquidity Agent, the Administrator and the Liquidity Lenders acknowledge and agree that the Issuer shall be entitled to assign its

Copyright © 2012 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

rights, title, interests and obligations under this Agreement to MSFC. All references to the Issuer in this Agreement shall be deemed to include such assignee to the extent of such assignment.

(e) If the Purchase Limit shall be reduced, the Percentage of each Liquidity Lender shall remain the same and each Liquidity Lender's Liquidity Commitment Amount shall be deemed to be proportionately reduced; provided, however, that no

such reduction shall be effective unless and until such time as the outstanding Capital of the Purchased Interest together with Discount accrued and to accrue thereon during the current Fixed Periods are less than or equal to the aggregate of the Liquidity Commitment Amounts of all Liquidity Lenders as so reduced.

10. Liquidity Termination Date: Extension of Liquidity Termination Date. (a) Subject to earlier termination of a Liquidity Commitment pursuant to Section 2(e) or Section 11(h) hereof, the Liquidity Lenders' Liquidity Commitments under this Agreement shall expire at the close of business on November _____, 1997 (such date being the "Liquidity Termination Date"). If at any time the Issuer requests that the Liquidity Lenders renew their Liquidity Commitments hereunder and less than all the Liquidity Lenders consent to such renewal within 30 days of the Issuer's request, the Issuer may arrange for an assignment to one or more Eligible Assignees of all the rights and obligations hereunder of each such nonconsenting Liquidity Lender in accordance with Section 9. Any such assignment shall become effective on the then current Liquidity Termination Date. Each Liquidity Lender agrees that if it does not so consent to any such renewal, it shall cooperate fully with the Issuer in effectuating any such assignment. The Liquidity Agent will provide written notice to the Liquidity Lenders of any proposed modifications to this Agreement requested in connection with any renewal hereof and the Liquidity Lenders shall each have the right to elect not to renew this Agreement in light of such modifications.

(b) If at any time the Issuer requests that the Liquidity Lenders renew their Liquidity Commitments hereunder and less than all the Liquidity Lenders consent to such renewal within 30 days of the Issuer's request, and if none or less than all the Liquidity Commitments of the nonrenewing Liquidity Lenders are assigned to one or more Eligible Assignees as provided in subsection (a), then (without limiting the Issuer's right to borrow Liquidity Loans at any time prior to the Liquidity Commitment Termination Date in accordance with the terms hereof) the Issuer may borrow Liquidity Loans hereunder in an amount equal to the least of (i) the maximum amount of Liquidity Loans that 'it could borrow at that time under Section 2(a), (ii) the aggregate Liquidity Commitments of the nonrenewing Liquidity Lenders and (iii) the excess, if any, of (A) the Face Amount of Notes issued to fund the Purchased Interest over (B) the aggregate Liquidity Commitments other than those of the nonrenewing Lenders, which Liquidity Loans shall be made solely

Copyright © 2012 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

by the nonrenewing Liquidity Lenders, pro rata according to their respective Liquidity Commitments. Following the making of such Liquidity Loans, this Agreement and the Liquidity Commitments of the renewing Liquidity Lenders shall remain in effect in accordance with their terms notwithstanding the expiration of the Liquidity Commitments of the nonrenewing Liquidity Lenders. All

amounts which, under the Receivables Purchase Agreement, are received by the Issuer in reduction of the Capital of the Purchased Interest, up to the outstanding principal amount of the Liquidity Loans described above in this subsection (b), shall be distributed to the nonrenewing Liquidity Lenders, ratably according to the principal amount of such Liquidity Loans made by them, in payment of the principal amount of such Liquidity Loans. When (after the expiration of the Liquidity Commitments of the nonrenewing Liquidity Lenders) the principal amount of and interest on the Liquidity Loans described above in this subsection (b) shall have been paid in full, then such Liquidity Lenders shall cease to be parties to this Agreement for any purpose, provided they shall remain entitled to receive any payments under Section 4(f) accrued in favor of such Liquidity Lenders while they were Liquidity Lenders hereunder.

11. Miscellaneous. (a) Amendments, Etc. No amendment or waiver of any provision of this Agreement, nor consent to any departure by the Issuer therefrom, shall in any event be effective unless the same shall be in writing and signed by the Majority Lenders and, in the case of an amendment, the Issuer, and then such waiver or consent shall be effective only in the specific instance and for the specific purpose for which given; provided, however, that no amendment, waiver or consent shall, unless in writing and signed by all the Liquidity Lenders and the Issuer, amend the last paragraph of Section 2(a), Section 4(a), Section 4(d) or Section 7 hereof or amend the formula for calculating the amount of each Liquidity Loan set forth in Section 2(a) hereof; provided, further, that no material amendment of this Agreement (other than an amendment to extend the scheduled Purchase Termination Date) shall be effective unless the Issuer (or the Administrator on its behalf) shall have received written confirmation by the Rating Agencies that such amendment shall not cause the rating on the then outstanding Notes to be downgraded or withdrawn and provided, further, that no amendment, waiver or consent shall affect the rights or duties of the Administrator or the Liquidity Agent under this Agreement unless the same is in writing and signed by the Administrator or the Liquidity Agent, as the case may be, in addition to the other parties required above to take such action. The Administrator shall provide each Rating Agency with a copy of each amendment to or waiver or consent under this Agreement promptly following the effective date thereof.

(b) Notices, Etc. All notices and other communications provided for hereunder shall be in writing (including facsimile communication) and mailed, telecopied or delivered, if to PNC, the Liquidity Agent, the Issuer

Copyright © 2012 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

or the Administrator, at its address specified on the signature page hereof; if to any other Liquidity Lender, at its address specified in the Assignment pursuant to which it became a Liquidity Lender; if to any Placement Agent, at its address specified in the commercial paper

placement agreement to which it is a party; or, as to PNC, the Liquidity Agent, the Issuer or the Administrator, at such other address as shall be designated by such party in a written notice to the other parties and, as to each other party, at such other address as shall be designated by such party in a written notice to the Administrator and the Liquidity Agent. All such notices and communications shall, when mailed or telecopied (receipt confirmed), be effective when deposited in the mails or telecopied, respectively, except that notices and communications to the Liquidity Agent shall not be effective until received by the Liquidity Agent.

(c) Costs and Expenses of the Administrator. Each Liquidity Lender will on demand reimburse the Administrator its Percentage of any and all reasonable costs and expenses (including Attorney Costs), which may be incurred in connection with collecting payments relating to the Purchased Interest at a time when a Liquidity Lender has Liquidity Loans outstanding hereunder or enforcing related rights, for which the Administrator is not promptly reimbursed by the Seller. Should the Administrator later be reimbursed by the Seller or the Issuer for any such amount paid pursuant to the foregoing sentence, the Administrator shall immediately pay to each Liquidity Lender its pro rata share of such amount.

(d) Costs and Expenses of the Liquidity Agent. Each Liquidity Lender will on demand reimburse the Liquidity Agent its Percentage of any and all reasonable costs and expenses (including Attorney Costs), which may be incurred by the Liquidity Agent in connection with administering or enforcing rights under this Agreement.

(e) Compensation of the Liquidity Agent. In consideration of and as compensation for all services to be rendered by the Liquidity Agent as described in this Agreement, the Issuer will pay such reasonable fees to the Liquidity Agent as may be mutually agreed upon from time to time.

(f) Binding Effect. This Agreement shall become effective when it shall have been executed and delivered by each of the parties hereto and thereafter shall be binding upon and inure to the benefit of the Issuer, the Administrator, the Liquidity Agent and each Liquidity Lender and their respective successors and assigns. The provisions of Section 11(o) shall also inure to the benefit of the Persons specified therein. The Issuer shall not assign any portion of the Purchased Interest to another Person, unless the Notes issued to fund or maintain the Purchased Interest shall concurrently be paid in full, and if any such assignment shall be made, the Liquidity Commitments of the Liquidity Lenders hereunder shall not inure to the benefit of such other Person. In connection with any assignment by the Issuer of the

Copyright © 2012 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

Purchased Interest (or any portion thereof), the

Issuer shall comply with any applicable legal requirements, including the Securities Act of 1933, as amended.

(g) Taxes. Any taxes due and payable on any payments to be made to any Liquidity Lender hereunder shall be such Liquidity Lender's sole responsibility. Each Liquidity Lender warrants that it is not subject to any taxes, charges, levies or withholdings with respect to payments under this Agreement that are imposed by means of withholding by any applicable taxing authority ("Withholding Tax"). Each Liquidity Lender agrees to provide the Liquidity Agent, from time to time upon the Liquidity Agent's request, completed and signed copies of any documents that may be required by an applicable taxing authority to certify such Liquidity Lender's exemption from Withholding Tax with respect to payments to be made to such Liquidity Lender under this Agreement; and each Liquidity Lender agrees to hold the Liquidity Agent harmless from any Withholding Tax imposed due to such Liquidity Lender's failure to establish that it is not subject to Withholding Tax.

(h) Termination of a Liquidity Lender's Rights and Obligations.

(i) The Majority Lenders and the Issuer each shall have the right, in their or its sole discretion, to terminate the right and obligation of any Liquidity Lender to make Liquidity Loans hereunder in the event that the short-term debt ratings of such Liquidity Lender by any Rating Agency shall cease to be at least equal to the ratings assigned by the Rating Agencies to the Notes. Such termination shall be effective upon the delivery of written notice to such effect delivered by the Liquidity Agent to the Issuer and such Liquidity Lender (in the case of a termination by the Majority Lenders) or by the Issuer (or the Administrator on its behalf) to the Liquidity Agent and such Liquidity Lender (in the case of a termination by the Issuer), subject to the next following sentence. Upon such termination, (i) such Liquidity Lender shall cease to have any rights or obligations with respect to future Liquidity Loans under this Agreement but shall continue- to have the rights and obligations of a Liquidity Lender (including, without limitation, rights to payments described in Section 4(d) hereof) with respect to any Liquidity Loans made by it pursuant to the terms of this Agreement prior to such termination and shall continue to be bound by the provisions of Section 8 and Section 11(i), and (ii) effective on the date of termination, either (x) the Liquidity Agent shall arrange for such Liquidity Lender's rights and obligations hereunder to be assigned to an Eligible Assignee pursuant to Section 9 hereof or (y) if such an assignment cannot be arranged on or before such date, the Liquidity Commitment of such Liquidity Lender hereunder shall be reduced to zero; provided, however, that no such reductions shall be

Copyright © 2012 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

effective unless and until such time as the outstanding Capital of the Purchased Interest together with Discount accrued and to accrue thereon during the current Fixed Periods are less than or equal to the aggregate of the Liquidity Commitment Amounts of all other Liquidity Lenders; provided that, after giving effect to such reduction, the aggregate of such Liquidity Commitment Amounts hereunder shall at least equal the Purchase Limit multiplied by 1.02.

(ii) If the short-term debt ratings of a Liquidity Lender by any Rating Agency shall cease to be at least equal to the ratings assigned by the Rating Agencies to the Notes, then the Issuer may, in its sole discretion, if such Liquidity Lender's Liquidity Commitment has not theretofore been terminated pursuant to clause (i) above, require such Liquidity Lender to fund (and each Liquidity Lender hereby agrees in such event to fund) any unused portion of its Liquidity Commitment by payment of such amount to the Administrator (a "Liquidity Downgrade Draw") for deposit in an account in the name of the Issuer, maintained at the Administrator's office in Pittsburgh, Pennsylvania or such other office of the Administrator as the Administrator may specify by notice to the Issuer (a "Downgrade Collateral Account").

(iii) If any Liquidity Lender shall be required pursuant to clause (ii) above to fund a Liquidity Downgrade Draw, then the Issuer shall instruct the Administrator to apply the monies in the Downgrade Collateral Account applicable to such Liquidity Lender's Percentage of requested Liquidity Loans at the times, in the manner and subject to the conditions precedent of such requested purchases. The deposit of monies in such Downgrade Collateral Account by any Liquidity Lender shall not constitute a Liquidity Loan (and such Liquidity Lender shall not be entitled to interest on such monies except as provided below in this clause (iii)) unless and until (and then only to the extent that) such monies are used to fund a Liquidity Loan pursuant to the first sentence of this clause (iii)). Proceeds in such Downgrade Collateral Account shall be invested in investments permitted pursuant to the documents governing the Issuer's securitization program (as notified by the Administrator), as directed by the applicable Liquidity Lender by written notice to the Issuer and the Administrator, the income of which shall be for the account of such Liquidity Lender. The income that has accrued from such investments and received by the Issuer shall be released to such Liquidity Lender on the last Business Day of each month. Unless required to be released by the following sentence, any payments with respect to Capital or Discount received by the Issuer or the Liquidity Agent that are required to be applied to the repayment or

Copyright © 2012 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

prepayment of Liquidity Loans made by such Liquidity Lender pursuant to Section 4 shall be deposited in the Downgrade Collateral Account for such Liquidity Lender. All amounts remaining in such Downgrade Collateral~Account shall be released to such Liquidity Lender no later than the Business Day immediately following the earliest of (x) the effective date of any replacement of such Liquidity Lender or removal of such Liquidity Lender as a party to this Agreement, (y) the date on which such Liquidity Lender shall furnish the Liquidity Agent with confirmation that such Liquidity Lender shall have short-term debt ratings by each Rating Agency at least equal to the ratings assigned by the Relevant Rating Agencies to the Notes, and (z) the Liquidity Termination Date.

(i) No Proceedings; Waiver of Set-Off. (i) Each of the Liquidity Agent, the Administrator and each Liquidity Lender hereby covenants and agrees that it shall not institute against, or join any other Person in instituting against, the Issuer any bankruptcy, reorganization, arrangement, insolvency or liquidation proceeding or other proceedings under any federal or state bankruptcy or similar law, for one year and a day after the latest maturing commercial paper note issued by the Issuer is paid. The agreements in this subsection (i) shall survive termination of this Agreement.

(ii) Each of the Liquidity Agent, the Administrator and each Liquidity Lender hereby waives any right to set-off and to appropriate and apply any and all deposits and any other indebtedness at any time held or owing thereby to or for the credit or the account of the Issuer against and on account of the obligations and liabilities of the Issuer to such Person under this Agreement; provided, however, that such right of set-off is hereby waived by such Person only until one year and one day shall have elapsed after the latest maturing commercial paper issued by the Issuer is paid.

(j) Limitation on Payments. Notwithstanding any provisions contained in this Agreement to the contrary, the Issuer shall not, and shall not be obligated to, pay any amount pursuant to this Agreement unless (i) the Issuer has received funds which may be used to make such payment and which funds are not required to repay the Notes when due and (ii) after giving effect to such payment, either (x) the Issuer could issue Notes to refinance all outstanding Notes (assuming such outstanding Notes matured at such time) in accordance with the program documents governing the Issuer's securitization program or (y) all Notes are paid in full; provided, however, that the foregoing limitations on payments by the Issuer shall not apply to any distributions

of funds received by the Issuer pursuant to Section 4. Any amount which the Issuer does not pay pursuant to the operation of the preceding

Copyright © 2012 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

sentence shall not constitute a claim (as defined in Section 101 of the Bankruptcy Code) against or corporate obligation of the Issuer for any such insufficiency unless and until the Issuer satisfies the provisions of clauses (i) and (ii) above.

(k) Limitation on Issuance of Notes. Notwithstanding any provisions contained in this Agreement, the Issuer hereby covenants and agrees that it shall not issue any Notes that have a maturity date later than the 75th day following any Scheduled Payment Date until the full amount of the payment due on such Scheduled Payment Date has been paid. The Issuer also covenants not to Issue Notes which mature later than the seventy-fifth day following July 31, 1998.

(l) Indemnification of Issuer. The Liquidity Agent hereby agrees to indemnify the Issuer for any broken funding costs and any swap breakage costs of the Issuer relating to interest rate hedging agreements effected in connection with the transactions contemplated by this Agreement, the Receivables Purchase Agreement and the Receivables Sale Agreement, to the extent such funds have not provided by the Seller pursuant to Article VIII of the Receivables Sale Agreement.

(m) GOVERNING LAW; JURISDICTION. THIS AGREEMENT AND EACH ASSIGNMENT SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAW OF THE STATE OF NEW YORK (WITHOUT GIVING EFFECT TO THE CONFLICT OF LAWS PRINCIPLES THEREOF).

ANY LEGAL ACTION OR PROCEEDING WITH RESPECT TO THIS AGREEMENT OR ANY ASSIGNMENT MAY BE BROUGHT IN THE COURTS OF THE STATE OF NEW YORK OR OF THE UNITED STATES FOR THE SOUTHERN DISTRICT OF NEW YORK, AND BY EXECUTION AND DELIVERY OF THIS AGREEMENT AND ANY ASSIGNMENT, EACH OF THE ISSUER, THE ADMINISTRATOR, THE LIQUIDITY AGENT AND EACH LIQUIDITY LENDER CONSENTS, FOR ITSELF AND IN RESPECT OF ITS PROPERTY, TO THE NON-EXCLUSIVE JURISDICTION OF THOSE COURTS. EACH OF THE ISSUER, THE ADMINISTRATOR, THE LIQUIDITY AGENT AND EACH LIQUIDITY LENDER IRREVOCABLY WAIVES ANY OBJECTION, INCLUDING ANY OBJECTION TO THE LAYING OF VENUE OR BASED ON THE GROUNDS OF FORUM NON CONVENIENS, WHICH IT MAY NOW OR HEREAFTER HAVE TO THE BRINGING OF ANY ACTION OR PROCEEDING IN SUCH JURISDICTION IN RESPECT OF THIS AGREEMENT, ANY ASSIGNMENT OR ANY DOCUMENT RELATED HERETO. EACH OF THE ISSUER, THE ADMINISTRATOR, THE LIQUIDITY AGENT AND EACH WAIVES PERSONAL SERVICE OF ANY SUMMONS, COMPLAINT OR OTHER PROCESS, WHICH MAY BE MADE BY ANY OTHER MEANS PERMITTED BY NEW YORK LAW.

(n) Execution in Counterparts. This Agreement and each Assignment may be executed in any number of counterparts, each of which when so executed shall be deemed to be an original and all of which when taken together shall constitute one and the same agreement. Delivery of

Copyright © 2012 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

an executed counterpart of a signature page to this Agreement or an Assignment by facsimile shall be effective as delivery of a manually executed counterpart of this Agreement or an Assignment, as applicable.

(o) No Recourse. The obligations of the Issuer under this Agreement are solely the corporate obligations of the Issuer. No recourse shall be had for the payment of any amount owing by the Issuer under this Agreement, or for the payment by the Issuer of any other obligation or claim of or against the Issuer arising out of or based on this Agreement, against any stockholder, employee, officer, director, agent or incorporator of the Issuer provided, further, that nothing in this subsection (o) shall relieve any of the foregoing Persons from any liability which such Person may otherwise have in such capacity for his/her or its gross negligence or willful misconduct. The agreements in this Section shall survive the termination of this Agreement and payment of all obligations hereunder.

(p) WAIVER OF JURY TRIAL. THE ISSUER, THE ADMINISTRATOR, THE LIQUIDITY AGENT AND EACH LIQUIDITY LENDER EACH WAIVE THEIR RESPECTIVE RIGHTS TO A TRIAL BY JURY OF ANY CLAIM OR CAUSE OF ACTION BASED UPON OR ARISING OUT OF OR RELATED TO THIS AGREEMENT, ANY ASSIGNMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY, IN ANY ACTION, PROCEEDING OR OTHER LITIGATION OF ANY TYPE BROUGHT BY ANY PARTY AGAINST THE OTHER PARTIES, WHETHER WITH RESPECT TO CONTRACT CLAIMS, TORT CLAIMS, OR OTHERWISE. THE ISSUER, THE ADMINISTRATOR, THE LIQUIDITY AGENT AND EACH LIQUIDITY LENDER EACH AGREE THAT ANY SUCH CLAIM OR CAUSE OF ACTION SHALL BE TRIED BY A COURT TRIAL WITHOUT A JURY. WITHOUT LIMITING THE FOREGOING, THE PARTIES FURTHER AGREE THAT THEIR RESPECTIVE RIGHT TO A TRIAL BY JURY IS WAIVED BY OPERATION OF THIS SECTION AS TO ANY ACTION, COUNTERCLAIM OR OTHER PROCEEDING WHICH SEEKS, IN WHOLE OR IN PART, TO CHALLENGE THE VALIDITY OR ENFORCEABILITY OF THIS AGREEMENT, ANY ASSIGNMENT OR ANY PROVISION HEREOF OR THEREOF. THIS WAIVER SHALL APPLY TO ANY SUBSEQUENT AMENDMENTS, RENEWALS, SUPPLEMENTS OR MODIFICATIONS TO THIS AGREEMENT OR ANY ASSIGNMENT.

Exhibit A

Assignment of Liquidity Commitment
with respect to
ES Funding Corporation
Liquidity Loan Agreement

Dated _____, 199__

Section 1.

Percentage assigned: _____%

Copyright © 2012 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

Assignor's remaining Percentage: _____%
Outstanding principal amount of Liquidity Loans assigned: $_____

Section 2.

Assignee's Liquidity Commitment Amount $_____
Assignor's remaining Liquidity Commitment Amount $_____

Section 3.

Effective Date of this Assignment: _____,19__

Upon execution and delivery of this Assignment by Assignor and Assignee, satisfaction of the other conditions to assignment specified in Section 9 of the Liquidity Loan Agreement referred to below and acceptance and recording of this Assignment by PNC BANK, National Association, as Liquidity Agent, from and after the effective date specified above, Assignee shall become a party to, and have the rights and obligations of a Liquidity Lender under, the Liquidity Loan Agreement dated as of _____, 19 among the Liquidity Lenders referred to therein, PNC BANK, National Association, as Liquidity Agent, Envirotest Partners Market Street Capital Corporation and PNC BANK, National Association, as Administrator.

ASSIGNOR: [NAME OF ASSIGNOR]

By: _____
Title:_____

By: _____
Name:
Title:

Address:
Attention:
Telephone:
Telecopy

THE LIQUIDITY LENDERS

PNC BANK, NATIONAL ASSOCIATION

By: /s/ William E. Falon

Name: William E. Falon
Title: Executive Vice President

Address:

Copyright © 2012 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

One PNC Plaza
Fifth Avenue and Wood Street
Pittsburgh, Pennsylvania 15265

Attention: Richard J. Hendrix
Telephone: 412-762-5158
Telecopy: 412-762-9184

Percentage: 100%
Amount: $80993821 Liquidity
Commitment

ENVIROTEST PARTNERS, as Seller

By its partners:

ENVIROTEST SYSTEMS CORP.

By: /s/ C. Michael Alston

Name: C. Michael Alston
Title: Vice President

ENVIROTEST TECHNOLOGIES, INC.

By: /s/ C. Michael Alston

Name: C. Michael Alston
Title: Vice President

MARKET STREET CAPITAL CORP.
as Issuer

By: /s/ Douglas K. Johnson

Name: Douglas K. Johnson
Title: President

Address:

c/o Amacor Group Llc
6707-D Fairview Road
Charlotte, North Carolina 28210

Copyright © 2012 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

Attention: Juliana C. Johnson
Telephone: 704-365-0569
Telecopy: 704-365-1362

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their respective officers thereunto duly authorized, as of the date first above written.

PNC BANK, NATIONAL ASSOCIATION
as Liquidity Agent

By: /s/ William E. Fallon

Name: William E. Fallon
Title: Executive Vice President

Address:

One PNC Plaza
Fifth Avenue and Wood Street
Pittsburgh, Pennsylvania 15265

Attention: Richard J. Hendrix
Telephone: (412) 762-5158
Telecopy: (412) 762-9184

PNC BANK, NATIONAL ASSOCIATION,
as Administrator

By:

Name: Richard J. Hendrix
Title: Managing Director

Address:

One PNC Plaza
Fifth Avenue and Wood Street
Pittsburgh, Pennsylvania 15265

Attention: Richard J. Hendrix
Telephone: (412) 762-5158
Telecopy: (412) 762-9184

Copyright © 2012 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

ES FUNDING CORPORATION
as Buyer

and

ENVIROTEST PARTNERS

as Seller

PURCHASE AND SALE AGREEMENT
Dated as of November 26, 1996

Copyright © 2012 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

PURCHASE AND SALE AGREEMENT

PURCHASE AND SALE AGREEMENT, dated as of November 26, 1996, between, ENVIROTEST PARTNERS, a Pennsylvania partnership (the "Seller"), and ES FUNDING CORPORATION, a Delaware corporation (the "Buyer"). Any reference to the "Buyer" in this Agreement shall include any person to whom an assignment has been made pursuant to Section 10.5 hereof (after giving effect to such assignment).

WITNESSETH:

WHEREAS, the Buyer desires to purchase the right, title and interest in and to the Settlement Receivable Assets (as defined below) under the Settlement Agreement (as defined below) (along with certain other rights that may be incidental thereto) from the Seller;

WHEREAS, the Seller desires to sell and assign to the Buyer such Settlement Receivable Assets upon the terms and conditions hereinafter set forth;

WHEREAS, upon the purchase of such Settlement Receivable Assets, the Buyer will enter into the Settlement Receivable Purchase Agreement (as defined below) with MSCC (as defined below) and in accordance with the terms thereof sell to MSCC all of the Buyer's right, title and interest in and to such Settlement Receivable Assets;

WHEREAS, MSCC will enter into a Liquidity Loan Agreement, dated the date thereof(the "Liquidity Loan Agreement"), with PNC Bank, National Association, as Administrator (the "Administrator") and Liquidity Agent ("the "Liquidity Lenders") from time to time parties thereto, whereby the rights of MSCC under this Agreement and the Settlement receivable Purchase Agreement may be pledged to the Liquidity Agent; and

WHEREAS, on or after the effective date of this Agreement MSCC may assign its right, title and interest under this Agreement to MSFC (as defined below).

NOW THEREFORE, it is hereby agreed by and between the Buyer and the Seller as follows:

Copyright © 2012 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

ARTICLE 1

DEFINITIONS

Section 1.1 DEFINITIONS. For all purposes of this Agreement, except as otherwise expressly provided herein or unless the contact otherwise requires capitalized terms used herein shall have the following meanings assigned to them:

"Affiliate" shall mean, with respect to any Person, (a) each Person that, directly or indirectly, through one or more intermediaries, owns or controls, either beneficially or as trustee, guardian or other fiduciary, any of the capital stock having ordinary voting power in the election of directors of such Person or of the ownership interests in any partnership or joint venture, (b) each Person that controls, is controlled by or is under common control with such Person or any Affiliate of such person or (c) each of such Person's officers, directors, joint ventures and partners. For the purpose of this definition, "control" of a Person shall mean the possession, directly or indirectly, of the power to direct or cause the direction of its management or policies, by contract or otherwise.

"Business Day" shall mean any day which is not a Saturday, Sunday, or a legal holiday under the laws of the State of Pennsylvania and is not a day on which banking institutions located in the State of Pennsylvania are authorized or permitted by law or other governmental action to close.

"Closing Date" shall mean December 11, 1996.

"Collections" shall mean all payments with respect to the Settlement Receivable, in the form of cash, checks, wire transfers, or other forms of payment.

"Commonwealth" shall mean the Commonwealth of Pennsylvania, a governmental instrumentality.

"Escrow Agreement" means that certain Escrow Agent Agreement among Seller, Envirotest Systems Corp., Envirotest Systems Corp., Envirotest Technologies Inc., MSCC, MFSC, the Escrow Agent (as defined therein) and the Liquidity Agent, dated as of November 26, 1996, as the same may be amended, modified, supplemented or restarted from time to time.

"Governmental Authority" means (a) federal, state, county, municipal, or foreign government, or political subdivision thereof, (b) any governmental or quasi-governmental agency, authority, board, bureau, commission, department, instrumentality or public body, (c) any court or administrative tribunal or (d) with respect to any Person, any arbitration

Copyright © 2012 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

tribunal or other non-governmental authority to the jurisdiction of which such Person has consented.

"Incremental Note Liability" means an amount determined in good faith by MSFC as representing the shortfall between the discount received by MSFC pursuant to Section 6.1 hereof and the amount due the Holder of such Note on the Note Liability Date, but only to the extent that MSFC (i) has used its reasonable best efforts to manage its securitization program so as to minimize the potential amount of such Incremental Note Liability and (ii) has in good faith invested amounts received by it pursuant to Section 6.1 hereof in such manner as to cause the application of the proceeds of any such investments to reduce the amount of such Incremental Liability.

"Lien" shall mean any mortgage , pledge, hypothetical, assignment for security, security interest, encumbrance, levy, lien or charge of any kind, whether voluntarily incurred or arising by operation of law or otherwise, affecting any property, including any agreement to grant any of the foregoing, any conditional sale or other title retention agreement, any lease in the nature of a security interest, and the filing of or agreement to file or deliver any financing statement (other than a precautionary financing statement with respect to a lease that is note in the nature of a security interest) under the UCC or comparable law of any jurisdiction.

"MSCC" shall mean Market Street Capital Corp., a Delaware corporation.

"MSFC" shall man MarKet Street Funding Corporation, a Delaware Corporation.

"Note" means any commercial paper note issued by MSFC that MSFC has determined in good faith was issued to fund its acquisition of the Settlement receivable Assets.

"Note Liability Date" means that date of which any note first becomes due and payable (without taking into account any renewal, "evergreen", or "roll-over" provisions thereof).

"Obligor" shall mean the Commonwealth of Pennsylvnia, a governmental instrumentality.

"Person" means any individual, sole proprietorship, partnership, joint venture, trust, unincorporated organization, association, corporation, institution, public benefit corporation, joint stock corporation, estate entity or Governmental Authority.

"Purchase Price" shall have the meaning set forth in Section 3.1 hereof.

Copyright © 2012 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

"Requirements of Law" for any Person shall mean the certificate of incorporation or articles of association and by-laws or other organizational or governing documents of such Person, and any law, treaty, rule or regulation, or determination of or settlement with an arbitrator or governmental Authority, in each case applicable to or binding upon such Person or to which such Person is subject.

"Seller" shall mean Envirotest Partners, a Pennsylvania partnership.

"Settlement Agreement" shall mean the General Release and Settlement Agreement dated December 15, 1995, as amended by Amendment No. 1 dated as of November 26, 1996, among the Obligor, the Seller, Envirotest Systems Corp. and Envirotest Technologies, Inc.

"Settlement Receivable" shall mean the right of the Seller or its assigns to receive payment of the outstanding balance of the Base Settlement Amount (as defined in the Settlement Agreement) together with interest thereon accruing from and after the Closing Date at the rate of six percent (6.00%) per annum, calculated on the basis of actual days elapsed in a year of 365 or 366 days, as the case may be. The Settlement Receivable shall not include (i) the sums due on December 31, 1995 and July 31, 1996 under Section 4 of the Settlement Agreement, together with accrued interest through July 31, 1996 on the unpaid balance of the Base Settlement Amount pursuant to Section 4 of the Settlement Agreement, which the Seller has previously received and are no longer outstanding, (ii) accrued interest from and after July 31, 1996 to and including the Closing Date on the unpaid balance of the Base Settlement Amount pursuant to Section 4 of the Settlement Agreement, which shall remain the property of the Seller, or (iii) any Settlement Amount Increase (as defined in the Settlement Agreement) or any other amount (other than the Base Settlement Amount) payable pursuant to the Settlement Agreement, which shall remain the property of the Seller.

"Settlement Receivable Assets" shall have the meaning set forth in Section 2.1 thereof.

"Settlement Receivable Purchase Agreement" shall mean the Settlement Receivables Purchase Agreement, dated as of November 26, 1996 between the buyer and MSCC as the same may from time to time be amended, modified, supplemented or renewed.

"UCC" shall mean the Uniform Commercial Code, as amended from time to time, as in effect in any specified jurisdiction.

Section 1.2 OTHER DEFINITIONAL PROVISIONS. The words "hereof", "herein", and "hereunder"and words of similar import when used in this

Copyright © 2012 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

Agreement shall refer to this agreement as a whole and not to any particular provision of this Agreement; and Section, Subsection, Schedule, and Exhibit references contained in this Agreement are references to Sections, Subsections, Schedules, and Exhibits in or to this Agreement unless otherwise specified.

ARTICLE II

PURCHASE AND CONVEYANCE OF SETTLEMENT RECEIVABLE

Section 2.1 SALE. (a) Upon the terms and subject to the conditions set forth herein, the Seller hereby irrevocably sells, assigns, transfers and conveys (collectively, "Transfers") to the Buyer, without recourse (Except to the extent expressly provided herein), and the Buyer hereby irrevocably purchases from the Seller, on the terms and subject to the conditions specifically set forth herein, all rights, title, and interest of the Seller in and to the Settlement Receivable, all monies due or to become due or to become due with respect thereto (along with certain rights that may be incidental thereto including, without limitation, the right to declare the outstanding balance of the base Settlement Amount (as defined in the Settlement Agreement) due and payable pursuant to Section 4 (h) of the Settlement Agreement) accruing from (but excluding) and after the Closing Date, and all proceeds thereof (collectively, the "Settlement Receivable Assets"). The execution by the Seller of this Agreement shall evidence the Seller having relinquished all right, title and interest in and to and control over the Settlement Receivable Assets; provided, however, the foregoing sale, assignment, transfer and conveyance does not constitute an assumption by the Buyer of any obligations of the Seller, or of any other Person, to the obligor or to any other Person in connection with the Settlement Receivable or under any other agreements or instruments relating to the Settlement Receivable.

(b) In connection with the Transfer effected pursuant to this Agreement, the Seller agrees, at its own expense, on or prior to the closing Date to, (i) clearly and unambiguously mark its computer files, data processing records, microfiche storage

files and other records, and (ii) clearly label and mark any file cabinets

Copyright © 2012 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

and other storage files or facilities where any information or records relating to the Settlement Receivable are stored, in each case, with a legend to the effect that the Settlement Receivable has been transferred to the Buyer pursuant to this Agreement.

(c) It is the express intent of the Seller and the Buyer that the purchase of the Settlement Receivable Assets hereunder shall constitute a sale of "accounts", and/or of "general intangibles" as each such term is used in Article 9 of the UCC, which sale is absolute and irrevocable and which provides the Buyer with the full benefits of ownership of the Settlement Receivable Assets. It is, further, not the intention of the Seller and the Buyer that such conveyance be deemed a grant of a security interest in the Settlement Receivable Assets by the Seller to the Buyer to secure a debt or other obligation of the Seller. However, in the event that, notwithstanding the intent of the parties, the Settlement Receivable Assets are held by a court of law to continue to be property of the Seller, then (i) this Agreement also shall be deemed to be and hereby is a security agreement within the meaning of the UCC; and (ii) the conveyance by the Seller provided for in this Agreement shall be deemed to be and the Seller hereby grants to the Buyer a security interest in and to all of the Seller's right, title and interest in and to the Settlement Receivable Assets, all monies due or to become due with respect thereto on and after the Closing Date and all proceeds of such Settlement Receivable Assets to secure (1) the rights of the Buyer under this Agreement and (2) a loan to the Seller in the original principal amount, together with any interest thereon, of the Purchase Price as set forth in this Agreement. The Seller and the Buyer shall, to the extent consistent with this Agreement, take such actions as may be necessary to ensure that, if this Agreement were deemed to create a security interest in the Settlement Receivable Assets, such security would be deemed to be a perfected security interest of first priority in favor of the Buyer under applicable law and will be maintained as such (subject only to any assignment by the Buyer to MSFC as contemplated herein and in the Settlement Receivable Purchase Agreement) throughout the term of this Agreement.

(d) Notwithstanding any other provisions hereof or of the Settlement Receivable Purchase Agreement, the parties hereto hereby agree that this Agreement is in addition to and in furtherance of the transactions contemplated by the Settlement Receivable Purchase Agreement.

ARTICLE III

CONSIDERATION AND PAYMENT

Section 3.1 PURCHASE PRICE. The Purchase Price for the Settlement Receivable conveyed to the Buyer by the Seller under this Agreement shall be $79,405,707.

Copyright © 2012 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

Section 3.2 PAYMENT OF PURCHASE PRICE. The Purchase Price for the Settlement Receivable shall be paid in full in immediately available funds on the Closing Date.

ARTICLE IV

REPRESENTATIONS AND WARRANTIES

Section 4.1 SELLER'S REPRESENTATIONS AND WARRANTIES. The Seller represents and warrants to the Buyer as of the Closing Date that:

(a) Organization and Good Standing. The Seller is a general partnership duly organized under the laws of the State of Pennsylvania, and has full power and authority to execute, deliver and perform its obligations under this Agreement and each other document or instrument to be delivered by it hereunder, including but not limited to the authority to sell, assign, and transfer the Settlement Receivable in accordance with this Agreement, and, in all material respects, to own its property and conduct its business as such properties are presently owned and as such business is presently conducted.

(b) Due Authorization. The execution, delivery and performance of this Agreement and each other document or instrument to be delivered hereunder, and the consummation of the transaction provided in such documents to which the Seller is party have been duly authorized by the Seller by' all necessary partnership action on the part of the Seller.

(c) Binding Obligation. Assuming the due authorization, execution, and delivery of this Agreement by the Buyer, this Agreement constitutes legal, valid and binding obligations of the Seller, enforceable in accordance with its terms, except as enforceability may be limited by applicable bankruptcy, insolvency, reorganization, moratorium or other similar laws now or herein-after in effect, relating to the enforcement of creditors' rights in general and except as such enforce-ability may be limited by general principles of equity (whether considered in a proceeding at law or in equity).

(d) No Conflict. The execution, delivery and performance of this Agreement, the performance of the

transactions contemplated hereby and the fulfillment of the terms hereof by the Seller do not (a) contravene its partnership agreement, (b) violate any provision of, or require any filing (except for the filings under the UCC required hereunder, each of which will be duly made and will be in full force and effect on the Closing Date) registration, consent or approval under, any law, rule, regulation, order, writ, judgment, injunction, decree, determination or award presently in effect having applicability to the

Copyright © 2012 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

Seller, except for such filings, registrations, consents or approvals as have already been obtained and are in full force and effect, (c) result in a breach of or constitute a default or require any consent under any indenture, loan agreement, credit agreement, deed of trust or any other agreement, contract, lease or instrument to which the Seller is a party or by which it or its assets or properties may be bound or affected except those as to which a consent or waiver has been obtained and is full force and effect and an executed copy of which has been delivered to the Buyer, or (d) result in, or require, the creation or imposition of any Lien upon or with respect to any of the properties now owned or hereafter acquired by the Seller other than as specifically contemplated hereby.

(e) No Proceedings. There are no proceedings or investigations pending or, to the best knowledge of the Seller, threatened against the Seller, before any court, regulatory body, administrative agency, or other tribunal or governmental instrumentality (i) seeking to prevent the consummation of any of the transactions contemplated by this Agreement or the Settlement Agreement, (ii) seeking any determination or ruling that would materially and adversely affect the performance by the Seller of its obligations under this Agreement or the Settlement Agreement, or (iii) seeking any determination or ruling that would materially and adversely affect the validity or enforceability of this Agreement or the Settlement Agreement. The Seller is not in violation of any order of any court, arbitrator or governmental authority which would have the effect of any of the foregoing.

(f) All Consents Required. All approvals, authorizations, consents, orders or other actions of and registrations with any Person or of any Governmental Authority required in connection with the execution and delivery by the Seller of this Agreement, the performance by the Seller of the transactions contemplated by this Agreement and the fulfillment by the Seller of the terms hereof and thereof, have been obtained and are in full force and effect.

(g) Settlement Agreement Amendments. The Seller has not amended the Settlement Agreement prior to the date hereof, except for the amendment evidenced by that certain Amendment No. 1 dated as of November 26, 1996.

(h) Not an Investment Company. The Seller is not an "investment company" or a company controlled by an "investment company" within the meaning of the Investment Company Act of 1940, as amended, or is exempt from all provisions of such Act.

(i) Business Intent. The Seller has a valid business reason for the sale of the Settlement Receivable. Such sale is not being made with any intent to hinder, delay or defraud any entity to which the Seller is or will

Copyright © 2012 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

become indebted on or after the date of transfer. The sale of the Settlement Receivable by the Seller is not being done with any intent to evade any applicable laws or public policy.

(j) Proceeds. No proceeds of the purchase will be used for any purpose that violates Regulations G or U of the Federal Reserve Board.

(k) Valid Sale, etc. The Seller hereby represents and warrants as of the Closing Date, with respect to the Settlement Receivable, that:

(l) the Seller is not insolvent and will not be rendered insolvent upon sale of the Settlement Receivable to the Buyer; the Seller is not engaged in business or about to engage in business for which the assets remaining with it after the sale of the Settlement Receivable will be an unreasonably small amount of capital; and the Seller does not intend to incur or believe that it will incur debts beyond its ability to pay as such debts mature;

(ii) the Seller is the legal and beneficial owner of all right, title and interest in and to the Settlement Receivable Assets and the Settlement Receivable Assets have been transferred to the Buyer free and clear of any Lien;

(iii) This Agreement constitutes a valid sale, transfer and assignment to the Buyer of all right, title and interest of the Seller in and to the Settlement Receivable Assets;

(iv) the consideration received by the Seller upon the sale of the Settlement Receivable will constitute reasonably equivalent value and fair consideration for the property sold, consistent with terms that would be arrived at on an arm's-length basis; and

(v) the Settlement Receivable is enforceable against the Commonwealth in accordance with its terms, except as enforceability may be limited by applicable bankruptcy, insolvency, reorganization, moratorium or other similar laws now

or hereafter in effect, relating to the enforcement of creditors' rights in general and except as such enforceability may be limited by general principles of equity (whether considered in a proceeding at law or in equity).

The representations and warranties set forth in this Section 4.1 shall survive the transfer of the Settlement Receivable to the Buyer. Upon discovery by the Seller or the Buyer of a breach of any of the foregoing representations and warranties which adversely affects Seller's performance of its obligations hereunder or any other material breach of any of the foregoing representations and warranties, the party discovering such breach

Copyright © 2012 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

shall give prompt written notice thereof to the other party hereto within three Business Days of such discovery.

Section 4.2 SELLER'S REPRESENTATIONS AND WARRANTIES. The Seller hereby represents and warrants that, with respect to the Settlement Receivable Assets, as of the Closing Date and as of each date on which a Note (as defined in the Liquidity Loan Agreement) and the date any Liquidity Loan (as defined in the Liquidity Loan Agreement) is made that:

(a) Legal Ownership. No effective financing statement or other instrument similar in effect with respect to the Seller in connection with the Settlement Receivable Assets is on file in any recording office, except those filed in favor of Buyer as contemplated by the terms of this Agreement.

(b) Place of Business. The principal place of business and chief executive office of the Seller is located at 6903 Rockledge Drive, Suite 214, Bethesda, Maryland 20817, and the Seller keeps its records concerning the Settlement Receivable at such office. Such office and the address thereof shall not be changed without 30 days' prior written notice to the Buyer.

(c) Name. The Seller's complete partnership name is set forth in the preamble to this Agreement, and the Seller does not use and has not during the last six years used any other name, partnership name, trade name, doing-business name or fictitious name other than Envirotest/Synterra Partners.

(d) Ownership. Neither the Seller nor any Affiliate of the Seller has any direct or indirect ownership or other financial interest in MSCC or MSFC.

(e) No Transfer. The Seller has not sold, assigned, pledged, conveyed, or otherwise transferred the Settlement Receivable Assets or suffered to exist a material Lien thereon except for the sale and assignment of the Settlement Receivable Assets to the Buyer as provided herein and as provided in the Settlement Receivable Purchase Agreement and shall defend and

hold harmless the Buyer from any material Lien or other adverse claim in or to the Settlement Receivable Assets.

(f) Commonwealth's Obligation. The Settlement Agreement, including but not limited to the obligation of the Commonwealth to pay the Settlement Receivable Assets, is a legal, valid and binding obligation of the Commonwealth, enforceable against the Commonwealth in accordance with its terms, except as (a) such enforcement may be limited by applicable bankruptcy, insolvency, fraudulent conveyance, moratorium or other similar laws affecting the rights of creditors generally and by equitable principles (regardless of whether such enforceability is considered in a proceeding in

Copyright © 2012 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

equity or at law) ; (b) the indemnification provisions in the Settlement Agreement may not be enforceable to the extent that they may be deemed to be against public policy or relate to or purport to govern indemnification against liabilities under any securities laws; and (c) certain other rights, remedies and other remedial provisions of the Settlement Agreement may not be enforceable, provided that such unenforceability does not render the Settlement Agreement invalid as a whole or substantially interfere with the substantial realization of the principal benefits or security, or both, which the Settlement Agreement purports to provide.

Section 4.3 NOTICE OF BREACH. The representations and warranties set forth in this Section 4.2 shall survive the transfer of the Settlement Receivable Assets hereunder to the Buyer. Upon discovery by the Seller the Buyer of a material breach of any of the representations and warranties set forth in Section 4.2, the party discovering such breach shall give prompt written notice thereof to the other party hereto within three Business Days of such discovery.

ARTICLE V

COVENANTS OF THE SELLER

Section 5.1 SELLER'S COVENANTS. During the term of this Agreement, and until the Settlement Receivable Assets shall have been paid in full or written-off as uncollectible and all amounts payable to the liquidity Agent and the Liquidity Lenders under the Liquidity Loan Agreement have been paid in full, and all amounts owed by the Seller pursuant to this Agreement shall have been paid in full, unless the Buyer otherwise consents in writing, the Seller hereby covenants and agrees with the Buyer as follows:

(a) Compliance with Laws, etc. The Seller shall satisfy all of its obligations to be fulfilled under or in connection with the Settlement Receivable Assets, maintain in effect all qualifications required under Requirements of Law to

the extent required to (i) maintain the effectiveness of the conveyance of the Settlement Receivable Assets and (ii) to preserve the ability of the Seller to bring an action to enforce the Commonwealth's obligation to pay the Settlement Receivable Assess.

(b) Preservation of Partnership. The Seller shall preserve and maintain its partnership existence.

(c) Audits. At any time and from time to time during the Seller's regular business hours, on reasonable prior notice, the Seller shall, in response to any reasonable request of the Buyer, permit the Buyer, or its

Copyright © 2012 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

agents or representatives, (i) to examine and make copies of and abstracts from all books, records and documents (including, without limitation, computer tapes and disks) in the possession or under the control of the Seller relating to the Settlement Receivable Assets, and (ii) to visit the offices and properties of the Seller for the purpose of examining such materials and to discuss matters relating to the Settlement Receivable Assets or the Seller's performance hereunder with any of the officers or employees of the Seller having knowledge thereof or the Seller's Independent accountants.

(d) Keeping of Records and Books of Account. The Seller shall maintain and implement administrative and operating procedures (including, without limitation, the ability to recreate records evidencing the Settlement Receivable Assets and the related property with respect thereto conveyed hereunder in the event of the destruction of the originals thereof), and keep and maintain all documents, books, microfiche, computer records and other information reasonably necessary or advisable for the collection of the Settlement Receivable Assets and such related property. Such books, microfiche and computer records shall reflect all facts giving rise to the Settlement Receivable Assets, all payments and credits with respect thereto, and the computer records shall be clearly marked to show the interests of the Buyer (and MSCC as the Buyer's assignee) in the Settlement Receivable Assets and such related property. The Seller shall furnish MSFC a copy of each servicing report delivered to the Commonwealth pursuant to the Settlement Agreement.

(e) Performance and Compliance with Settlement Agreement. At its expense the Seller shall timely and fully perform and comply with all material provisions, covenants and other promises required to be observed by the Seller under the Settlement Agreement directly related to the Settlement Receivable Assets.

(f) Continuous Perfection. The Seller shall not change its name or identity in any manner which might make any financing or continuation statement filed here-under misleading within the meaning of Section 9-402(7) of the UCC (or any other

then applicable provision of the UCC) unless the Seller shall have given at least 30 days' prior written notice thereof to the Buyer and shall have taken all action prior to making such change (or made arrangements to take such action substantially simultaneously with such change if it is impossible to take such action in advance) necessary or advisable in the opinion of the Buyer to amend such financing statement or continuation statement so that it is not misleading. The Seller shall neither change its chief executive office nor change the location of its principal records concerning the Settlement Receivable Assets and the Collections from the locations specified in Section 4.1(g) unless it has given the Buyer at least 30 days' prior

Copyright © 2012 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

written notice of its intention to do so and has taken such action as is necessary or advisable to cause the interest of the Buyer in the Settlement Receivable Assets and the Collections to continue to be perfected with the priority required by this Agreement. The Seller will at all times maintain its principal executive office and any other office at which it maintains records relating to the Settlement Receivable Assets within the United States of America.

(g) Further Action. The Seller shall make, execute or endorse, acknowledge, and file or deliver to the Buyer from time to time such schedules, confirmatory assignments, conveyances, transfer endorsements, powers of attorney, certificates, reports and other assurances or instruments and take such further steps relating to the Settlement Receivable Assets and the Collections and other rights covered by this Agreement, as the Buyer may request and reasonably require including executing and delivering to the Buyer any instruments, financing or continuation statements or other writings reasonably necessary or desirable to maintain the perfection or priority of the ownership interest of the Buyer in the Settlement Receivable Assets and the Collections under the UCC or other applicable law. The Seller shall provide the Buyer with copies of all monthly reports delivered to the Commonwealth by the Seller relating to the Settlement Agreement and all correspondence between the Commonwealth and the Seller relating to the Settlement Receivable Assets. At any time at the request of the Buyer, the Seller shall deliver and sign any bills, statements or letters or other writings necessary to carry out the terms and provisions of this Agreement and to facilitate the collection of the Settlement Receivable Assets for the benefit of the Buyer.

(h) Sale. The Seller agrees to treat this conveyance for all purposes (including, without limitation, tax and financial accounting purposes) as a sale on all relevant books, records, tax returns, financial statements and other applicable documents.

(i) Filings. The Seller shall record and file, at its expense, on or prior to the Closing Date any financing

statement wit resect to the Settlement Receivable meeting the requirement of applicable state law in such manner and in such jurisdictions as are necessary under the applicable UCC to perfect the sale of the Settlement Receivable from the Seller to the Buyer, and shall deliver a file-stamped copy of such financing statements or other evidence of such filings (which may, for purposes of this paragraph, consist of telephone confirmations of such filings) to the Buyer.

(j) Third Parties. If a third party, including a potential purchaser of the Settlement Receivable, inquires, the Seller will promptly indicate that the Settlement Receivable has been sold to the Buyer and

Copyright © 2012 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

interests in the Settlement Receivable have been sold by the Buyer to MSCC, and the Seller will not claim any ownership interest in the Settlement Receivable.

(k) Payment Instructions. The Seller will instruct the Commonwealth to remit payments of the Settlement Receivable and interest thereon to account #2037341 at PNC Bank National Association, Pittsburgh, PA, TDCA #2037341, ABA #0430-0009-6, Attn: F.J. Deramo, which shall be an account segregated from other assets and proceeds of the Seller. Seller will in no event provide alternate instructions to the Commonwealth that are inconsistent with the foregoing, nor will Seller withdraw or revoke such instructions without the prior written consent of the Liquidity Agent.

(l) Bankruptcy. The Seller will not institute any bankruptcy proceedings against the Buyer before the expiration of one year and one day after MSFC's Notes (as defined in the Liquidity Loan Agreement) shall have been paid in full.

(m) Amendments. The Seller shall not make any amendments to (i) its partnership agreement, (ii) any of the terms of, or waive any performance under, this Agreement or (iii) any of the terms of the Settlement Agreement which would affect the payment of the Settlement Receivable without the prior written consent of MSCC, MSFC and the Liquidity Agent, which will not be unreasonably withheld.

(n) Ownership. The Seller shall at all times be wholly-owned (directly or indirectly) by Envirotest Systems Corp. or any Affiliate thereof.

(o) Information. All Information, exhibits, financial statements, documents, books, records or reports furnished or to be furnished at any time by or on behalf of the Seller in connection with this Agreement is or will be accurate in all material respects as of its date or as of the date so furnished.

ARTICLE VI

REPURCHASE OBLIGATION

Section 6.1 MANDATORY REPURCHASE. On and after the Closing Date, in the event that any of the representations and warranties of the Seller with respect to the Settlement Receivable Assets set forth in Section 4.1 and 4.2(b) and (c) shall not have been true and correct as of the date such representation or warranty is made (which date shall be the Closing Date with respect to Section 4.1), then, with respect to Section 4.1, no later than 180 days, and with respect to Section 4.2(b) and 4.2(c) no later than 90 days,

Copyright © 2012 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

after receipt by the Seller of written notice of such breach given by the Buyer, the Seller shall repurchase and accept a retransfer of such Settlement Receivable Assets on the terms and conditions set forth below; provided,however, that no such repurchase or retransfer shall be required to be made with respect to the Settlement Receivable Assets if, on any day within such 180 or 90 day period, as applicable, the representations and warranties in Section 4.1, Section 4.2(b) and 4.2(c) that triggered such 180 or 90 day period shall then be true and correct in all material respects. In the event that any of the representations and warranties set forth in Section 4.2 (other than Section 4.2(b) or Section 4.2(c)) shall not have been true and correct as of the date made, then (i) as of the date of a payment default by the Commonwealth with respect to the Settlement Receivable Assets or (ii) if on and after the date of such payment default the Seller is diligently pursuing its legal rights to cure such payment default and has a reasonable basis to believe it will prevail in its efforts to cure said payment default (and no non-appealable order has determined to the contrary) 90 days after a payment default by the Commonwealth with respect to the Settlement Receivable Assets,the Seller shall repurchase and accept a retransfer o the Settlement Receivable Assets on the terms and conditions set forth below; provided,however, that no such repurchase or retransfer shall be required to be made with respect to the Settlement Receivable Assets if prior to such payment default or such 90 day period (if applicable) the representation or the warranty which triggered this provision shall then be true and correct in all material respects. In consideration of such resale the Seller shall, on the date of the resale of such Settlement Receivable Assets, pay to the Buyer an amount equal to the sum of the unpaid principal balance of such Settlement Receivable Assets on the date of repurchase and accrued and unpaid interest thereupon accruing after the date hereof, any broken funding costs and any swap breakage costs of the Buyer relating to interest rate hedging agreements effected in connection with the transactions contemplated by this Agreement. In addition, in consideration of such resale, the Seller shall on each Note Liability Date pay an amount equal to

the Incremental Note Liability due on such Note Liability Date. Upon any resale to the Seller of the Settlement Receivable Assets pursuant to this Section 6.1, the Buyer shall automatically and without further action be deemed to sell, transfer, assign and set-over to the Seller, without recourse, representation or warranty, all right, title and interest of the Buyer, in, to and under such Settlement Receivable Assets and all monies due or to become due with respect thereto and all proceeds of such Settlement Receivable Assets. The obligation of the Seller to repurchase and accept resale of such Settlement Receivable Assets shall constitute the sole remedy respecting any breach of the representations and warranties set forth in Sections 4.1 and 4.2 with respect to the Settlement Receivable Assets.

Section 6.2 CONVEYANCE OF REASSIGNED SETTLEMENT RECEIVABLE ASSETS. Upon any reconveyance of the Settlement Receivable Assets by the Buyer to the

Copyright © 2012 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

Seller pursuant to Section 6.1, the Buyer shall execute and deliver to the Seller instruments of sale and assignment in such form as shall reasonably be requested by the Seller, MSCC, MSFC or the Administrator, in order to vest in the Seller, or its designee or assignee, all right, title interest of the Buyer in, to and under such Settlement Receivable Assets, provided, that any such reconveyance shall expressly state that it is made by the Buyer without any recourse, representation or warranty. Subject to the foregoing, the Buyer shall execute such other documents or instruments of conveyance or take such other actions as the Seller, MSCC, MSFC or the Administrator may reasonably require to effect any repurchase of the Settlement Receivable Assets pursuant to Section 6.1.

ARTICLE VII

CONDITIONS PRECEDENT

Section 7.1 CONDITIONS TO THE BUYER'S OBLIGATIONS REGARDING SETTLEMENT RECEIVABLE. The obligations of the Buyer to purchase the Settlement Receivable on the Closing Date hereunder shall be subject to the satisfaction of each of the following conditions:

(a) All representations and warranties of the Seller contained in this Agreement shall be true and correct with the same effect as though such representations and warranties had been made on such date.

(b) All information concerning the Settlement Receivable provided to the Buyer shall be true and correct in all material respects as of the Closing Date.

(c) At the Closing Date, the Seller shall have performed all other obligations required to be performed by the provisions of this Agreement.

(d) The Seller shall have filed the financing statement(s) required to be filed pursuant to Section 5.1(i) and shall have delivered file-stamped copies thereof to the Buyer and MSFC.

(e) All partnership, corporate and legal proceedings and all instruments, documents and legal opinions in connection with the transactions contemplated by this Agreement, the Settlement Receivables Purchase Agreement and the Liquidity Loan Agreement shall be satisfactory in form and substance to the Buyer, MSCC, MSFC and the Administrator, and the Buyer, MSCC, MSFC and the Administrator shall have received from the Seller copies of all documents (including, without limitation, records of partnership proceedings) relevant to the transactions herein contemplated as the Buyer, MSCC, MSFC and the Administrator may reasonably have requested.

Copyright © 2012 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

(f) The Settlement Receivable Purchase Agreement, dated as of the date hereof, between the Buyer and MSCC, shall have been executed and delivered by MSCC.

Section 7.2 CONDITIONS PRECEDENT TO THE SELLER'S OBLI- ATIONS. The obligations of the Seller to sell the Settlement Receivable on the Closing Date hereunder shall be subject to the satisfaction of each of the following conditions (the execution by the Seller of this Agreement shall be conclusive evidence of the satisfaction of such conditions):

(a) Payment of the Purchase Price in accordance with Section 3.2 shall have been made.

(b) The Settlement Receivable Purchase Agreement, dated as of the date hereof, between the Buyer and MSCC, shall have been executed and delivered by the Buyer and MSCC.

ARTICLE VIII

INDEMNITY

Notwithstanding any other provision of this Agreement, the Seller hereby agrees to indemnify the Buyer for any reductIon in the Settlement Receivable solely due to the exercise of set off rights by the Obligor under Section 4(e) of the Settlement Agreement. The amount paid under any such indemnity shall be deemed to be a reduction in the Settlement Receivable amount outstanding hereunder. The payment obligation of the Seller under this Article in respect of the exercise by the obligor of

set off rights under Section 5(c) of the Settlement Agreement shall be reduced by amounts paid by the Escrow Agent (as defined in the Escrow Agreement) to the Liquidity Agent pursuant to Section 2(c) of the Escrow Agreement. In addition, the Seller hereby agrees to Indemnify the Buyer for any broken funding costs and any swap breakage costs of the Buyer relating to interest rate hedging agreements effected in connection with the transactions contemplated by this Agreement, including any such costs caused by any repurchase by the Seller of the Settlement Receivable Assets or by a prepayment by the Commonwealth (i.e., any payment in excess of the amounts referenced in Section 4 of the Settlement Agreement or any payment in respect of the amounts referenced in Section 4(b), (c) or (d) of the Settlement Agreement before July 31, 1997 or July 31, 1998, respectively), and any amounts constituting Incremental Note Liabilities.

ARTICLE IX

EFFECT OF TERMINATION

Copyright © 2012 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

Section 9.1 EFFECT OF TERMINATION. No termination or rejection or failure to assume the executory obligations of this Agreement in the bankruptcy of the Seller or the Buyer shall be deemed to impair or affect the obligations pertaining to any executed sale or executed obligations, including, without limitation, pretermination breaches of representations and warranties by the Seller or the Buyer. Without limiting the foregoing, prior to termination, the failure of the Seller to deliver computer records of the Settlement Receivable or evidence of the transfer thereof shall not render such transfer or obligation executory, nor shall the continued duties of the parties pursuant to Section 5 of this Agreement render an executed sale executory.

ARTICLE X

MISCELLANEOUS PROVISIONS

Section 10.1 AMENDMENT OF THIS AGREEMENT. This Agreement and the rights and obligations of the parties hereunder may not be changed orally, but only by an instrument in writing signed by the Buyer, MSFC, the Administrator and the Seller. Any supplemental conveyance or reconveyance executed in accordance with the provisions hereof shall not be considered amendments to this Agreement.

Section 10.2 GOVERNING LAW. THIS AGREEMENT AND THE OTHER CONVEYANCE DOCUMENTS SHALL BE CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF PENNSYLVANIA, WITHOUT REFERENCE TO ITS CONFLICT OF LAW PROVISIONS, AND THE OBLIGATIONS, RIGHTS AND

REMEDIES OF THE PARTIES HEREUNDER SHALL BE DETERMINED IN ACCORDANCE WITH SUCH LAWS.

Section 10.3 NOTICES. All demands, notices and communications hereunder shall be in writing and shall be deemed to have been duly given if personally delivered at or mailed by registered mail, return receipt requested, to:

(a) in the case of the Buyer, to:

ES Funding Corporation
246 Sobrante Way
Sunnyvale, CA 94086

Attention: Chester Davenport, Chairman
Telephone: (408) 774-6319

Copyright © 2012 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

Telecopy: (408) 481-3929

and

ES Funding CorporatIon
246 Sobrante Way
Sunnyvale, CA 94086

Attention: C. Michael Alston, General Counsel
Telephone: (408) 774-6319
Telecopy: (408) 481-3929

(b) in the case of the Seller, to:

Envirotest Partners
c/o Envirotest Systems Corp.
6903 Rockledge DrIve, Suite 214
Bethesda, MD 20817

Attention: Chester Davenport, Chairman
Telephone: (301) 530-8110
Telecopy: (301) 530-9538

and

Envirotest Partners
c/o Envirotest Systems Corp.
6903 Rockledge Drive, Suite 214
Bethesda, MD 20817

Attention: C. Michael Alston, General Counsel
Telephone: (301) 530-8110
Telecopy: (301) 530-9538

or, as to each party, at such other address as shall be designated by such party in a written notice to each other party.

Section 10.4 Severability of Provisions. If any one or more of the covenants, agreements, provisions or terms of this Agreement shall for any reason whatsoever be held invalid, then such covenants, agreements, provisions, or terms shall be deemed severable from the remaining covenants, agreements, provisions, or terms of this Agreement and shall in no way affect the validity or enforceability of the other provisions of this Agreement.

Section 10.5 Assignment. The Seller acknowledges and agrees that (i) the Buyer shall be entitled to assign its rights under this Agreement to MSCC pursuant to the Settlement Receivable Purchase Agreement, (ii) MSCC may

Copyright © 2012 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

pledge such rights to the Liquidity Agent for the benefit of the Liquidity Lenders pursuant to the Liquidity Loan Agreement and (iii) MSCC may assign its rights under this Agreement to MSFC. Except as provided in the preceding sentence, this Agreement may not be assigned by the parties hereto.

Section 10.6 Further Assurances. The Buyer and the Seller agree to do and perform, from time to time, any and all acts and to execute any and all further instruments required or reasonably requested by the other party more fully to effect the purposes of this Agreement, including, without limitation, the execution of any financing statements or continuation statements or equivalent documents relating to the Settlement Receivable for filing under the provisions of the UCC or other laws of any applicable jurisdiction.

Section 10.7 No Waiver; Cumulative Remedies. No failure to exercise and no delay in exercising, on the part of the Buyer or the Seller, any right, remedy, power or privilege hereunder, shall operate as a waiver thereof; nor shall any single or partial exercise of any right, remedy, power or privilege hereunder preclude any other or further exercise thereof or the exercise of any other right, remedy, power or privilege. The rights, remedies, powers and privileges herein provided are cumulative and not exhaustive of any rights, remedies, powers and privilege provided by law.

Section 10.8 Counterparts. This Agreement may be executed in two or more counterparts including telefax transmission thereof (and by different parties on separate counterparts), each of which shall be an original, but all of which together shall constitute one and the same instrument.

Section 10.9 Binding Effect; Third-Part; Beneficiaries. This Agreement will inure to the benefit of and be binding upon the parties hereto and their respective successors and assigns. Each assignee contemplated hereunder to whom an assignment is effected (including, but not limited to, MSCC, MSFC and the Liquidity Agent) is an express third party beneficiary of the obligations of the Seller hereunder and may directly enforce the performance by Seller of such obligations.

Section 10.10 Merger and Integration. Except as specifically stated otherwise herein, this Agreement sets forth the entIre understanding of the parties relating to the subject matter hereof, and all prior understandings, written or oral, are superseded by this Agreement. This Agreement may not be modified, amended, waived or supplemented except as provided herein.

Section 10.11 Headings. The headings herein are for purposes of reference only and shall not otherwise affect the meaning or Interpretation of any provisIon hereof.

Copyright © 2012 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

IN WITNESS WHEREOF, the Buyer and the Seller each have caused this Agreement to be duly executed by their respective officers as of the day and year first above written.

ENVIROTEST PARTNERS, as Seller

By Its partners:

ENVIROTEST SYSTEMS CORP.

By: /s/ C. Michael Alston

Name : C. Michael Alston
Title: Vice President

ENVIROTEST TECHNOLOGIES, INC.

By: /s/ C. Michael Alston

Name: C. Michael Alston
Title: Vice President

ES FUNDING CORPORATION, as Buyer

By: /s/ C. Michael Alston

Name : C. Michael Alston
Title: Vice President

Copyright © 2012 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

RECEIVABLES PURCHASE AGREEMENT

among

MARKET STREET CAPITAL CORP.

ES FUNDING CORPORATION

and

PNC BANK, NATIONAL ASSOCIATION

Dated as of November 26, 1996

TABLE OF CONTENTS

Copyright © 2012 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

RECEIVABLES PURCHASE AGREEMENT

This Receivables Purchase Agreement (this "Agreement") dated as of November 26, 1996, is among Market Street Capital Corp., a Delaware corporation (the "Company"), ES Funding Corporation (the "Seller Sub") and PNC Bank, National Association, as Administrator and Liquidity Agent. As of, and effective on, December 11, 1996 (the "Closing Date") the Seller Sub hereby sells, assigns, transfers and otherwise conveys and the Company agrees to purchase, all of the Seller Sub's rights (including, but not limited to, all of the Seller Sub's right, title and interest in and to the right to receive payment of the Settlement Receivable Assets), but not its obligations, (the "Rights") under (i) that certain Purchase and Sale Agreement (the "Receivables Sale Agreement"), dated as of November 26, 1996, by and among Envirotest Partners (formerly known as Envirotest/Synterra Partners) (the "Seller"), a Pennsylvania partnership and the Seller Sub and (ii) that certain General Release and Settlement Agreement dated December 15, 1995, as amended by Amendment No. 1 to General Release and Settlement Agreement dated November 26, 1996 (as so amended, the "Settlement Agreement") by and among the Commonwealth of Pennsylvania (the "Commonwealth"), including without limitation, its agency the Commonwealth of Pennsylvania, Department of Transportation, the Seller, Envirotest Systems Corp., a Delaware corporation, and Envirotest Technologies, Inc., a Delaware corporation. Simultaneously with the execution of this Agreement the Company has, pursuant to the terms of the Liquidity Agreement (as defined below), pledged to the Liquidity Agent, as agent for the Liquidity Lenders, all of the Company's right, title and interest in and to the Rights. On or after the effective date of this Agreement, the Company may, subject to the pledge to the Liquidity Agent described in the preceding sentence, assign all of its right, title and interest in and to the Rights under this Agreement and all of its rights, title, interests and obligations under the Liquidity Agreement to Market Street Funding Corporation, a Delaware corporation ("MSFC"). A copy of the Settlement Agreement is attached hereto as Exhibit A. Terms used

Copyright © 2012 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

without definition herein shall have the respective meanings assigned to them in that certain Liquidity Loan Agreement, dated November 26, 1996 (the "Liquidity Agreement"), by and among the Company, the Liquidity Lenders from time to time party thereto, and PNC Bank, National Association, as Administrator and Liquidity Agent.

1. Purchase Price; Purchase and Sale. The purchase price (the "Purchase Price") for the Rights shall be $79,405,707.00, which amount shall be payable by the Company to the Seller Sub on the Closing Date in immediately available funds. On the Closing Date, the Company shall pay the Purchase Price to the Seller Sub. If, after the payment in full by the Commonwealth of the Settlement Receivable Asset (as defined in the Receivables Sale Agreement) and the payment in full by MSCC and MSFC of any amounts owing under the Liquidity Agreement and

payment in full of any Notes maturing not later than the seventy-fifth day following July 31, 1998, and any amounts owing to the Administrator, the Company has remaining any portion of the amounts paid in respect of the Settlement Receivable Assets, the Administrator shall instruct the Company to pay such amount to the Seller Sub no later than the seventy-fifth day following July 31, 1998.

2. Representations and Warranties. (a) The Seller Sub hereby represents and warrants to the Company as of the Closing that:

(i) Organization and Good Standing. The Seller Sub is a corporation duly formed, validly existing and in good standing under the laws of its state of incorporation, and the Seller Sub has full power and authority to execute, deliver and perform its obligations under this Agreement and the Receivables Sale Agreement and each other document or instrument to be delivered by it hereunder and thereunder, including but not limited to the authority to sell, assign, and transfer the Rights in accordance with this Agreement and in all material respects to own its property and conduct its business as such properties are presently owned and as such business is presently conducted;

(ii) Due Authorization. The execution, delivery and performance of this Agreement, the Receivables Sale Agreement and each other document to be delivered hereunder or thereunder, and the consummation of the transactions provided in such documents to which the Seller Sub is a party have been duly authorized by the Seller Sub by all the necessary corporate action on the part of the Seller Sub;

Copyright © 2012 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

(iii) Binding Obligation. Assuming the due authorization, execution and delivery of this Agreement, the Receivables Sale Agreement and each other agreement executed by the Seller Sub in connection therewith by each party thereto other than the Seller Sub, this Agreement, the Receivables Sale Agreement and each such other agreement and all of the obligations of the Seller Sub hereunder and thereunder are the legal, valid and binding obligations of the Seller Sub, enforceable in accordance with the terms of this Agreement

and the Receivables Sale Agreement, except as enforceability may be limited by bankruptcy, insolvency, reorganization, moratorium or other laws relating to or affecting creditors' right in general, and except as such enforceability may be limited by general principles of equity (whether such enforceability is considered in a proceeding in equity or at law);

(iv) No Conflict. The execution, delivery and performance by the Seller Sub of this Agreement and the Receivables Sale Agreement, the performance by the Seller Sub of the transactions contemplated hereby and thereby and the fulfillment of the terms hereof and thereof by the Seller Sub do not (a) contravene its articles of incorporation or by-laws, (b) violate any provision of, or require any filing (except for the filings under the UCC required hereunder, each of which will be duly filed and will be in full force and effect on the Closing Date), registration, consent or approval under, any law, rule, regulation, order, writ, judgment, injunction, decree, determination or award presently in effect having applicability to the Seller Sub, except for such filings, registrations, consents or approvals as have already been obtained and are in full force and effect, (c) result in a breach of or constitute a default or require any consent under any indenture, loan agreement, credit agreement, deed of trust or any other agreement, contract, lease or instrument to which the Seller Sub is a party or by which it or its assets or properties may be bound or affected except those as to which a consent or waiver has been obtained and is in full force and effect and an executed copy of which has been delivered to the Company, or (d) result in, or require, the creation or imposition of any Lien upon or with respect to any of the

Copyright © 2012 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

properties now owned or hereafter acquired by the Seller Sub other than as specifically contemplated hereby or by the Liquidity Agreement.

"Lien" shall mean any mortgage, pledge, hypothecation, assignment for security, security interest, encumbrance, levy, lien or charge of any kind, whether voluntarily

incurred or arising by operation of law or otherwise, affecting any property, including any agreement to grant any of the foregoing, any conditional sale or other title retention agreement, any lease in the nature of a security interest, and the filing of or agreement to file or deliver any financing statement (other than a precautionary financing statement with respect to a lease that is not in the nature of a security interest) under the UCC or comparable law of any jurisdiction;

(v) All Consents Required. All approvals, authorizations, licenses, consents, orders, or other actions of any Person or of any Governmental Authority required in connection with the execution and delivery by the Seller Sub of this Agreement and the Receivables Sale Agreement, the performance by the Seller Sub of the transactions contemplated hereby and thereby, and the fulfillment by the Seller Sub of the terms hereof and thereof have been obtained, are in full force and effect, and copies thereof have been delivered to the Company;

(vi) Not an Investment Company. The Seller Sub is not an "investment company" or a company controlled by an "investment company" within the meaning of the Investment Company Act of 1940, as amended, or is exempt from all provisions of such Act;

(vii) Proceeds. No proceeds of the purchase will be used for any purpose that violates Regulations G or U of the Federal Reserve Board;

(viii) Special Purpose Corporation. The Seller Sub is a newly formed special purpose corporation organized solely for the purposes of the transactions contemplated by this Agreement and the Receivables Sale Agreement and has not engaged in any activities prior to the date hereof;

(ix) Valid Sale, etc. (A) The Seller Sub is not insolvent and

Copyright © 2012 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

will not be rendered insolvent upon sale of the Rights to the Company; the Seller Sub is not engaged in business or about to engage in business for which the

assets remaining with it after the sale of the Rights will be an unreasonably small amount of capital; and the Seller Sub does not intend to incur or believe that it will incur debts beyond its ability to pay as such debts mature; and

(B) The consideration received by the Seller Sub upon the sale of the Rights will constitute reasonably equivalent value and fair consideration for the property sold, consistent with terms that would be arrived at on an arm's-length basis; and

(x) No Proceedings. There are no proceedings or investigations pending or, to the best knowledge of the Seller Sub, threatened against the Seller Sub, before any court, regulatory body, administrative agency or other tribunal or governmental instrumentality (i) asserting the invalidity of this Agreement or the Receivables Sale Agreement, (ii) seeking to prevent the consummation of any of the transactions contemplated hereunder or under the Receivables Sale Agreement, (iii) which would adversely affect the performance by the Seller Sub of its obligations hereunder or under the Receivables Sale Agreement, (iv) which would adversely affect the collectibility of the Rights, or (v) seeking any determination or ruling that would adversely affect the validity or enforceability of this Agreement or the Receivables Sale Agreement. The Seller Sub is not in violation of any order of any court, arbitrator or governmental authority.

(b) The Seller Sub hereby represents and warrants with respect to the Rights and the Receivables Sale Agreement, that as of the Closing Date and as of each date on which a Note is issued and the date any Liquidity Loan is made that:

(i) Legal Ownership. No effective financing statement or other instrument similar in effect with respect to the Seller Sub in connection with the Rights is on file in any recording office, except those filed in favor of the Company as contemplated by the Receivables Sale Agreement or this Agreement;

Copyright © 2012 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

(ii) Place of Business. The principal place of business and chief executive office of the Seller Sub is located at Sunnyvale, California, and the Seller Sub keeps its records concerning the Settlement Agreement at such office. Such office shall not be changed without 30 days' prior written notice to the Company and the Administrator;

(iii) Name. The Seller Sub's complete corporate name is set forth in the preamble to this Agreement, and the Seller Sub does not use and has not during the last six years used any other corporate name, trade name, doing-business name or fictitious name;

(iv) Ownership. Neither the Seller Sub nor any Affiliate of the Seller Sub has any direct or indirect ownership or other financial interest in the Company or MSFC;

(v) No Transfer. The Seller Sub has not sold, assigned, pledged, conveyed or otherwise transferred the Rights or any interest therein or suffered to exist a material Lien thereon except for the sale and assignment of the Rights to the Company as provided herein and as provided in the Receivables Sale Agreement and shall defend and hold harmless the Company from any Lien or other adverse claim in or to the Rights; and

(vi) Commonwealth's Obligation. The Settlement Agreement, including but not limited to the obligation of the Commonwealth to pay the Settlement Receivable Assets, is a legal, valid and binding obligation of the Commonwealth, enforceable against the Commonwealth in accordance with its terms, except as (a) such enforcement may be limited by applicable bankruptcy, insolvency, fraudulent conveyance, moratorium or similar laws affecting the rights of creditors generally and by equitable principles (regardless of whether such enforceability is considered in a proceeding in equity or at law); (b) the indemnification provisions in the Settlement Agreement may not be enforceable to the extent that they may be deemed to be against public policy or relate to or purport to govern indemnification against liabilities under any securities

Copyright © 2012 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

laws; and (c) certain other rights, remedies and other remedial provisions of the Settlement Agreement may not be enforceable, provided that such unenforceability does not render the Settlement Agreement invalid as a whole or substantially interfere with the substantial realization of the principal benefits or security, or both, which the Settlement Agreement purports to provide.

(c) The representations and warranties set forth in this Section 2 shall survive the conveyance of the Rights to the Company, and termination of the rights and obligations of the Company and the Seller Sub under this Agreement.

3. Notice of Breach: Cure and Repurchase. (a) Upon discovery by the Company or the Seller Sub of a breach of any of the representations and warranties in Section 2, the party discovering such breach shall give prompt written notice to the Administrator and the other parties hereto, within three Business Days of such discovery.

(b) On and after the Closing Date, in the event that any of the representations and warranties of the Seller Sub as set forth in Sections 2(a) and 2(b)(ii) and (iii) shall not have been true and correct as of the date such representation or warranty is made (which date shall be the Closing Date with respect to Section 2(a)), then with respect to Section 2(a) no later than 180 days, and with respect to Sections 2(b)(ii) and (iii) no later than 90 days, after receipt by the Seller Sub of written notice of such breach given by the Company, the Seller Sub shall repurchase and accept a retransfer of the Rights on the terms and conditions set forth below; provided, however, that no such repurchase shall be required to be made with respect to the Rights if, within such 180 or 90 day period, as applicable, the representations and warranties in Sections 2(a), 2(b)(ii) and (iii) that triggered such 180 or 90 day period shall then be true and correct in all material respects. In the event that any of the representations and warranties set forth in Section 2(b), other than Sections 2(b)(ii) and (iii), shall not have been true and correct as of the date such representation or warranty is made, then (i) as of the date of a payment default by the Commonwealth with respect to the Rights, or (ii) if on and after the date of such payment default the Company is diligently pursuing its legal rights to cure such payment default and has a reasonable basis to believe that it will prevail in its efforts to cure said payment default (and no non-appealable order has determined to the contrary), 90 days after a payment default by the Commonwealth with respect to the Rights, the Seller shall repurchase and accept a retransfer of the Rights on the terms and conditions set forth below; provided, however, that no such repurchase shall be required to be made with respect to the

Copyright © 2012 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

Rights if prior to such payment default or such 90 day period (if applicable) the representation or warranty which triggered this provision shall then be true and correct in all material respects. In consideration of such resale the Seller Sub shall, on the date of the resale of the Rights, pay to the Company an amount equal to the sum of the outstanding balance of the Capital on the date of repurchase and accrued unpaid Discount thereupon accruing after the date hereof, any broken funding costs and any swap breakage costs relating to interest hedging agreements effected in connection with this Agreement. Upon each resale to the Seller Sub of the Rights pursuant to this Section 3(b), the Company shall automatically and without further action be deemed to sell, transfer, assign and set-over to the Seller Sub, without recourse, representation or warranty, all right, title and interest of the Company, in, to and under the Rights and all monies due or to become due with respect thereto and all proceeds of the Rights.

(c) Upon any reconveyance of the Settlement Receivable Assets by the Company to the Seller Sub pursuant to Section 3(b), the Company shall execute and deliver to the Seller Sub instruments of sale and assignment in such form as shall reasonably be requested by the Seller Sub, in order to vest in the Seller Sub, or its designee or assignee, all right, title and interest of the Company in, to and under such Settlement Receivable Assets, provided, that any such reconveyance shall expressly state that it is made by the Company without any recourse, representation or warranty. Subject to the foregoing, the Company shall execute such other documents or instruments of conveyance or take such other actions as the Seller Sub may reasonably require to effect any repurchase of the Settlement Receivable Assets pursuant to Section 3(b).

4. Opinions of Counsel. The Seller Sub hereby covenants to the Company to, simultaneously with the execution hereof, deliver or cause to be delivered to the Company opinions of counsel as to various matters in form and substance satisfactory to the Company.

5. Closing Items. (a) The Seller Sub hereby agrees to furnish to the Company at or prior to the Closing Date any and all information, documents, certificates, letters and opinions with respect to this Agreement, the Liquidity Agreement, the Receivables Sale Agreement, the Seller Sub's corporate documents and all other program documents and the transactions contemplated thereby that are reasonably requested by the Company.

(b) The Seller Sub hereby agrees to furnish to the Company at or prior to the Closing Date executed copies of this Agreement, the Receivables Sale Agreement and all documents contemplated hereby or thereby.

Copyright © 2012 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

6. Covenants of Seller Sub. (a) During the term of this Agreement, and until the Rights sold to the Company shall have been paid in full or repurchased by the Seller Sub, pursuant to the terms of Section 3(b) herein, or written-off as uncollectible, and all amounts owed by the Seller Sub pursuant to this Agreement have been paid, unless the Company otherwise consents in writing, the Seller Sub covenants and agrees as follows:

(i) Compliance with Laws. etc. The Seller Sub shall satisfy all of its obligations to be fulfilled under or in connection with the Rights and maintain in effect all qualifications required under all applicable laws, rules and regulations to the extent required in order to maintain the effectiveness of the conveyance the Rights.

(ii) Preservation of Corporation. The Seller Sub shall preserve and maintain its corporate existence.

(iii) Audits. At any time and from time to time during the Seller Sub's regular business hours, on reasonable prior notice, the Seller Sub shall, in response to any reasonable request of the Company, permit the Company, or its agents or representatives, at the cost and expense of the Seller Sub, (i) to examine and make copies of and abstracts from all books, records and documents (including, without limitation, computer tapes and disks) in the possession or under the control of the Seller Sub relating to the Rights, and (ii) to visit the offices and properties of the Seller Sub for the purpose of examining such materials and to discuss matters relating to the Rights or the Seller Sub's performance hereunder with any of the officers or employees of the Seller Sub having knowledge thereof or the Seller Sub's independent accountants.

(iv) Keeping of Records and Books of Account. The Seller Sub shall maintain and implement administrative and operating procedures (including, without limitation, the ability to recreate records evidencing the Rights and the related property with respect thereto conveyed hereunder in the event of the destruction of the originals thereof), and keep and maintain all documents, books,

microfiche, computer records and other information reasonably necessary or advisable for the collection of the

Copyright © 2012 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

Rights and such related property. Such books, microfiche and computer records shall reflect all facts giving rise to the Rights, all payments and credits with respect thereto, and the computer records shall be clearly marked to show the interests of the Company in the Rights and such related property.

(v) Continuous Perfection. The Seller Sub shall not change its name or identity in any manner which might make any financing or continuation statement filed hereunder misleading within the meaning of Section 9-402(7) of the UCC (or any other then applicable provision of the UCC) unless the Seller Sub shall have given at least 30 days' prior written notice thereof to the Company and shall have taken all action prior to making such change (or made arrangements to take such action substantially simultaneously with such change if it is impossible to take such action substantially simultaneously with such change if it is impossible to take such action in advance) necessary or advisable in the opinion of the Company to amend such financing statement or continuation statement so that it is not misleading and so that it continues to perfect the interests of the Company, the Liquidity Agent and the Liquidity Lenders with the priority required by this Agreement and the Liquidity Agreement. The Seller Sub shall neither change the address of its chief executive office nor change the location of its principal records concerning the Rights unless it has given the Company or the Administrator at least 30 days' prior written notice of its intent to do so and has taken such action as is necessary or advisable to cause the interest of the Company, the Liquidity Agent and the Liquidity Lenders in the Rights to continue to be perfected with the priority required by this Agreement and the Liquidity Agreement. The Seller Sub will at all times maintain its principal executive office and any other office at which it maintains records relating to the Rights within the United States of America.

(vi) Further Action. The Seller Sub shall make, execute or endorse, acknowledge, and file or deliver to the Company and the Liquidity Agent from time to time such schedules, confirmatory assignments, conveyances, transfer endorsements, powers of attorney, certificates, reports and other assurances or instruments and take such further steps relating to the Rights and other rights covered by

Copyright © 2012 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

this Agreement, as the Company or the Liquidity Agent may request and reasonably require including executing and delivering to the Company or the Liquidity Agent any instruments, financing or continuation statements or other writings reasonably necessary or desirable to maintain the perfection or priority of the Company's ownership interest in the Rights under the UCC or other applicable law. At any time at the request of the Company or the Administrator, the Seller Sub shall deliver to, and sign any bills, statements and letters or other writings necessary to carry out the terms and provisions of this Agreement and to facilitate the collection of the Rights.

(vii) Filings. The Seller Sub shall record and file, at its expense, on or prior to the Closing Date any financing statement with respect to the Rights meeting the requirements of applicable state law in such manner and in such jurisdictions as are necessary under the applicable UCC to perfect the sale of the Rights from the Seller Sub to the Company, and shall deliver a file-stamped copy of such financing statement or other evidence of such filings (which may, for purposes of this paragraph, consist of telephone confirmations of such filings) to the Company.

(viii) Third Parties. If a third party, including a potential purchaser of the Rights, inquires, the Seller Sub will promptly indicate that the Rights have been sold to the Company, and the Seller Sub will not claim any ownership interest in the Rights.

(ix) Payment Instructions. The Seller Sub will not instruct the Commonwealth to remit any payments with respect to the Rights to any

location other than the escrow account established under that certain Base Settlement Amount Escrow Agent Agreement, dated as of the date hereof, by and among the Company, MSFC, and PNC Bank, National Association, as Escrow Agent, as Liquidity Agent and as Administrative Agent.

(x) Bankruptcy. The Seller Sub will not institute any bankruptcy proceedings against the Company before the expiration of one year and one day after the Company's latest maturing Notes shall have been paid in full.

Copyright © 2012 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

(xi) Business Character. The Seller Sub shall not engage in any activities other those contemplated by or in furtherance of this Agreement, the Receivables Sale Agreement and the Liquidity Agreement.

(xii) Amendments. The Seller Sub shall not make any amendments to its articles of incorporation or by-laws or any of the terms of, or waive any performance under, this Agreement or the Receivables Sale Agreement, without the written consent of the Company and the Administrator.

(xiii) Reports. The Seller Sub shall deliver to the Company:

(A) Within ninety (90) days after the end of each fiscal year of Seller Sub, consolidated balance sheets of Seller Sub and the related consolidated statements of income showing the financial condition of Seller Sub as of the close of such fiscal year and the results of operations during such year, and a consolidated statement of cash flows, as of the close of such fiscal year, setting forth, in each case, in comparative form the corresponding figures for the preceding year, all the foregoing consolidated financial statements to be reported on by, and to carry the report (acceptable in form and content to Purchaser) of an independent public accountant of national standing acceptable to Purchaser;

(B) Promptly upon becoming aware thereof, notice of (1) the commencement of, or any

determination in, any legal judicial or regulatory proceedings involving or directly relating to the Seller Sub, (2) any dispute between Seller Sub and any governmental or regulatory body, (3) any event or condition which in any case of (1) or (2) if adversely determined, would have a material adverse effect on (A) the validity or enforceability of this Agreement, or (B) the ability of Seller Sub to fulfill its obligations under this Agreement and (4) any change in the business, operations or financial condition of Seller Sub, including, without limitation, the insolvency of Seller Sub.

(xiv) Perfected Security Interest. It is the express intent of the Seller Sub and the Company that the purchase of the

Copyright © 2012 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

Rights hereunder shall constitute a sale of "accounts" and/or of "general intangibles" and the "proceeds" thereof, as each such term is used in Article 9 of the UCC, which sale is absolute and irrevocable and provides the Company with the full benefits of ownership of the Rights. It is, further, not the intention of the Seller Sub and the Company that such conveyance be deemed a grant of a security interest in the Rights by the Seller Sub to the Company to secure a debt or other obligation of the Seller Sub. Nevertheless, in the event that, notwithstanding the intent of the parties, the Rights are found by a court of law to continue to be the property of the Seller Sub, then (i) this Agreement also shall be deemed to and hereby is a security agreement within the meaning of the UCC, and (ii) the conveyance by the Seller Sub provided for in this Agreement shall be deemed to be and the Seller Sub hereby grants to the Company a security interest in and to all of the Seller Sub's right, title and interest in the Rights, all monies due or to become due with respect thereto on and after the Closing Date and all proceeds of such Rights to secure (1) the rights of the Company under this Agreement, and (2) a loan to the Seller Sub in the amount of the Purchase Price plus the Discount thereon as set forth in the Liquidity Agreement. The Seller Sub shall, to the extent consistent with this Agreement, take such actions as may be necessary to ensure that, if this

Agreement were deemed to create a security interest in the Rights, such security interest would be deemed to be a perfected security interest of first priority in favor of the Company under applicable law and will be maintained as such throughout the term of this Agreement.

(xv) No Broker's Fees. No broker, investment banker, agent or other Person (other than the Company and the Liquidity Agent) is entitled to any commission or compensation from the Seller Sub in connection with the sale to the Company of the Rights.

(xvi) Information. All information, exhibits, financial statements, documents, books, records or reports furnished or to be furnished at any time by or on behalf of the Seller Sub to the Administrator in connection with this Agreement is or will be accurate in all material respects as of the date so furnished.

Copyright © 2012 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

(b) During the term of this Agreement, and until the Rights sold to the Company shall have been paid in full or repurchased by the Seller Sub, pursuant to the terms of Section 3(b) herein, or written-off as uncollectible, and all amounts owed by the Seller Sub pursuant to this Agreement have been paid, unless the Company otherwise consents in writing, the Seller Sub covenants and agrees that it shall not:

(i) engage in any business or activity other than those set forth in Article III of its certificate of incorporation;

(ii) incur any indebtedness, or assume or guaranty any indebtedness of any other entity, other than (A) indebtedness arising from the salaries, fees and expenses to its professional advisors and counsel, directors, officers and employees, (B) other indebtedness on account of incidentals or services supplied or furnished to the Seller Sub, and (C) in the ordinary course of the Seller Sub's business as set forth in Article III of its certificate of incorporation:

(iii) dissolve or liquidate, in whole or in part, consolidate or merge with or into any other entity or convey or transfer its properties and assets substantially as an entirety to

any entity other than in the ordinary course of the Seller Sub's business as set forth in Article III of its certificate of incorporation;

(iv) delete, amend, supplement or otherwise modify any provision of its certificate of incorporation;

(v) amend, supplement or otherwise modify any part of Articles II, III, IV, V or X of the by-laws of the Seller Sub; or

(vi) increase or reclassify the capital stock of the Seller Sub or issue any additional shares of capital stock of the Seller Sub.

(vii) take any corporate action in connection with (A) any merger of the Seller Sub into, or consolidation or amalgamation of the Seller Sub with, any other person or entity or (B) any merger of any other person or entity into the Seller Sub.

Copyright © 2012 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

7. Events of Default. In the event that any of the Seller Sub's representations and warranties in Section 2 of this Agreement or any of the Seller Sub's covenants in Section 6 of this Agreement has been breached, the Seller Sub shall be in default under this Agreement.

8. Notices. All communications hereunder shall be in writing and effective only upon receipt and, if sent to the Company, will be mailed, delivered or telegraphed and confirmed to it at Market Street Capital Corp., c/o AMACAR Group, L.L.C., 6707-D Fairview Road, Charlotte, North Carolina 28210, attention of Douglas K. Johnson, with a copy to PNC Bank, National Association, 5th and Wood Street, One PNC Plaza - 3rd Floor, Pittsburgh, Pennsylvania 15265 attention of Richard J. Hendrix or, if sent to the Seller Sub, will be mailed, delivered or telegraphed and confirmed to it at ES Funding Corporation, c/o Envirotest Systems Corp., 246 Sobrante Way, Sunnyvale, CA, 94086 attention of President, with a copy to Envirotest Systems Corp., 6903 Rockledge Drive, Ste. 214, Bethesda, Maryland 20817, attention of Chester Davenport.

9. Pledge and Assignment. The Seller Sub acknowledges and agrees that (i) the Company shall be entitled to pledge its interest in the Rights under this Agreement to the Liquidity Agent, as agent for the Liquidity Lenders, pursuant to the terms of the Liquidity Agreement and (ii) the Company shall be entitled to assign its right, title and interest in the Rights under this Agreement to MSFC. All references to

the Company in this Agreement shall be deemed to include its assignee to the extent of such assignment. This Agreement shall bind and inure to the benefit of and be enforceable by the Company and the respective permitted assigns of the Company.

10. Third Party and Liquidity Agent Beneficiaries. Each of MSFC and the Liquidity Agent (on behalf of itself and on behalf of the Liquidity Lenders) are an express third party beneficiary of this Agreement. The representations, warranties, covenants and agreements made by the Seller Sub in this Agreement are also made for the benefit of MSFC and the Liquidity Agent, and may be enforced by or on behalf of, MSFC (or the Administrator on behalf of MSFC) or the Liquidity Agent (on behalf of itself and the other Liquidity Lenders) to the same extent that the Company has rights against the Seller Sub under this Agreement in respect of representations, warranties and agreements made by the Seller Sub herein and such representations, warranties and agreements shall survive delivery of this Agreement.

11. Miscellaneous. THIS AGREEMENT WILL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE SUBSTANTIVE LAWS OF THE STATE OF PENNSYLVANIA. Neither

Copyright © 2012 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

this Agreement nor any term hereof may be changed, waived, discharged or terminated except by a writing signed by the party against whom enforcement of such change, waiver, discharge or termination is sought. This Agreement may not be changed in any manner which would have a material adverse effect on the Company or the holders of Notes without the prior written consent of the Company and the Administrator. This Agreement may be executed in any number of counterparts, each of which shall for all purposes be deemed to be an original and all of which shall together constitute but one and the same instrument. This Agreement will inure to the benefit of and be binding upon the parties hereto and their respective successors and assigns, and no other person will have any right or obligation hereunder, other than as provided in Sections 9 and 10 hereof.

[SIGNATURE PAGE FOLLOWS]

EXHIBIT A

See Tab 1.

IN WITNESS WHEREOF, the Company, PNC Bank, National Association, as Administrator and Liquidity Agent, and the Seller Sub have caused this Agreement to be duly executed by their respective officers as of the day and year first above written.

MARKET STREET CAPITAL CORP.

By: /s/ Douglas K. Johnson

Name: Douglas K. Johnson
Title: President

Copyright © 2012 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

ES FUNDING CORPORATION

By: /s/ C. Michael Alston

Name: C. Michael Alston
Title: Vice President

PNC BANK, NATIONAL ASSOCIATION
as Administrator and as Liquidity Agent

By: /s/ William E. Fallon

Name: William E. Fallon
Title: Executive Vice President

Copyright © 2012 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

ENVIROTEST SYSTEMS CORP.
EXHIBIT 11
STATEMENT OF COMPUTATION OF PER SHARE EARNINGS (LOSS)
(Amounts in thousands, except per share amounts)

Earnings (loss) per share are computed using the weighted average number of shares outstanding plus incremental shares issuable upon exercise of outstanding options and warrants using the treasury stock method.

	Year Ended September 30,			
	1996	1995	1994	1993
Income (Loss)				
Income (loss) before extraordinary item	($25,064)	($14,861)	$2,174	$6,753
Extraordinary item	--	--	--	(11,411)
Net income (loss)	($25,064)	($14,861)	$2,174	($4,658)
Earnings (Loss) Per Common and Common Equivalent Share (b)				
Weighted average number of shares outstanding	16,552	16,059	15,923	14,175
Net effect of dilutive stock options based on the treasury stock method using the average market price of common stock (a)	1,147	1,242	1,623	2,539
Common stock and common stock equivalents	17,699	17,301	17,546	16,714
Earnings (loss) per common and common equivalent share (b):				
Income (loss) before extraordinary item	($1.42)	($0.86)	$0.12	$0.40
Extraordinary item	(0.00)	0.00	0.00	(0.68)
Net income (loss)	($1.42)	($0.86)	$0.12	($0.28)
Earnings (Loss) Per Common Share -				

Copyright © 2012 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

Assuming Full Dilution (b)				
Weighted average number of shares outstanding	16,552	16,059	15,923	14,175
Net effect of dilutive stock options based on the treasury stock method using the ending market price of common stock, if higher than average (a)	1,147	1,242	1,623	2,543
Common stock and common stock equivalents	17,699	17,301	17,546	16,718
Earnings (loss) per common and common equivalent share (b):				
Income (loss) before extraordinary item	($1.42)	($0.86)	$0.12	$0.40
Extraordinary item	(0.00)	0.00	0.00	(0.68)
Net income (loss)	($1.42)	($0.86)	$0.12	($0.28)

Notes:

(a) Common stock equivalents represent stock options and warrants.

(b) These calculations for the years ended September 30, 1996 are submitted in accordance with Regulation S-K Item 601(b)(11) although it is contrary to paragraph 40 of APB Opinion No. 15 because it produces an anti-dilutive result.

Copyright © 2012 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

EXHIBIT 21

ENVIROTEST SYSTEMS CORP
ENVIROTEST TECHNOLOGIES, INC.
SUBSIDIARIES

ENVIROTEST SYSTEMS CORP.

Subsidiary	Jurisdiction of Incorporation
Envirotest Technologies, Inc. (1)	Delaware
Ebco-Hamilton Test Systems Ltd. (4)	British Columbia
Hamilton Test Systems (B.C.) Ltd. (1)	British Columbia
EBCO-Hamilton Partners (2)	British Columbia
Envirotest Partners (3)	Pennsylvania (Partnership)
Remote Sensing Technologies, Inc. (1)	Delaware
Envirotest Wisconsin Inc. (1)	Wisconsin
Systems Control. Inc. (1)	Washington
ES Funding Corp. (1)	Delaware
Envirotest Holdings, Inc. (1)	Delaware
Envirotest Acquisition Co. (1)	Delaware
EBCO Automotive Testing LTD. (1)	British Columbia

ENVIROTEST TECHNOLOGIES, INC.

None.

(1) Wholly owned
(2) Controlled by Envirotest, but less than wholly-owned
(3) Wholly owned by Envirotest Systems Corp. and Envirotest Technologies, Inc.
(4) Wholly owned by Envirotest Systems Corp. and EBCO Automotive Testing LTD.

Copyright © 2012 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

EXHIBIT 23

Consent of Independent Accountants

We consent to the incorporation by reference in the Registration Statement of Envirotest Systems Corp. and Subsidiaries on Form S-8 (File No. 33-81556) of our reports dated December 13, 1996, on our audits of the consolidated financial statements and financial statement schedule of Envirotest Systems Corp. and Subsidiaries as of September 30, 1996 and 1995, and for the years ended September 30, 1996, 1995 and 1994, which reports are included in this Annual Report on Form 10-K.

/s/ Coopers & Lybrand L.L.P.
Coopers & Lybrand L.L.P.

San Jose, California
December 30, 1996

Copyright © 2012 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

<TABLE> <S> <C>

<ARTICLE> 5
<LEGEND>
THIS SCHEDULE CONTAINS FINANCIAL INFORMATION EXTRACTED FROM THE
ENVIROTEST SYSTEMS CORP. FORM 10-K FOR THE YEAR ENDED SEPTEMBER 30, 1996
AND IS QUALIFIED IN ITS ENTIRETY BY REFERENCE TO SUCH FINANCIAL STATEMENTS.
</LEGEND>
<MULTIPLIER> 1,000

<S>	<C>
<PERIOD-TYPE>	YEAR
<FISCAL-YEAR-END>	SEP-30-1996
<PERIOD-START>	OCT-01-1995
<PERIOD-END>	SEP-30-1996
<CASH>	53,104
<SECURITIES>	0
<RECEIVABLES>	90,969
<ALLOWANCES>	449
<INVENTORY>	0
<CURRENT-ASSETS>	158,496
<PP&E>	232,629
<DEPRECIATION>	40,229
<TOTAL-ASSETS>	480,784
<CURRENT-LIABILITIES>	41,888
<BONDS>	420,476
<PREFERRED-MANDATORY>	0
<PREFERRED>	0
<COMMON>	166
<OTHER-SE>	12,988
<TOTAL-LIABILITY-AND-EQUITY>	480,784
<SALES>	124,472
<TOTAL-REVENUES>	124,472
<CGS>	102,149
<TOTAL-COSTS>	102,149
<OTHER-EXPENSES>	11,677
<LOSS-PROVISION>	75,000
<INTEREST-EXPENSE>	29,997
<INCOME-PRETAX>	(19,426)
<INCOME-TAX>	5,638
<INCOME-CONTINUING>	(25,064)
<DISCONTINUED>	0
<EXTRAORDINARY>	0
<CHANGES>	0
<NET-INCOME>	(25,064)
<EPS-PRIMARY>	$(1.51)
<EPS-DILUTED>	$(1.51)

Copyright © 2012 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document

</TABLE>

Copyright © 2012 www.secdatabase.com. All Rights Reserved.
Please Consider the Environment Before Printing This Document