

**CONTRACT AMENDMENT NO. 1  
 ENHANCED TRANSITIONAL SUPERVISION SERVICES (ETSS)  
 COMPLIANCE MONITORING SYSTEMS, LLC  
 CONTRACT NO. COR23-0408NH**

This CONTRACT AMENDMENT No. 1 amends the above-referenced Contract between the **State of Montana, Department of Corrections** (State), whose address and phone number are P.O. Box 201301, 5 South Last Chance Gulch, Helena, MT 59620-1301, 406-444-3930 and Compliance Monitoring Systems, LLC, whose address and phone number are 2685 Palmer Street, Suite 2C, Missoula, MT 59808, (406) 529-1789.

This Contract is amended for the following purpose(s) (new language underlined, deleted language interlined):

- 1) In accordance with Section 6, of the above-referenced Contract, entitled Consideration/Payment, parties mutually agree to the following changes in subsections 6.1.1-6.1.10 and to the addition of new subsections 6.1.11. In the event any subsections are removed, subsequent subsections will not be renumbered.

**6. CONSIDERATION/PAYMENT**

**6.1 Payment Schedule.** In consideration of the ETSS Program services to be provided, State shall pay Contractor according to the following schedule:

**6.1.1 One-on One Meeting Cost.** State shall pay Contractor ~~fifteen and 00/100 Dollars (\$15.00)~~ fifteen and 90/100 Dollars (\$15.90) per meeting with the ETSS Program staff per week in fiscal year 2024 and ~~sixteen and 54/100 Dollars (\$16.54)~~ per meeting with the ETSS Program staff per week in fiscal year 2025.

**6.1.2 Daily Check Ins.** State shall pay Contractor ~~six and 00/100 Dollars (\$6.00)~~ six and 36/100 Dollars (\$6.36) per daily check-in with the ETSS Program staff in fiscal year 2024 and ~~six and 61/100 Dollars (\$6.61)~~ per daily check-in with the ETSS Program staff in fiscal year 2025, which may include, but is not limited to, breathalyzer testing, schedule check, job verification, attendance verification at treatment/programming/self-help-court ordered community services.

**6.1.3 Drug Testing.** State shall pay Contractor per the cost schedule listed below. Costs will vary per location, per test for up to three (3) random drug/alcohol tests per week.

**6.1.3.1 Missoula service area price for Rapid Urinalysis testing on-site Missoula laboratory with validity testing:**

		<u>FY23</u>	<u>FY24</u>	<u>FY25</u>
1.	Standard Six Panel Urinalysis	\$16.25	\$17.23	\$17.91
2.	Extended 9 Panel plus validity	\$22.50	\$23.85	\$24.80
3.	Fentanyl	\$12.00	\$12.72	\$13.23
4.	Ethyl Glucuronide Test (ETG)	\$12.00	\$12.72	\$13.23
5.	Ecstasy	\$12.00	\$12.72	\$13.23

**6.1.3.2 Harlowton, Roundup, Libby, and Superior Service area Price:**

		<u>FY23</u>	<u>FY24</u>	<u>FY25</u>
1.	Oral Swab Six Panel test	\$18.00	\$19.08	\$19.84
2.	Extended 9 Panel test	\$20.00	\$21.20	\$22.05

**6.1.3.3.** Cost per lab confirmation for up to three (3) random drug/alcohol tests per week.

		<u>FY23</u>	<u>FY24</u>	<u>FY25</u>
1.	Standard Six Panel Urinalysis	\$25.50	\$27.03	\$28.11
2.	Extended 9 panel plus validity	\$35.50	\$37.63	\$39.14
3.	Fentanyl	\$35.35	\$37.47	\$38.97
4.	Ethyl Glucuronide Test (ETG)	\$25.50	\$27.03	\$28.11
5.	K2/Spice with Kratom	\$75.00	\$79.50	\$82.68

**6.1.4 Weekly Development Itinerary.** State shall pay Contractor ~~ten and 00/100 Dollars (\$10.00)~~ ten and 60/100 Dollars (\$10.60) per week in fiscal year 2024 and eleven and 02/100 Dollars (\$11.02) per week in fiscal year 2025 for the weekly itinerary in the community with periodic verification, at a minimum of one (1) per week by Contractor staff. The State can require additional verification if the need arises.

**6.1.5 Treatment/Programming.** State shall pay Contractor ~~seventeen and 00/100 Dollars (\$17.00)~~ eighteen and 02/100 Dollars (\$18.02) per session in fiscal year 2024 and eighteen and 74/100 Dollars (\$18.74) per session in fiscal year 2025 for evidence-based, cognitive behavioral-based treatment/programming.

**6.1.6 Job Development Services.** State shall pay Contractor ~~ten and 00/100 Dollars (\$10.00)~~ ten and 60/100 Dollars (\$10.60) per 30-minute session in fiscal year 2024 and eleven and 02/100 Dollars (\$11.02) per 30-minute session in fiscal year 2025 for job development services such as preparing resumes and preparing for interviews.

**6.1.7 Drug/Alcohol Testing.** State shall pay Contractor per the cost schedule listed below. Costs will vary per location, per day for 24-hour Secure, Continuous, Remote, Alcohol Monitoring (SCRAM), or other drug/alcohol testing mechanisms as approved by P&P.

**6.1.7.1 Missoula Service Area Cost Schedule.** Per Offender per day.

		<u>FY 23</u>	<u>FY 24</u>	<u>FY 25</u>
1.	SCRAM	\$10.00	\$10.60	\$11.02
2.	Standard Panel Drug Patch	\$7.50	\$7.95	\$8.27
3.	Standard Panel Plus Fentanyl Drug Patch	\$8.40	\$8.90	\$9.26
4.	Standard Panel Plus Extended Opiate Includes Fentanyl Drug Patch	\$12.50	\$13.25	\$13.78
5.	Remote Breath	\$7.00	\$7.42	\$7.72

**6.1.7.2 Harlowton, Roundup, Superior, and Libby Service Area Cost Schedule.** Per Offender per day.

		<u>FY 23</u>	<u>FY 24</u>	<u>FY 25</u>
1.	SCRAM	\$12.00	\$12.72	\$13.23
2.	Standard Panel Drug Patch	\$12.00	\$12.72	\$13.23
3.	Standard Panel Plus Fentanyl Drug Patch	\$15.00	\$15.90	\$16.54

4. Standard Panel Plus Extended Opiate Includes Fentanyl Drug Patch	<del>\$18.00</del>	<u>\$19.08</u>	<u>\$19.84</u>
5. Remote Breath	<del>\$10.00</del>	<u>\$10.60</u>	<u>\$11.02</u>

**6.1.8 Electronic/GPS Monitoring.** State shall pay Contractor per the cost schedule listed herein, for electronic/GPS monitoring. Missoula Service Area shall be ~~ten and 50/100 Dollars (\$10.50)~~ eleven and 13/100 Dollars (\$11.13) per Offender per day in fiscal year 2024 and eleven and 58/100 Dollars (\$11.58) per Offender per day in fiscal year 2025. Harlowton, Roundup, Libby, and Superior Service Area shall be ~~fourteen and 00/100 (\$14.00)~~ fourteen and 84/100 Dollars (\$14.84) per Offender per day in fiscal year 2024 and fifteen and 43/100 Dollars (\$15.43) per Offender per day in fiscal year 2025.

**6.1.9 Assistance with Applications for Additional Offender Needs.** State shall pay Contractor ~~ten and 00/100 Dollars (\$10.00)~~ ten and 60/100 Dollars (\$10.60) per 30-minute session in fiscal year 2024 and eleven and 02/100 Dollars (\$11.02) per 30-minute session in fiscal year 2025 for assistance with the application processes for needed services, including but not limited to:

- a. Treatment/programming,
- b. Behavioral health peer support services,
- c. Family services, and
- d. Reentry services:
  1. housing,
  2. public assistance (OPA/Medicaid),
  3. budgeting and financial planning,
  4. veteran-specific services,
  5. community treatment,
  6. vocational (Job Service/Vocational Rehab), and
  7. educational.

**6.1.10 Contract Annual FY Maximums Amounts.** State shall not exceed a total maximum annual contract value of ~~sixty two thousand five hundred and 00/100 Dollars (\$62,500.00)~~ for the remainder of FY2023. State shall not exceed a total maximum annual contract value of ~~two hundred fifty thousand and 00/100 Dollars (\$250,000.00)~~ for FY2024 and FY2025.

State shall not exceed a total maximum annual contract value of two hundred sixty-five thousand and 00/100 Dollars **(\$265,000.00) for FY2024** and two hundred seventy-five thousand six hundred and 00/100 Dollars **(\$275,600.00) for FY2025.**

**6.1.11 Contractor Employee Increase Allotment.**

**\$8,628.24** for FY 24 and **\$17,256.47** for FY 25 will be made available for the purpose of providing Compliance Monitoring Systems, LLC employees working on this contract with a \$1.00 per hour pay increase, effective on July 1, 2023, and a subsequent \$1.00 per hour increase effective on July 1, 2024. **\$4,314.12** (four thousand three hundred fourteen and 12/100) will be provided to Contractor as an up-front, lump-sum payment in both July and January of FY 24. **\$8,628.24** (eight thousand six hundred twenty-eight and 24/100) will be provided to Contractor as an up-front, lump-sum payment in both July and January of FY 25. No later than 30 days after the close of each six-month period, Contractor will provide State with a report (template to be provided by State) detailing employees employed during the six-month period, position of each employee, and the number of hours worked, and number of overtime hours worked during the quarter for each of those employees. This report will be used to reconcile the

payment amount due for that six-month period with the up-front, lump-sum payment made at the beginning of that six-month period. The payment amount due will be calculated using the hours worked multiplied by the hourly wage increase, plus an additional 20% to account for additional pay-related expenses, such as increased employer taxes or retirement contributions. Should the amount due be greater than the initial up-front payment, the additional amount owed will be paid to Contractor with the next monthly invoice payment. Should the amount due be less than the initial up-front payment, the difference will be deducted from Contractor's next monthly invoice payment. Once the total amount available has been expended, no additional payments will be made. This funding will no longer be available after June 30, 2025. These funds are not included in the overall contract max. As a part of contract monitoring processes, the department may request access to payroll records at any time, for any employee, for the purpose of verifying the raise was provided. Should sufficient funding be available, hourly wage increases in excess of the dollar amounts listed above are allowed, provided that priority is given to employees making less than \$75,000 per year. These funds may only be used for wage increases and the associated employee benefits. They may not be used for bonuses or other operating expenses.

Except as modified above, all other terms and conditions of Contract No. **COR23-0408NH**, remain unchanged.

**STATE OF MONTANA**  
**Montana Department of Corrections**  
**5 S. Last Chance Gulch**  
**Helena, MT 59601**

**Compliance Monitoring Systems, LLC**  
**2685 Palmer Street, Suite 2C**  
**Missoula, MT 59808**

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Megan Coy 7/7/2023  
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Megan Coy, Bureau Chief (Date)  
Community, Corrections Facilities and Programs  
Bureau

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Jodine Tarbert 6/30/2023  
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Jodine Tarbert, CEO, Owner (Date)

Approved as to Form:

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Amanda L Battin 6/30/2023  
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Amanda Battin, Contracts Officer (Date)  
State Procurement Bureau  
Department of Administration

Approved as to Legal Content:

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Iryna O'Connor, Legal Counsel (Date)  
Legal Services Bureau

**ENHANCED/TRANSITIONAL SUPERVISION SERVICES (ETSS)  
COR23-0408NH**

THIS CONTRACT is entered into by and between the State of Montana, Montana Department of Corrections, (State), whose address and phone number are P.O. Box 201301, 5 S. Last Chance Gulch, Helena, MT 59620-1301, (406) 444-3930, and Compliance Monitoring Systems, (Contractor), whose address and phone number are 2685 Palmer Street, Suite 2C, Missoula MT 59808, (406) 529 1789.

**1. EFFECTIVE DATE, DURATION, AND RENEWAL**

**1.1 Contract Term.** The Contract's initial term is June 1, 2023, through June 30, 2025, unless terminated earlier as provided in this Contract. In no event is this Contract binding on State unless State's authorized representative has signed it. The legal counsel signature approving legal content of the Contract and the procurement officer signature approving the form of the Contract do not constitute an authorized signature.

**1.2 Contract Renewal.** State may renew this Contract under its then-existing terms and conditions (subject to potential cost adjustments described below in section 2) in one (1)-year intervals, or any interval that is advantageous to State. This Contract, including any renewals, may not exceed a total of seven (7) years.

**2. COST ADJUSTMENTS**

**Cost Adjustments Negotiated Based on Changes in Contractor's Costs.** After the Contract's initial term and if State agrees to a renewal, the parties may negotiate cost adjustments at the time of Contract renewal. Any cost increases must be based on demonstrated industrywide or regional increases in Contractor's costs. State is not obligated to agree upon a renewal or a cost increase.

**3. DEFINITIONS**

**Case Management Response** means a non-formal action in response to an Offender's behavior in which a Probation & Parole officer may apply incentives or interventions based on behavior.

**Community Corrections Facilities and Programs Bureau (FPB)** means the bureau of State that provides oversight of the community-based programs of prerelease, treatment, and assessment centers.

**Community Supervision** refers to probation, parole, conditional release, or any form of supervision in the community by a State Probation & Parole officer.

**Contract** means all types of state agreements, regardless of what they may be called, for the procurement or disposal of supplies or services. § 18-4-123(3) MCA.

**Contractor** means a person having a Contract with a government body. § 18-4-123(5) MCA.

**Evidenced-Based Practices (EBP)** means service approaches, or utilization of curriculums, that have been validated by some form of documented scientific evidence, which have specific outcome measures. Evidenced-based practices and/or curriculums stand in contrast to approaches that are based on tradition, convention, belief, and/or anecdotal evidence.

**ETSS Program** refers to Enhanced/Transitional Supervision Services Program. The ETSS Program combines the services referred to in statutes throughout Title 46, chapter 23, part 10, and Title 53, chapter 1, part 2 of Montana Code Annotated, as “enhanced supervision program,” “day reporting program,” and “transitional living program.”

**Fiscal Year** means the one-year period beginning on July 1 and ending on June 30 and is used for budgeting and appropriations purposes by the State.

**GPS Monitoring** means Global Positioning units that may be used to supervise Offenders in the program, but only upon prior express authority of Probation and Parole or court order.

**Offender** a person serving a felony sentence of incarceration in an institution, program, or facility operated by or under Contract with State.

**Parole** means the supervised release of an Offender into a community prior to the completion of a sentence, as a result of a decision by the State of Montana Board of Pardons and Parole, and subject to conditions imposed by the Board.

**Policy and Procedure** means those written policies and procedures published by State that govern the operation, management, and maintenance of the facility, including any future modifications, amendments, or supplements. The Contractor is required to follow applicable State policies and procedures listed in Contract.

**Prison Rape Elimination Act (PREA)** refers to the Prison Rape Elimination Act of 2003, 34 U.S.C. § 30301 et seq. and Title 28 Part 115 of the Code of Federal Regulations (C.F.R.), Prison Rape Elimination Act National Standards. The Act provides for analysis of the incidence and effects of prison rape in federal, state, and local institutions, and for information, resources, recommendations, and funding to protect individuals from prison rape.

**Probation** means the courts’ release of an Offender, subject to supervision by State and under direction of the court.

**Probation and Parole (P&P)** means the bureau that provides supervision for Offenders in the corrections system through probation, parole, and conditional release services.

**Participant** means an Offender accepted into the ETSS Program.

**State** means the Montana Department of Corrections.

**State Contract Liaison** means State employee(s) designated to monitor the overall operation of the ETSS Programs for compliance with contract provisions and to coordinate the activities and communications between State and the awarded Contractor.

**State Sentence** means an order by a District Court sentencing an Offender to the Department of Corrections.

**Subcontract** means any Contract, express or implied, between Contractor and another party for the purpose of furnishing any material or service required for the performance of the Contract.

#### **4. PROVISION OF SERVICES**

**4.1 Program Mission.** Contractor shall provide State the following ETSS Program services provided to adult felony Offenders when the services are required by the Probation and Parole Bureau. State will identify the criminogenic needs of the Offender population and ETSS Program services will facilitate the Offenders' receipt of services from community resources and services that address the needs while the Offenders are under Community Supervision. Services will include compliance monitoring services (including UAs or BAs, schedule monitoring, GPS and alcohol monitoring, and attendance verification), daily check-in, participation in programs to develop life skills, monitoring of compliance with any conditions of probation, such as drug testing, cognitive-behavioral therapy and interventions not requiring professional licensure, and referrals to community treatment, counseling, parenting, vocational, educational, and housing services based on a court order and direction from the Probation & Parole officer.

**4.2 Goals.** State's goal is to provide supportive services to aid Offender success on Community Supervision by providing additional services to Offenders transitioning from a secure or alt-secure facility to Community Supervision, providing added support during the critical post-release period, providing additional services to those struggling on Community Supervision through case management or disciplinary processes, and providing diversion services aimed at getting Offenders back on track.

**4.3 Program Requirements.** This section contains the Program Requirements required by the Contract. All services to be performed by, or under the direction of the Contractor under the Contract, shall meet or exceed the requirements set herein.

**4.3.1 General.** Contractor shall provide all services and management necessary for operation of the Program, except as otherwise specified in this Contract. Offenders will include those individuals subject to probation, parole, and conditional release supervision, and Offenders who are on any other form of Community Supervision by a State Probation and Parole officer.

**4.3.2 Confidentiality.** Contractor will establish a confidentiality policy in accordance with Federal Regulations and Montana Law that identifies how the Contractor will assure and maintain confidentiality. Such confidentiality policy may include exceptions to strict confidentiality, such as compliance with reporting in regard to the sentencing requirements. Staff and Offenders must thoroughly understand and adhere to rules regarding confidentiality of information. Contractor's established confidentiality policy is subject to State approval.

**4.3.3 Location Information.** Contractor will provide services at the following location(s), on the specified days, and at the specified office hours:

**4.3.3.1 Missoula Office.** Address: 2685 Palmer Street, Suite 2C, Missoula, MT 59808; Phone: (406) 529-1789. Hours of Operation: 7 a.m. to 5 p.m. Monday-Friday. Contractor will provide urinalysis collections on Saturday in accordance with its random urinalysis schedule. If program referrals warrant increased hours, Contractor and State will meet and agree upon a temporary increase in hours available.

**4.3.3.2 Libby Office.** Address: 402 Montana Ave, MT 59923; Phone: (406) 393-2422. Hours of Operation: Contractor will be at this location for a minimum of four (4) hours on one (1) day per week. If program referrals warrant increased hours, Contractor and State will meet and agree upon a temporary increase in hours available.

**4.3.3.3 Superior Office.** Address: 300 River St., Superior, MT 59872; Phone: (406) 529-1789. Hours of Operation: Contractor will be at this location for a minimum of two (2) hours on one (1) day per week. If program referrals warrant increased hours, Contractor and State will meet and agree upon a temporary increase in hours available.

**4.3.3.4 Roundup Office.** Address: 506 Main, Roundup, MT 59702; Phone: (406) 493-4061. Hours of Operation: Contractor will be at this location for a minimum of two (2) hours on one (1) day per week. If program referrals warrant increased hours, Contractor and State will meet and agree upon a temporary increase in hours available.

**4.3.3.5 Harlowton Office.** Address: 203 A Avenue Northwest, Harlowton, MT 59036; Phone: (406) 493-4061. Hours of Operation: Contractor will be at this location for a minimum of two (2) hours on one (1) day per week. If program referrals warrant increased hours, Contractor and State will meet and agree upon a temporary increase in hours available.

**4.3.3.5 Service Locations On-Call Services.** Contractor will provide 24/7 on-call services for all areas Contractor serves.

#### **4.3.4 Program Description.**

**4.3.4.1 Transitional Supervision Services.** Contractor will identify specific transitional supervision services from the Program Content menu in Section 4.3.5 below available for Offenders who are being released from prison, an assessment and sanction center, prerelease, or a treatment center. Services will be provided for up to the first 90 days of Community Supervision.

The receiving P&P officer will determine the specific services to be provided to each Offender based on the Offender's needs and individualized case plan. Pursuant to PPD 6.3.415 Enhanced/Transitional Supervision Services, P&P officer will complete an ETSS Program Referral and Offender Contract form with the specific services determined appropriate and forward to Contractor. Contractor will confirm availability and establish a start date and return the ETSS Program Referral and Offender Contract to the P&P officer and to FPB.

Offenders will not be responsible for any costs related to the provision of transitional supervision services.

**4.3.4.2 Enhanced Supervision Services.** Contractor will identify specific enhanced supervision services from the Program Content menu in Section 4.3.5 below available to Offenders for whom an intervention has been imposed by the P&P officer as deemed appropriate by the Montana Incentives/Interventions Grid for Adult Probation and Parole. Services will be provided for up to 90 days based on the level of the intervention.

Either the Offender's supervising P&P officer or a hearings officer will determine the specific services to be provided. Pursuant to PPD 6.3.415, Enhanced/Transitional Supervision Services, P&P officer will complete an ETSS Program Referral and Offender Contract form with the specific services determined appropriate and forward to Contractor. Contractor will confirm availability and establish a start date and return the ETSS Program Referral and Offender Contract to the P&P officer and to FPB. Offenders may be continued on P&P supervision or placed in jail pending service availability as determined by the P&P officer and/or Hearings officer.

Offenders will not be responsible for any costs related to the provision of enhanced supervision services.

**4.3.5 Program Content.** Available services for Enhanced/Transitional Supervision Services shall include the following list.

1. One (1) one-on-one meeting with the ETSS Program service Contractor per week or as directed by the supervising P&P Officer or Hearings Officer;
2. Up to seven (7) Offender check-ins with Contractor staff which may include, but is not limited to, breathalyzer testing, schedule check, job verification;
3. Up to three (3) random drug/alcohol tests per week as designated by the supervising P&P Officer (Tests may include additional tests for specific substances, e.g. heroin, k-3, Spice, etc.);
4. Attendance verification at treatment, programming, self-help, court-ordered community service, and employment;
5. Development of a weekly itinerary in the community with periodic verification by Contractor staff;
6. Evidence-based, cognitive behavioral-based treatment/programming;
7. Job development services such as preparing resumes and preparing for interviews;
8. 24-hour Secure, Continuous, Remote, Alcohol Monitoring (SCRAM) or other drug/alcohol testing mechanisms as approved in advance by State;
9. Electronic/GPS monitoring as approved in advance by Probation and Parole or ordered by the court or the Board of Pardons and Parole; and
10. Assistance with application and referral processes for needed services, including but not limited to:
  - a. Treatment/programming,
  - b. Behavioral health peer support services,
  - c. Family services, and
  - d. Reentry services, including:
    - i. housing,
    - ii. public assistance (OPA/Medicaid),
    - iii. budgeting and financial planning,
    - iv. veteran-specific,
    - v. community treatment,
    - vi. vocational (Job Service/Vocational Rehab), and
    - vii. educational.

**4.3.6 Evidence-Based Practices.** Contractor will deliver use of service approaches, or utilization of curriculums, that have been validated by some form of documented scientific evidence, which have specific outcome measures. Services shall not be provided under approaches that are based on tradition, convention, belief, and/or anecdotal evidence. Contractor's service delivery must include implementation and maintenance of internal quality assurances practices to assure fidelity to evidence-based practices.

**4.3.7 Service Locations.** State is providing services in urban and rural areas across Montana in, at a minimum, the following service locations:

- |              |                 |
|--------------|-----------------|
| 1. Libby     | 15 Participants |
| 2. Missoula  | 80 Participants |
| 3. Roundup   | 5 Participants  |
| 4. Harlowton | 5 Participants  |
| 5. Superior  | 5 Participants  |

The number of desired Offender Participants are noted for areas throughout the state. The State is not obligated to refer the number of Participants requested above in each area if it is determined the need for services in that area differs from the requested Participants.

#### **4.3.8 General Requirements for Contractor.**

1. Contractor will complete an orientation with the Offender upon placement into the program and review the Contract.
2. Contractor staff will maintain written documentation of all scheduled meetings and communications relating to participating Offenders and provide documentation to supervising P&P officer when requested. Contractor will provide status updates when requested by the P&P officer or Probation and Parole Bureau and contact the supervising P&P officer for any significant issues related to the Offender, e.g., failed drug/alcohol test, failure to check-in daily, etc. Emergent issues will be reported to the P&P officer within one business day.
3. Within three (3) working days from the end date, Contractor will complete *an ETSS Notification of Completion* form and forward to supervising P&P Officer.
4. Contractor will maintain appropriate documents and store them in accordance with confidentiality policies. All Offender files are the property of the State and shall be returned to the State upon request.
5. Contractor will employ methods of increasing Offender engagement to positively encourage Offender participation in provided services. Contractor's identified methods are subject to State approval.

#### **4.3.9 Reporting.**

**4.3.9.1 Service Report.** Contractor will provide a service report on a schedule determined by the P&P officer or at least every two weeks to the P&P officer. Contractor will also provide the service report upon request from State or a P&P officer. The service report must include a summary of services provided to the Offender and any relevant participation notes.

**4.3.9.2 Offender Management Information System (OMIS).** In accordance with State policy/procedure, Contractor shall be granted access to OMIS. State agrees to provide training to Contractor on the use of OMIS. Contractor agrees to input the following Offender information into OMIS:

1. Case notes; and
2. Drug and alcohol testing results.

Contractor agrees to input additional information into OMIS at State's request. State will provide OMIS training related to additional requests. All data collected by Contractor regarding State Offenders is the property of the State.

**4.3.9.3 Performance/Outcome Measure Reporting.** Contractor will provide quarterly reports to State, in a format determined by State, regarding Offender engagement (Attachment 1) and total service provision (Attachment 2). Additionally, Contractor will provide raw data to State upon request.

Information provided by Contractor may be used by State to measure Offender recidivism, as defined by State, and considering occurrences of Offender reincarceration, rearrest, and reconviction.

**4.4 Performance Measures.** In addition to ongoing measurement of Contract compliance, State will measure the Contractor's performance based on the following:

1. Timeliness of data entry into OMIS completed by the Contractor within one to three business day of the occurrence.
2. Timeliness of first service encounter within two weeks of receiving service referral from the P&P officer, unless Contractor is at maximum capacity for that service.
3. At least 75% of scheduled one-on-one meetings are attended and completed.
4. At least 75% of scheduled Offender check-ins are attended and completed.
5. At least 75% of scheduled random drug/alcohol tests are attended and completed.
6. Timeliness of reports of non-compliance to the supervising/referring P&P officer related to any services the Offender was referred for within one business day of the occurrence.
7. Level of adherence to evidence-based practices, as evaluated by State through Correctional Program Checklist Group Assessment.
8. Timely response to identified areas of non-compliance related to the agreed upon Contract.

**4.5 Program Progression/Failure.** Contractor will monitor Offender participation in the program and report progress/non-compliance to the supervising P&P officer. If the Contractor feels an Offender's behavior merits removal from the program, they will report to the supervising P&P officer, who will make the final decision about the Offender's continued participation in the program.

**4.6 Fiscal Management/Reporting.**

**4.6.1 No Adverse Change.** On an annual basis, Contractor must certify by signature of its authorized representative, that since the date of the Contractor's most recent financial statements, there has not been any material adverse change in Contractor's business or condition, nor has there been any change in the assets or liabilities or financial condition from that reflected in the financial statements which is material to Contractor's ability to perform its obligations under this Contract. If requested, Contractor agrees to provide the State with a copy of its most recent financial statement.

**4.6.2 Program Audits.** The Contractor must allow access to Program records, staff, and Offenders to enable the State, the Montana Legislative Auditor, or other entities of the State the opportunity to conduct periodic Program reviews, Contract audits, or Correctional Program Checklist evaluations.

**4.7 Program Staffing.** To promote public safety and Participant accountability, staffing must be adequate to meet safety and Program needs and shall be established in agreement with the State.

**4.7.1 Selection.** The Contractor will hire all Program and support staff. It shall be the responsibility of the Contractor to hire and to retain an adequate number of fully qualified and trained staff at all times, to ensure that the delivery of scheduled services to Offenders in accordance with the ETSS Referral and Offender Contract form. The Contractor will ensure the Program is never disrupted or compromised due to employees' absences from work or because of vacant positions. Contractor will comply with the Prison Rape Elimination Act (PREA) 34 U.S.C. § 30301 et seq., all applicable PREA regulations, 28 CFR Part 115, and all applicable PREA standards for hiring and background checks. All employees will read, understand, and comply with this procedure, PFB 6.2.404 PREA Compliance and Reporting, have an opportunity to ask questions and receive answers about policies procedures, and complete a staff PREA acknowledgment form.

**4.7.2 Staff Recruitment and Hiring Practices.** Contractor must provide hiring requirements (background investigations, fingerprinting) during recruitment and hiring of vacant and critical positions and position descriptions.

Contractors must submit a staffing pattern that adequately describes the number of staff to be provided to maintain sufficient delivery of the services required by the Program. Contractors must provide position descriptions for each position designated on the Staff Assignment Schedule. A staff member of each gender must be available on each shift.

Contractor's written personnel procedures are subject to State approval.

**4.8 Alcohol and Drug Testing.** The State mandates Offender drug testing to help Offenders abstain from illicit substances and assist them to live crime-free lives. Contractor shall adhere to the following:

1. Establish a system of random and non-random drug and alcohol testing to test for use of substances.
2. Implement drug and alcohol testing procedures which promote a drug free standard, Offender accountability, and Offender self-admissions.
3. Ensure drug and alcohol testing is in accordance with best practices/standards for testing.
4. Gather and report information about drug and alcohol testing services provided, including:
  - a. number of drug tests completed and results;
  - b. whether tests were random or required by the Offender's P&P officer;
  - c. number of positives and type of drugs detected;
  - d. number of self-admissions; and
  - e. record of violation reports for drug use submitted to the P&P officer.
5. Ensure Contractor employees responsible for drug and alcohol testing:
  - a. Are trained in the appropriate methods of collection, testing, and reporting procedures.
  - b. Comply with the specimen collection procedures recommended by the State.
  - c. For purposes of urine collection:
    - a. be the same gender as the Offender;
    - b. collect specimens in a private setting;
    - c. observe the Offender's urine flow from body to collection cup to avert adulteration or substitution of urine;
    - d. establish a chain of evidence for all samples from the point of collection to confirm the whereabouts of the evidence at all times;
    - e. accurately input all appropriate substance testing data into OMIS;
    - f. submit positive samples for confirmatory testing upon P&P officer request; and
    - g. report all positive samples, refusals to provide a specimen, or instances of potential specimen tampering to the P&P officer.

**4.9 Data Requirements.** The Contractor understands and acknowledges that the State of Montana owns all data associated with individuals under the custody or control of the State. At the direction of the State,

the Contractor must electronically enter all alcohol and drug testing data into OMIS. This data includes but is not limited to the following: enrollment information associated with an individual and all test event data results.

**4.10 Resolution of Offender Complaints.** Allegations of abuse of Offenders by Contractor's staff will be reported to State immediately. State will follow up on all reports as needed and appropriate. Contractor shall provide any information related to Offender complaints as requested by the State.

**4.11 Unlawful/Suspicious Behavior.** Contractor shall report allegations of criminal conduct of Offenders to local law enforcement officials and the State. Contractor shall cooperate with any administrative or criminal investigation regarding an Offender.

**4.12 Staff Training.** Prior to delivering services, the Contractor shall address strategy for obtaining the following type of training:

1. Motivational Interviewing, understanding of risk and need assessment, and facilitation of cognitive behavioral programming that focuses on behavioral change and cognitive models that target criminogenic thinking.
2. Gender and culture specific training, with emphasis on Native American culture.
3. Contractor shall require all staff to attend the basic PREA training and such on-going annual training as be required by law, State and Contractor policy. Contractor shall require first-line responders or staff who may be involved in incidents of sexual assault/rape or sexual misconduct to attend specialized PREA training. Contractor shall provide proof of compliance.

## **5. WARRANTIES**

**5.1 Warranty of Services.** Contractor represents and warrants that the services will be performed in a professional and workmanlike manner with a degree of care, skill, and competence that is consistent with generally accepted industry standards reasonably expected of similar types of engagements. Contractor warrants that the manner in which it provides the services conform to the Contract requirements, including all descriptions, specifications, and attachments made a part of this Contract. State's acceptance of services provided by Contractor shall not relieve Contractor from its obligations under this warranty. In addition to its other remedies under this Contract, at law, or in equity, State may require Contractor to promptly correct, at Contractor's expense, any services failing to meet Contractor's warranty herein. Services corrected by Contractor shall be subject to all the provisions of this Contract in the manner and to the same extent as services originally furnished.

**5.2 Warranty System Security.** Contractor shall ensure systems used during delivery of services under this Contract are adequately secure. For purposes of this Contract, adequate security is defined to require compliance with federal and State of Montana security requirements and to ensure freedom from those conditions that may impair the State's use of its data and information technology or permit unauthorized access to the State's data or information technology. The State of Montana has established control standards and policies that align with the NIST Cybersecurity Framework. The latest revision of NIST SP 800-53 is used for control adherence evaluation established after developing a security categorization utilizing FIPS PUB199. Thus, Contractor shall provide reasonable proof, through independent audit reports, that the system specified under this Contract meets or exceeds federal and State of Montana security requirements to ensure adequate security and privacy, confidentiality, integrity, and availability of the State's data and information technology. Annual assurance statements shall be delivered to the Contract Liaison. Annual assurance statements must contain a detailed accounting of the security

controls provided and must be in the form of a NIST Security Assessment Report or FedRAMP Security Assessment Report.

## **6. CONSIDERATION/PAYMENT**

**6.1 Payment Schedule.** In consideration of the ETSS Program services to be provided, State shall pay Contractor according to the following schedule:

**6.1.1 One-on One Meeting Cost.** State shall pay Contractor fifteen and 00/100 Dollars (\$15.00) per meeting with the ETSS Program staff per week.

**6.1.2 Daily Check Ins.** State shall pay Contractor six and 00/100 Dollars (\$6.00) per daily check-in with the ETSS Program staff, which may include, but is not limited to, breathalyzer testing, schedule check, job verification, attendance verification at treatment/programming/self-help-court ordered community services.

**6.1.3 Drug Testing.** State shall pay Contractor per the cost schedule listed below. Costs will vary per location, per test for up to three (3) random drug/alcohol tests per week.

### **6.1.3.1 Missoula service area price for Rapid Urinalysis testing on-site Missoula laboratory with validity testing:**

- |  |                  |
|--|------------------|
| 1. Standard Six (6) Panel Urinalysis plus validity | \$16.25 per test |
| 2. Extended Nine (9) Panel plus validity           | \$22.50 per test |
| 3. Fentanyl plus validity                          | \$12.00 per test |
| 4. Ethyl Glucuronide Test (ETG) plus validity      | \$12.00 per test |
| 5. Ecstasy plus validity                           | \$12.00 per test |

### **6.1.3.2 Harlowton, Roundup, Libby, and Superior Service area Price:**

- |                             |                  |
|-----------------------------|------------------|
| 1. Oral Swab Six Panel test | \$18.00 per test |
| 2. Extended 9 Panel test    | \$20.00 per test |

### **6.1.3.3 . Cost per lab confirmation for up to three (3) random drug/alcohol tests per week.**

- |                                      |                  |
|--------------------------------------|------------------|
| 1. Standard Six (6) Panel Urinalysis | \$25.50 per test |
| 2. Extended Nine (9) panel           | \$35.50 per test |
| 3. Fentanyl                          | \$35.35 per test |
| 4. Ethyl Glucuronide Test (ETG)      | \$25.50 per test |
| 5. K2/Spice with Kratom              | \$75.00 per test |

**6.1.4 Weekly Development Itinerary.** State shall pay Contractor ten and 00/100 Dollars (\$10.00) per week for the weekly itinerary in the community with periodic verification, at a minimum of one (1) per week by Contractor staff. The State can require additional verification if the need arises.

**6.1.5 Treatment/Programming.** State shall pay Contractor seventeen and 00/100 Dollars (\$17.00) per session for evidence-based, cognitive behavioral-based treatment/programming.

**6.1.6 Job Development Services.** State shall pay Contractor ten and 00/100 Dollars (\$10.00) per 30-minute session for job development services such as preparing resumes and preparing for interviews.

**6.1.7 Drug/Alcohol Testing.** State shall pay Contractor per the cost schedule listed below. Costs will vary per location, per day for 24-hour Secure, Continuous, Remote, Alcohol Monitoring (SCRAM), or other drug/alcohol testing mechanisms as approved by P&P.

**6.1.7.1 Missoula Service Area Cost Schedule.**

1. SCRAM	\$10.00 per Offender per day
2. Standard Panel Drug Patch	\$7.50 per Offender per day
3. Standard Panel Plus Fentanyl Drug Patch	\$8.40 per Offender per day
4. Standard Panel Plus Extended Opiate Includes Fentanyl Drug Patch	\$12.50 per Offender per day
5. Remote Breath	\$7.00 per Offender per day

**6.1.7.2 Harlowton, Roundup, Superior and Libby Service Area Cost Schedule.**

1. SCRAM	\$12.00 per Offender per day
2. Standard Panel Drug patch	\$12.00 per Offender per day
3. Standard Panel Plus Fentanyl Drug Patch	\$15.00 per Offender per day
4. Standard Panel Plus Extended Opiate Includes Fentanyl Drug Patch	\$18.00 per Offender per day
5. Remote Breath	\$10.00 per Offender per day

**6.1.8 Electronic/GPS Monitoring.** State shall pay Contractor per the cost schedule listed herein, for electronic/GPS monitoring. Missoula Service Area shall be ten and 50/100 Dollars (\$10.50) per Offender per day. Harlowton, Roundup, Libby, and Superior Service Area shall be fourteen and 00/100 (\$14.00) per Offender per day.

**6.1.9 Assistance with Applications for Additional Offender Needs.** State shall pay Contractor ten and 00/100 Dollars (\$10.00) per 30-minute session for assistance with the application processes for needed services, including but not limited to:

- a. Treatment/programming,
- b. Behavioral health peer support services,
- c. Family services, and
- d. Reentry services:
  1. housing,
  2. public assistance (OPA/Medicaid),
  3. budgeting and financial planning,
  4. veteran-specific services,
  5. community treatment,
  6. vocational (Job Service/Vocational Rehab), and
  7. educational.

**6.1.10 Contract Annual FY Maximums Amounts.** State shall not exceed a total maximum annual contract value of sixty-two thousand five-hundred and 00/100 Dollars (\$62,500.00) for the remainder of FY2023. State shall not exceed a total maximum annual contract value of two hundred fifty thousand and 00/100 Dollars (\$250,000.00) for FY2024 and FY2025.

**6.2 Withholding of Payment.** Subject to provisions of Section 18, Event of Breach – Remedies, State may withhold payments to Contractor if Contractor has breached this Contract. Such withholding may not be greater than, in the aggregate, 5% of the total value of the subject statement of work or applicable Contract.

**6.3 Payment Terms.** State will provide Contractor with an invoice template required to use for all invoicing of said Contract. Contractor shall submit the itemized invoice per ETSS service location to State for approval prior to payment being processed. Unless otherwise noted in the solicitation document, State has thirty (30) days from receipt of correct invoice to pay said invoice, as allowed by § 17-8-242, MCA. Contractor shall provide banking information at the time of Contract execution in order to facilitate State’s electronic funds transfer payments.

**6.4 Reference to Contract.** The Contract number must appear on all invoices, packing lists, packages, and correspondence pertaining to the Contract. If the number is not provided, State is not obligated to timely pay the invoice.

## **7. NON-EXCLUSIVE CONTRACT**

The intent of this Contract is to provide state agencies with an expedited means of procuring supplies and/or services. This Contract is for the convenience of state agencies and is considered by State to be a “Non-exclusive” use Contract. Therefore, agencies may obtain this product/service from sources other than the Contract holder(s) as long as they comply with Title 18, MCA, and their delegation agreement. State does not guarantee any usage.

## **8. ACCESS AND RETENTION OF RECORDS**

**8.1 Access to Records.** Contractor shall provide State, Legislative Auditor, or their authorized agents access to any records necessary to determine Contract compliance. State may terminate this Contract under Section 17, Contract Termination, without incurring liability, for Contractor’s refusal to allow access as required by this section. (§ 18-1-118, MCA.) Offender’s protected health information (PHI) shall not be made accessible to Legislative Auditor Division without a HIPAA-compliant release and if applicable a 42 CFR Part-2 compliant release signed by the Offender.

**8.2 Retention Period.** Contractor shall create and retain all records supporting the ETSS Program services for a period of eight (8) years after either the completion date of this Contract or termination of the Contract.

## **9. ASSIGNMENT, TRANSFER, AND SUBCONTRACTING**

Contractor may not assign, transfer, or subcontract any portion of this Contract without State’s prior written consent. (§ 18-4-141, MCA) Contractor is responsible to State for the acts and omissions of all subcontractors or agents and of persons directly or indirectly employed by such subcontractors, and for the acts and omissions of persons employed directly by Contractor. No contractual relationships exist between any subcontractor and State under this Contract.

## **10. DEFENSE, INDEMNIFICATION / HOLD HARMLESS**

Contractor shall protect, defend, indemnify, and save harmless the State, its elected and appointed officials, agents, and employees, while acting within the scope of their duties as such, from and against all claims,

liabilities, demands, causes of action, judgments, and losses, including all costs of defense and reasonable attorney fees, arising in favor of or asserted by Contractor's employees and agents, its subcontractors, its subcontractor's employees and agents, or third parties on account of property damage, personal injury, bodily injury, death, or financial or other loss of any kind that in any way, directly or indirectly, arise or allegedly arise out of or in connection with this Contract.

## **11. REQUIRED INSURANCE**

**11.1 General Requirements.** Contractor shall maintain for the duration of this Contract, at its cost and expense, insurance against claims for injuries to persons or damages to property, including contractual liability, which may arise from or in connection with the performance of the work by Contractor, agents, employees, representatives, assigns, or subcontractors. This insurance shall cover such claims as may be caused by any negligent act or omission.

**11.2 Primary Insurance.** Contractor's insurance coverage shall be primary insurance with respect to State, its officers, officials, employees, and volunteers and shall apply separately to each project or location. Any insurance or self-insurance maintained by State, its officers, officials, employees, or volunteers shall be excess of Contractor's insurance and shall not contribute with it.

**11.3 Specific Requirements for Commercial General Liability.** Contractor shall purchase and maintain occurrence coverage with combined single limits for bodily injury, personal injury, and property damage of **\$1,000,000** per occurrence and **\$2,000,000** aggregate per year to cover such claims as may be caused by any act, omission, or negligence of Contractor or its officers, agents, representatives, assigns, or subcontractors.

State, its officers, officials, employees, and volunteers are to be covered and listed as additional insureds for liability arising out of activities performed by or on behalf of Contractor, including the insured's general supervision of Contractor, products, and completed operations, and the premises owned, leased, occupied, or used.

**11.4 Specific Requirements for Automobile Liability.** Contractor shall purchase and maintain coverage with split limits of **\$500,000** per person (personal injury), **\$1,000,000** per accident occurrence (personal injury), and **\$100,000** per accident occurrence (property damage), OR combined single limits of **\$1,000,000** per occurrence, to cover such claims as may be caused by any act, omission, or negligence of Contractor or its officers, agents, representatives, assigns, or subcontractors.

State, its officers, officials, employees, and volunteers are to be covered and listed as additional insureds for automobiles leased, owned, or borrowed by Contractor.

**11.5 Specific Requirements for Professional Liability.** Contractor shall purchase and maintain occurrence coverage with combined single limits for each wrongful act of **\$1,000,000** per occurrence and **\$2,000,000** aggregate per year to cover such claims as may be caused by any act, omission, negligence of Contractor or its officers, agents, representatives, assigns, or subcontractors. Note: If "occurrence" coverage is unavailable or cost prohibitive, Contractor may provide "claims made" coverage provided the following conditions are met: (1) the commencement date of this Contract must not fall outside the effective date of insurance coverage and it will be the retroactive date for insurance coverage in future years; and (2) the claims made policy must have a three-year tail for claims that are made (filed) after the cancellation or expiration date of the policy.

**11.6 Deductibles and Self-Insured Retentions.** Any deductible or self-insured retention must be declared to and approved by State. At the request of State either: (1) the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects State, its officers, officials, employees, or volunteers; or (2) at the expense of Contractor, Contractor shall procure a bond guaranteeing payment of losses and related investigations, claims administration, and defense expenses.

**11.7 Certificate of Insurance/Endorsements.** A certificate of insurance from an insurer with a Best's rating of no less than A- indicating compliance with the required coverages has been received by State Procurement Bureau, P.O. Box 200135, Helena, MT 59620-0135. *The certificates must name the State of Montana as certificate holder and Contractor shall provide copies of additional insured endorsements required by Contractor's commercial general liability and automobile liability policies.* Contractor must notify State immediately of any material change in insurance coverage, such as changes in limits, coverages, change in status of policy, etc. State reserves the right to require complete copies of insurance policies at all times.

**11.8 Specific Requirements for Cyber/Data Information Security Insurance.** The Contractor shall purchase and maintain cyber/information security insurance coverage with combined single limits for each wrongful act of \$2,000,000 per occurrence to cover the unauthorized acquisition of personal information such as social security numbers, credit card numbers, financial account information, or other information that uniquely identifies an individual and may be of a sensitive nature in accordance with § 2-6-1501, MCA through § 2-6-1503, MCA. If the Contractor maintains higher limits than the minimums shown above, the State requires and shall be entitled to coverage for the higher limits maintained by the Contractor. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to the State. Such insurance must cover, at a minimum, privacy notification costs, credit monitoring, forensics investigations, legal fees/costs, regulatory fines and penalties, and third-party liability settlements or judgements as may be caused by any act, omission, or negligence of the Contractor's officers, agents, representatives, assigns or subcontractors. Note: If occurrence coverage is unavailable or cost-prohibitive, the State will accept 'claims made' coverage provided the following conditions are met: 1) the retroactive date must be shown, and must be before the date of the Contract or the beginning of Contract work; 2) insurance must be maintained and evidence of insurance must be provided for at least three (3) years after completion of the Contract of work; and 3) if coverage is canceled or non-renewed, and not replaced with another claims-made policy form with a retroactive date prior to the Contract effective date, the Contractor must purchase "extended reporting" coverage for a minimum of three (3) years after completion of work.

## **12. COMPLIANCE WITH WORKERS' COMPENSATION ACT**

Contractor shall comply with the provisions of the Montana Workers' Compensation Act while performing work for State of Montana in accordance with §§ 39-71-401, 39-71-405, and 39-71-417, MCA. Proof of compliance must be in the form of workers' compensation insurance, an independent contractor's exemption, or documentation of corporate officer status. Neither Contractor nor its employees are State employees. This insurance/exemption must be valid for the entire Contract term and any renewal. Upon expiration, a renewal document must be sent to Department of Corrections, P.O. Box 201301, 5 S. Last Chance Gulch, Helena, MT 59620-1301.

## **13. COMPLIANCE WITH LAWS**

**13.1 Applicable Laws.** Contractor shall, in performance of work under this Contract, fully comply with all applicable federal, state, or local laws, rules, regulations, and executive orders including but not limited to, the Montana Human Rights Act, the Equal Pay Act of 1963, the Civil Rights Act of 1964, the Age

Discrimination Act of 1975, the Americans with Disabilities Act of 1990, and Section 504 of the Rehabilitation Act of 1973. Contractor is the employer for the purpose of providing healthcare benefits and paying any applicable penalties, fees and taxes under the Patient Protection and Affordable Care Act 42 U.S.C. § 18001 et seq. Contractor will comply with the Prison Rape Elimination Act 34 U.S.C. § 30301 et seq., the Prison Rape Elimination Act final rule 28 CFR Part 115, and MDOC Policy 1.1.17, Prison Rape Elimination Act to include incident reporting. State has a zero-tolerance policy as to incidents of sexual assault/rape or sexual misconduct in its correctional facilities or premises. Contractor is referred to § 45-5-501 MCA. Any subletting or subcontracting by Contractor subjects subcontractors to the same provisions. In accordance with § 49-3-207, MCA, and State of Montana Executive Order No. 04-2016, Contractor agrees that the hiring of persons to perform this Contract will be made on the basis of merit and qualifications and there will be no discrimination based on race, color, sex, pregnancy, childbirth or medical conditions related to pregnancy or childbirth, political or religious affiliation or ideas, culture, creed, social origin or condition, genetic information, sexual orientation, gender identity or expression, national origin, ancestry, age, disability, military service or veteran status, or marital status by the persons performing this Contract.

**13.2 Affordable Care Act.** The Affordable Care Act requires a Contractor, if Contractor is an applicable large employer under the ACA, to provide healthcare coverage for its employees who provide services for the State and work for 30 or more hours per week. This coverage must also cover the eligible employee's dependents under the age of 26. The coverage must (a) meet the minimum essential coverage, minimum value, and affordability requirements of the employer responsibility provisions under Section 4980H of the Code (ACA), and (b) otherwise satisfy the requirements of the Code § 4980H (ACA).

#### **14. DISABILITY ACCOMMODATIONS**

State does not discriminate on the basis of disability in admission to, access to, or operations of its programs, services, or activities. Individuals who need aids, alternative document formats, or services for effective communications or other disability related accommodations in the programs and services offered are invited to make their needs and preferences known to this office. Interested parties should provide as much advance notice as possible.

#### **15. REGISTRATION WITH THE SECRETARY OF STATE**

Any business intending to transact business in Montana must register with the Secretary of State. Businesses that are domiciled in another state or country, but which are conducting activity in Montana, must determine whether they are transacting business in Montana in accordance with §§ 35-14-1505, 35-8-1001, and 35-12-1309 MCA. Such businesses may want to obtain the guidance of their attorney or accountant to determine whether their activity is considered transacting business.

If businesses determine that they are transacting business in Montana, they must register with the Secretary of State and obtain a certificate of authority to demonstrate that they are in good standing in Montana. §§ 35-8-1001, 35-12-1302, and 35-14-1502, MCA. To obtain registration materials, call the Office of the Secretary of State at (406) 444-3665, or visit their website at <http://sos.mt.gov>.

#### **16. INTELLECTUAL PROPERTY/OWNERSHIP**

**16.1 Mutual Use.** Contractor shall make available to State, on a royalty-free, non-exclusive basis, all patent and other legal rights in or to inventions first conceived and reduced to practice or created in whole or in part under this Contract, if such availability is necessary for State to receive the benefits of this Contract. Unless

otherwise specified in a statement of work, both parties shall have a royalty-free, nonexclusive, and irrevocable right to reproduce, publish, or otherwise use copyrightable property created under this Contract. This mutual right includes (i) all deliverables and other materials, products, or modifications that Contractor has developed or prepared for State under this Contract; (ii) any program code, or site-related program code that Contractor has created, developed, or prepared under or primarily in support of the performance of its specific obligations under this Contract; and (iii) manuals, training materials, and documentation. All information described in (i), (ii), and (iii) is collectively called the “Work Product”.

**16.2 Title and Ownership Rights.** State retains title to and all ownership rights in all data and content, including but not limited to multimedia or images (graphics, audio, and video), text, and the like provided by State (the “Content”), but grants Contractor the right to access and use Content for the purpose of complying with its obligations under this Contract and any applicable statement of work.

**16.3 Ownership of Work Product.** Contractor shall execute any documents or take any other actions as may reasonably be necessary, or as State may reasonably request, to perfect State’s ownership of any Work Product.

**16.4 Copy of Work Product.** Contractor shall, at no cost to State, deliver to State, upon State’s request during the term of this Contract or at its expiration or termination, a current copy of all Work Product in the form and on the media in use as of the date of State’s request, or such expiration or termination.

**16.5 Ownership of Contractor Pre-Existing Materials.** Contractor retains ownership of all literary or other works of authorship (such as software programs and code, documentation, reports, and similar works), information, data, intellectual property, techniques, subroutines, algorithms, methods or related rights and derivatives that Contractor owns at the time this Contract is executed or otherwise developed or acquired independent of this Contract and employed by Contractor in connection with the services provided to State (the “Contractor Pre-existing Materials”). Contractor Pre-existing Materials are not Work Product. Contractor shall provide full disclosure of any Contractor Pre-existing Materials to State before its use and to prove its ownership. If, however, Contractor fails to disclose to State such Contractor Pre-existing Materials, Contractor shall grant State a nonexclusive, worldwide, paid-up license to use any Contractor Pre-existing Materials embedded in the Work Product to the extent such Contractor Pre-existing Materials are necessary for State to receive the intended benefit under this Contract. Such license shall remain in effect for so long as such Pre-Existing Materials remain embedded in the Work Product. Except as otherwise provided for in Section 16.3, Ownership of Work Product, or as may be expressly agreed in any statement of work, Contractor shall retain title to and ownership of any hardware it provides under this Contract.

## **17. CONTRACT TERMINATION**

**17.1 State Termination for Cause with Notice to Cure Requirement.** State may terminate this Contract in whole or in part for Contractor’s failure to materially perform any of the services, duties, terms, or conditions contained in this Contract after giving Contractor written notice of the stated failure. The written notice must demand performance of the stated failure within a specified period of time of not less than 30 days. If the demanded performance is not completed within the specified period, the termination is effective at the end of the specified period.

**17.2 State Termination for Convenience.** State may, by written notice to Contractor, terminate this Contract without cause and without incurring liability to Contractor. State shall give notice of termination to Contractor at least 30 days before the effective date of termination. State shall pay Contractor only that amount,

or prorated portion thereof, owed to Contractor up to the date State's termination takes effect. This is Contractor's sole remedy. State shall not be liable to Contractor for any other payments or damages arising from termination under this section, including but not limited to general, special, or consequential damages such as lost profits or revenues.

**17.3 Contractor Termination for Cause with Notice to Cure Requirement.** Contractor may terminate this Contract for State's failure to perform any of its duties under this Contract after giving State written notice of the failure. The written notice must demand performance of the stated failure within a specified period of time of not less than 60 days. If the demanded performance is not completed within the specified period, the termination is effective at the end of the specified period.

**17.4 Reduction of Funding.** State must, by law, terminate this Contract if funds are not appropriated or otherwise made available to support State's continuation of performance of this Contract in a subsequent fiscal period. (§ 18-4-313(4), MCA). If state or federal government funds are not appropriated or otherwise made available through the state budgeting process to support continued performance of this Contract (whether at an initial contract payment level or any Contract increases to that initial level) in subsequent fiscal periods, State shall terminate this Contract as required by law. State shall provide Contractor the date State's termination shall take effect. State shall not be liable to Contractor for any payment that would have been payable had the Contract not been terminated under this provision. As stated above, State shall be liable to Contractor only for the payment, or prorated portion of that payment, owed to Contractor up to the date State's termination takes effect. This is Contractor's sole remedy. State shall not be liable to Contractor for any other payments or damages arising from termination under this section, including but not limited to general, special, or consequential damages such as lost profits or revenues.

**17.4 Right of Assurance.** If State, in good faith, has reason to believe that Contractor does not intend to, is unable to, or has refused to perform or continue performing all material obligations under this Contract, State may demand in writing that Contractor give a written assurance of intent to perform. Contractor's failure to provide written assurance within the number of days specified in the demand (in no event less than five business days) may, at State's option, be the basis for terminating this Contract and pursuing the rights and remedies available under this Contract or law.

## **18. EVENT OF BREACH – REMEDIES**

**18.1 Event of Breach by Contractor.** Any one or more of the following Contractor acts or omissions constitute an event of material breach under this Contract:

- Products or services furnished fail to conform to any requirement;
- Failure to submit any report required by this Contract;
- Failure to perform any of the other terms and conditions of this Contract;
- Beginning work under this Contract without prior State approval or breaching Section 23.1, Technical or Contractual Problems, obligations; or
- Voluntary or involuntary bankruptcy or receivership.

**18.2 Event of Breach by State.** State's failure to perform any material terms or conditions of this Contract constitutes an event of breach.

**18.3 Actions in Event of Breach.** Upon Contractor's material breach, State may:

- Terminate this Contract under Section 17.1, State Termination for Cause with Notice to Cure Requirement and pursue any of its remedies under this Contract, at law, or in equity; or
- Treat this Contract as materially breached and pursue any of its remedies under this Contract, at law, or in equity.

Upon State's material breach, Contractor may:

- Terminate this Contract under Section 17.3, Contractor Termination for Cause with Notice to Cure Requirement, and pursue any of its remedies under this Contract, at law, or in equity; or
- Treat this Contract as materially breached and, except as the remedy is limited in this Contract, pursue any of its remedies under this Contract, at law, or in equity.

## **19. FORCE MAJEURE**

Neither party is responsible for failure to fulfill its obligations due to causes beyond its reasonable control, including without limitation, acts or omissions of government or military authority, acts of God, materials shortages, transportation delays, fires, floods, labor disturbances, riots, wars, terrorist acts, or any other causes, directly or indirectly beyond the reasonable control of the nonperforming party, so long as such party uses its best efforts to remedy such failure or delays. A party affected by a force majeure condition shall provide written notice to the other party within a reasonable time of the onset of the condition. In no event, however, shall the notice be provided later than five working days after the onset. If the notice is not provided within the five-day period, then a party may not claim a force majeure event. A force majeure condition suspends a party's obligations under this Contract, unless the parties mutually agree that the obligation is excused because of the condition.

## **20. WAIVER OF BREACH**

Either party's failure to enforce any Contract provisions after any event of breach is not a waiver of its right to enforce the provisions and exercise appropriate remedies if the breach occurs again. Neither party may assert the defense of waiver in these situations.

## **21. CONFORMANCE WITH CONTRACT**

No alteration of the terms, conditions, delivery, price, quality, quantities, or specifications of the Contract shall be granted without the State Procurement Bureau's prior written consent. Product or services provided that do not conform to the Contract terms, conditions, and specifications may be rejected and returned at Contractor's expense.

## **22. LIAISONS AND SERVICE OF NOTICES**

**22.1 Contract Liaisons.** All project management and coordination on State's behalf must be through a single point of contact designated as State's liaison. Contractor shall designate a liaison that will provide the single point of contact for management and coordination of Contractor's work. All work performed under this Contract must be coordinated between State's liaison and Contractor's liaison.

Dan Kissner is State's liaison  
5 S. Last Chance Gulch  
Helena, MT 59620-1301  
(406)-444-6483  
[Daniel.Kissner2@mt.gov](mailto:Daniel.Kissner2@mt.gov)

Jake Henry is Contractor's liaison  
2685 Palmer Street  
Suite 2C  
Missoula, MT 59808  
(406) 529-1789  
[Jake@compliancemonitoringsystems.com](mailto:Jake@compliancemonitoringsystems.com)

**22.2 Contract Manager.** State's Contract Manager identified below is State's single point of contact and shall perform all Contract management, on State's behalf. Written notices, requests, complaints, or any other issues regarding this Contract should be directed to State's Contract Manager.

Ashley Salmon is State's Contract Manager  
5 S. Last Chance Gulch  
Helena, MT 59620-1301  
(406) 444-4931  
[Ashley.Salmon@mt.gov](mailto:Ashley.Salmon@mt.gov)

**22.3 Notifications.** State's liaison and Contractor's liaison may be changed by written notice to the other party. Written notices, requests, or complaints must first be directed to the liaison. Notice may be provided by personal service, email, mail, or facsimile. If notice is provided by personal service, email, or facsimile, the notice is effective upon receipt; if notice is provided by mail, the notice is effective on the third business day after mailing.

**22.4 Identification/Substitution of Personnel.** The personnel identified or described in Contractor's proposal shall perform the services provided for State under this Contract. Contractor agrees that any personnel substituted during the term of this Contract must be able to conduct the required work to industry standards and be equally or better qualified than the personnel originally assigned. State reserves the right to approve Contractor personnel assigned to work under this Contract and any changes or substitutions to such personnel. State's approval of a substitution will not be unreasonably withheld. This approval or disapproval shall not relieve Contractor to perform and be responsible for its obligations under this Contract. State reserves the right to require Contractor personnel replacement. If Contractor personnel become unavailable, Contractor shall provide an equally qualified replacement in time to avoid delays to the work plan.

## **23. MEETINGS**

**23.1 Technical or Contractual Problems.** Contractor shall meet with State's personnel, or designated representatives, to resolve technical or contractual problems occurring during the Contract term or to discuss the progress made by Contractor and State in the performance of their respective obligations, at no additional cost to the State. State may request the meetings as problems arise and will be coordinated by State. State shall provide Contractor a minimum of three full working days' notice of meeting date, time, and location. Face-to-face meetings are desired; however, at Contractor's option and expense, a conference call meeting may be substituted. Contractor's consistent failure to participate in problem resolution meetings, Contractor missing or rescheduling two consecutive meetings, or Contractor's failure to make a good faith effort to resolve problems may result in termination of the Contract.

**23.2 Progress Meetings.** During the term of this Contract, State's Project Manager shall plan and schedule progress meetings with Contractor to discuss Contractor's and State's progress in the performance of

their respective obligations. These progress meetings will include State's Project Manager, Contractor's Project Manager, and any other additional personnel involved in the performance of this Contract as required. At each meeting, Contractor shall provide State with a written status report that identifies any problem or circumstance encountered by Contractor, or of which Contractor gained knowledge during the period since the last such status report, which may prevent Contractor from completing any of its obligations or may generate charges in excess of those previously agreed to by the parties. This may include the failure or inadequacy of State to perform its obligation under this Contract. Contractor shall identify the amount of excess charges, if any, and the cause of any identified problem or circumstance and the steps taken to remedy the same.

**23.3 Failure to Notify.** If Contractor fails to specify in writing any problem or circumstance that materially affects the costs of its delivery of services or products, including a material breach by State, about which Contractor knew or reasonably should have known with respect to the period during the term covered by Contractor's status report, Contractor shall not be entitled to rely upon such problem or circumstance as a purported justification for an increase in the price for the agreed upon scope.

**23.4 State's Failure or Delay.** For a problem or circumstance identified in Contractor's status report in which Contractor claims was the result of State's failure or delay in discharging any State obligation, State shall review same and determine if such problem or circumstance was in fact the result of such failure or delay. If State agrees as to the cause of such problem or circumstance, then the parties shall extend any deadlines or due dates affected thereby and provide for any additional charges by Contractor. This is Contractor's sole remedy. If State does not agree as to the cause of such problem or circumstance, the parties shall each attempt to resolve the problem or circumstance in a manner satisfactory to both parties.

## **24. TRANSITION ASSISTANCE**

If this Contract is not renewed at the end of this term, if the Contract is otherwise terminated before project completion, or if particular work on a project is terminated for any reason, Contractor shall provide transition assistance for a reasonable, mutually agreed period of time after the expiration or termination of this Contract or particular work under this Contract. The purpose of this assistance is to allow for the expired or terminated portion of the services to continue without interruption or adverse effect, and to facilitate the orderly transfer of such services to State or its designees. The parties agree that such transition assistance is governed by the terms and conditions of this Contract, except for those terms or conditions that do not reasonably apply to such transition assistance. State shall pay Contractor for any resources utilized in performing such transition assistance at the most current Contract rates. If State terminates a project or this Contract for cause, then State may offset the cost of paying Contractor for the additional resources Contractor utilized in providing transition assistance with any damages State may have sustained as a result of Contractor's breach.

## **25. CHOICE OF LAW AND VENUE**

Montana law governs this Contract. The parties agree that any litigation concerning this bid, proposal, or this Contract must be brought in the First Judicial District in and for the County of Lewis and Clark, State of Montana, and each party shall pay its own costs and attorney fees, except as provided in Section 10, Defense, Indemnification/Hold Harmless.

**26. TAX EXEMPTION**

State of Montana is exempt from Federal Excise Taxes (#81-0302402) except as otherwise provided in the federal Patient Protection and Affordable Care Act 42 U.S.C. § 18001 et seq.

**27. PERSONAL PROPERTY TAX**

All personal property taxes will be paid by Contractor.

**28. AUTHORITY**

This Contract is issued under authority of Title 18, Montana Code Annotated, and the Administrative Rules of Montana, Title 2, chapter 5.

**29. SEVERABILITY**

A declaration by any court or any other binding legal source that any provision of the Contract is illegal and void shall not affect the legality and enforceability of any other provision of the Contract, unless the provisions are mutually and materially dependent.

**30. PARAGRAPH HEADINGS**

The captions and headings set forth in this Contract are for convenience of reference only and shall not be construed so as to define or limit the terms and provisions hereof.

**31. SCOPE, ENTIRE AGREEMENT, AND AMENDMENT**

**31.1 Contract.** This Contract consists of twenty-one (21) numbered pages, any Attachments as required, Solicitation # COR-RFP-2023-0408NH, as amended, and Contractor's response, as amended. In the case of dispute or ambiguity arising between or among the documents, the order of precedence of document interpretation is the same.

**31.2 Entire Agreement.** These documents are the entire agreement of the parties. They supersede all prior agreements, representations, and understandings. Any amendment or modification must be in a written agreement signed by the parties.

**32. WAIVER**

State's waiver of any Contractor obligation or responsibility in a specific situation is not a waiver in a future similar situation or is not a waiver of any other Contractor obligation or responsibility.

**33. EXECUTION**

The parties through their authorized agents have executed this Contract on the dates set out below.

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**STATE OF MONTANA**  
**Montana Department of Corrections**  
**5 S. Last Chance Gulch**  
**Helena, MT 59601**

**Compliance Monitoring Systems, LLC**  
**2685 Palmer Street**  
**Suite 2C**  
**Missoula, MT 59808**

DocuSigned by:  
*Megan Coy* 6/1/2023  
81B50FEFC95346B...  
Megan Coy, Bureau Chief (Date)  
Community Corrections Facilities  
and Programs Bureau

DocuSigned by:  
*Jodine Tarbert* 5/31/2023  
BF991D6944224DD...  
Jodine Tarbert, CEO-Owner (Date)

Approved as to Form:

DocuSigned by:  
*Nolan Harris* 5/31/2023  
BS1000F051454E1...  
Nolan Harris, Contracts Officer (Date)  
State Procurement Bureau  
Department of Administration

Approved as to Legal Content:

DocuSigned by:  
*Iryna O'Connor* 5/31/2023  
2890DE391009463...  
Iryna O'Connor, Legal Counsel (Date)  
Legal Services Bureau  
Department of Corrections