

North Carolina Division of Motor Vehicles
Ignition Interlock Program Standards and Procedures
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I. Introduction.

1. The North Carolina Division of Motor Vehicles (NCDMV) established the State of North Carolina Ignition Interlock Program (“the Program”) as an NCDMV highway safety initiative in 1989. The objective of the Program, then as now, is to hold drivers convicted of certain driving while impaired (“DWI”) offenses accountable and to change their driving behavior, thereby increasing public safety. As the Program evolved and developed, legislative confidence in the technology and NCDMV oversight resulted in the passage of North Carolina General Statutes §§ 20-17.8 (b) (1), 20-179.3 (g3) (2), and 20-179.3 (i) (2). These statutes set out those instances in which a driver’s operation of a Motor Vehicle is limited by law to “a vehicle that is equipped with a functioning ignition interlock system of a type approved by the Commissioner” of NCDMV (“the Commissioner”).

2. The statutes further provide that the “Commissioner shall not unreasonably deny approval of an ignition interlock system.” “Certification” of a breath alcohol ignition interlock system (“IIS”) is the process by which the Commissioner reasonably conveys such approval. Only a Breath Alcohol Ignition Interlock Device (“BAIID”) which is part of a certified IIS may be used in the Program. These Standards and Procedures are not applicable to and do not limit voluntary use of a BAIID by a North Carolina driver not subject to the Program.

II. Purpose.

The purpose of this document is to establish operational standards and procedures by which the Commissioner may reasonably determine whether to certify, or subsequently to decertify, an IIS for use in the Program. These Standards and Procedures therefore detail the North Carolina requirements, including breath alcohol ignition interlock system Service Provider (“Service Provider”) qualifications and BAIID specifications, for an IIS to achieve Certification. The technical quality of a Service Provider’s BAIID as well as the soundness and scope of its business operational plan each merit careful consideration. Also set out are the bases upon which an IIS may subsequently be decertified as well as North Carolina service specifications and prerequisites, including those for installation, support and removal of a BAIID.

III. Definitions.

The following words and terms when used in the Ignition Interlock Program Standards and Procedures (“Standards and Procedures”) shall have the following meanings unless the context clearly indicates otherwise:

- 1. “Alcohol” means ethyl alcohol, also called ethanol (C₂H₅OH) and refers to any substance containing any form of alcohol as defined.
- 2. “Anti-Circumvention Feature” means any feature or circuitry incorporated into a BAIID that is designed to prevent activity that would cause the BAIID not to operate as intended.

3. "Application for Certification" ("Application") means the application filed by a Service Provider with NCDMV seeking Certification of an IIS for use in the Program.
4. "Audit" means a report and/or inspection conducted by NCDMV. Such a report and/or inspection shall check/verify data reports of Participating Users, compliance of an IIS with these Standards and Procedures, and the facilities of a Service Provider. The reports and compliance being audited are subject to the terms and requirements of Certification as established in these Standards and Procedures and are subject to additional requirements as required by NCDMV in a Letter of Certification or upon thirty days written notice to a Service Provider.
5. "BrAC" means the amount of alcohol in a Participating User's breath which shall be measured by the number of grams of alcohol per 210 liters of breath.
6. "BAIID" means a breath alcohol ignition interlock Device which (i) connects a Motor Vehicle to an analyzer that measures a Participating User's breath alcohol concentration; (ii) prevents a Motor Vehicle from starting if the Participating User's breath alcohol concentration is at or above the Fail Point; and (iii) is equipped with the ability to perform a required and a Running Test and to electronically log the user's breath alcohol concentration during vehicle start/operation, attempted start/operation, Required Retest and Running Test as well as circumvention and tamper attempts. The terms BAIID and "Device" are synonymous. A BAIID includes any auxiliary features, such as but not limited to a camera and attachments, which operate in conjunction with the BAIID but may not constitute a component part of the BAIID. A BAIID is a part of the IIS.
7. "Breath Test" means an analysis of the breath alcohol concentration of a Deep Lung Breath Sample.
8. "Business Plan" means the method and operation of the Service Provider, including but not limited to the charge for ignition interlock services provided, location of facilities, number of employees, and BAIID availability.
9. "Calibration" means the adjusting and testing process approved by NCDMV that ensures an accurate alcohol concentration reading is being obtained by the BAIID.
10. "Certification" means the process governed by these Standards and Procedures through which the Commissioner reasonably approves an IIS for use in the Program under conditions and according to terms set out in the "Letter of Certification."
11. "Commissioner " means the Commissioner of the North Carolina Division of Motor Vehicles as defined under G.S. 20-2.
12. "Deep Lung Breath Sample," also known as "alveolar breath sample," means an air sample that is the last portion of a prolonged, uninterrupted exhalation and that gives a quantitative measurement of alcohol concentration from which breath alcohol concentrations can be determined. "Alveolar" refers to the aveoli, which are the smallest air passages in the lungs, surrounded by capillary blood vessels and through which an interchange of gases occurs during respiration.
13. "Device" means a breath alcohol ignition interlock Device or BAIID. These terms are synonymous. The "Device" is a part of the IIS.
14. "Early Recall" means a condition, signaled by an audible or verbal and visual indication on the BAIID that requires the Participating User to return the vehicle to the Service Provider's Service Center for unscheduled service and monitoring.

15. "Fail Point" means the point at which the breath alcohol levels determined by NCDMV and the General Statutes of North Carolina are met.
16. "FTA" means Forensic Tests for Alcohol, a branch of the North Carolina Department of Health and Human Services.
17. "Franchisee" means a Service Provider, which provides statewide service that has entered into an agreement with a Manufacturer to operate as the Manufacturer's exclusive Service Provider in the state of North Carolina. A Franchisee seeking Certification in this state is limited and regulated under the terms of these Standards and Procedures.
18. "Free Restart" means the ability to restart the vehicle again within a preset period of time without completion of another Breath Test, when the condition exists where a Breath Test is successfully completed and the Motor Vehicle is started, but then the engine stops for any reason (including stalling).
19. "Ignition Interlock System" ("IIS") means the BAIID and the entire Service Provider business operation organization, including but not limited to customer service, Service Centers, data storage, and transmittal of information to NCDMV, the courts, and/or any required entity under the General Statutes of North Carolina.
20. "Initial Test" means the first breath sample provided on a BAIID which is required to operate a Motor Vehicle and/or the first breath sample following a Temporary Lockout.
21. "Interlock Event" means vehicle operator activity that is recorded by the BAIID, including but not limited to vehicle starts and attempted starts, Breath Tests, required and Running Tests, Lockouts, power outages and Device tampering.
22. "Letter of Certification" means the communication by which the Commissioner notifies a Service Provider that an IIS of the provider has been approved for use in the Program according to these Standards and Procedures under stated terms and conditions.
23. "LEP" mean Limited English Proficient" and refers to an individual who comes from a non-English speaking background and whose difficulty in speaking, reading, writing and/or understanding the English language may be sufficient to deny the individual the opportunity to participate fully in a society which is English speaking dominant.
24. "Lockout" means the ability of a BAIID to prevent a Motor Vehicle's engine from starting.
25. "Manufacturer" means the actual producer of a BAIID which assembles the product and distributes it to Service Providers. In some cases, the Manufacturer may also be the Service Provider.
26. "Motor Vehicle" means every vehicle as defined in North Carolina General Statute § 20-4.01(23).
27. "NHTSA" means National Highway Traffic Safety Administration.
28. "NCDMV" means the North Carolina Division of Motor Vehicles.
29. "Participating User" means an individual who must use a BAIID to operate a Motor Vehicle. The term "user" is synonymous.
30. "Participating User's Compliance Term" means the period of time a Participating User is required to comply with the restriction of the IIS, including but not limited to requirements of the North Carolina General Statutes and/or drivers license restoration agreements with NCDMV.

31. "Permanent Lockout" means a feature of a BAIID by which a Motor Vehicle shall not start until the BAIID is reset by a Service Provider.
32. "Program Standards and Procedures" means the guidelines and requirements established by the Commissioner to determine IIS Certification standards.
33. "Required Retest" means an additional requirement to provide a Deep Lung Breath Sample below the alcohol Fail Point.
34. "Running Test" means a test of the Participating User's breath alcohol concentration required at random intervals during operation of the Motor Vehicle. The term "Running Test" is synonymous with the term "rolling retest" as defined under the NHTSA guidelines.
35. "Service Call" means an action of the Service Provider at a location other than a Service Center of the provider upon request of a Participating User for assistance exclusive of BAIID initial installation, Calibration, monitoring and data downloading.
36. "Service Center" means the physical location where a Service Provider installs, calibrates, monitors, removes, replaces, and services the provider's BAIIDs and downloads data from the Device assigned to a Participating User's vehicle. BAIID repair may also be performed at a Service Center by qualified Service Provider personnel. The Service Center is a part of the IIS.
37. "Service Provider" means an entity, either corporate or other, that either seeks Certification or has been certified by the Commissioner to provide BAIID installation and service in this State through an approved IIS. The Service Provider may be the Manufacturer of a BAIID or the exclusive North Carolina Franchisee of the Manufacturer. The term "provider" is synonymous. In these Standards and Procedures, the term "Service Provider" includes all owners, partners, officers, directors, employees and agents of the entity.
38. "Subcontract" means any contract, written or otherwise, entered into by a Service Provider that may affect the provider's IIS. A Subcontract of a Service Provider includes but is not limited to manufacture of BAIIDs, installation, maintenance, monitoring, Calibration, repair or removal of BAIIDS and the operation of Service Centers. Subcontract does not include telephone communication services, lease of premises or equipment. In these Standards and Procedures, a Subcontract is prohibited.
39. "Subcontractor" means any entity under contract with the Service Provider of a certified IIS.
40. "Tampering" means an act or attempt by, at the direction of or on behalf of the Participating User to alter, defeat, disable, circumvent or interfere with the operation of the BAIID, including but not limited to any act intended to start the Motor Vehicle without first taking and passing a Breath Test, or physically tampering with the BAIID to disable or otherwise disconnect it from its power source.
41. "Temporary Lockout" means a BAIID feature that shall not allow the Motor Vehicle to start for a preset period of time.
42. "Violation" means an event or events which breaches the rules for use of a BAIID established by NCDMV and/or the General Statutes of North Carolina. Participating User Violations under the Program include but are not limited to a Breath Test indicating a BrAC at or above the Fail Point upon initial startup, a refusal to provide a Running Test Deep Lung Breath Sample, a Running Test with a BrAC at or above the Fail Point, and tampering.

IV. General Provisions.

By submission of an Application, a Service Provider agrees to be bound by and to comply with each and every provision of these Standards and Procedures, specifically including but not limited to the following:

1. All Applications or inquiries referencing the Program shall be in writing and directed to the Office of the Commissioner, North Carolina Division of Motor Vehicles, North Carolina Ignition Interlock Program, 3101 Mail Service Center, Raleigh, North Carolina 27699-3101.
2. No IIS shall be certified except upon a completed written, signed and notarized Application and full compliance with these Standards and Procedures.
3. Unless otherwise prohibited by these Standards and Procedures, a Service Provider may submit an Application at any time. These Standards and Procedures, including Application information, shall be available to the public and potential Service Providers on the publicly accessible website of NCDMV.
4. An Application which fails in any respect to conform to the requirements of these Standards and Procedures or which is incomplete or insufficient in any way is fatally deficient and shall be rejected. It is the Service Provider's sole responsibility to ensure that a submitted Application fully conforms to the requirements of these Standards and Procedures. NCDMV will not solicit required information a Service Provider has failed to provide in its Application.
5. The Commissioner may establish an Ignition Interlock Committee ("the Committee") to achieve the purpose set out in Section II above and to perform such other functions in the IIS Certification process as the Commissioner may direct and designate. Such functions may include review of Service Provider's technical and service capabilities in order to submit Certification recommendations to the Commissioner.
6. Initially, the Committee shall consist of the NCDMV Deputy Commissioner as Chair, counsel to the Committee, the Director of Hearings, one Budget Officer, a Recording Secretary and the Commissioner ex officio. Up to four additional members, including a NCDMV Hearing Officer experienced in ignition interlock hearings and an experienced technician in the field of breath alcohol testing and analysis from FTA, may be appointed as deemed necessary and appropriate at the discretion of the Chair. The Commissioner may subsequently make such changes to the organization, composition and function of the Committee as the Commissioner determines may best serve the achievement of the purpose set out in Section II above and of such other functions in the IIS Certification process as may be assigned to the Committee.
7. NCDMV reserves the right to amend these Standards and Procedures at any time. NCDMV shall give at least a thirty-day advance written notice of its intent to amend any standard or procedure, including a timeframe for compliance, to the Service Provider of any certified IIS or to any Service Provider having a pending Application. Compliance by the Service Provider of a certified IIS with an amended NCDMV standard or procedure shall not operate to extend the period of Certification.
8. NCDMV may assess a non-refundable, reasonable application fee not to exceed \$500.00 and shall assess such other administration or other fees or payments as may be authorized and/or required by law.
9. Neither NCDMV nor any other state agency nor the State of North Carolina nor any political subdivision thereof shall be liable at any time for any costs incurred by a Service Provider prior to or in the preparation of an Application, or in participation in any precertification activity.
10. Except for internal costs associated with the administration and oversight of the Program, no cost related to the Program shall be incurred, accrued or paid by NCDMV, any state agency or the State of North Carolina or any political subdivision thereof. The Program shall operate on a Participating User pay system. All fees for BAIID installation, monitoring, Calibration, service, etc., shall be collected by the Service Provider from the Participating User.

11. Should any employee of NCDMV or member of the Committee at any time provide testimony in any civil, criminal or any other proceeding involving the Certification, decertification or use of the Service Provider's IIS, the Service Provider shall reimburse NCDMV, the employer of any non-DMV employee member of the Committee, or the employee or Committee member individually if no longer employed for any witness fees and costs occasioned by such testimony pursuant to the requirements of any State, Federal, and/or Administrative code, regulation, or statute.
12. Except as provided in ¶ 30 below, a Service Provider waives any objection or subsequent challenge in any form to any provision of these Standards and Procedures or to the Service Provider's lack of compliance with these Standards and Procedures.
13. Submission of any false, inaccurate or incomplete information by a Service Provider at any time shall constitute indisputable grounds for denial of Certification or for immediate decertification.
14. Each Application shall attest that it is effective and valid for a period of one hundred eighty days from the signing date of the Application.
15. No request for an exemption or variance from these Standards and Procedures shall be entertained or allowed unless otherwise specified herein or in any State, Federal, and/or Administrative code, regulation, or statute.
16. The ultimate decision to certify, or subsequently to decertify, a Service Provider and/or an IIS for use in the Program shall be that of the Commissioner. As required by N.C.G.S. §§ 20.17.8 (b)(1), 20-179.3 (g3)(2) and 20-179.3 (g5)(2), the "Commissioner shall not unreasonably deny approval of an ignition interlock system."
17. The safety of the North Carolina motoring public shall be the primary determining factor in the decision by the Commissioner to certify or to decertify an IIS.
18. Pursuant to N.C.G.S. §§ 20.17.8 (b)(1), 20-179.3 (g3)(2) and 20-179.3 (g5)(2), NCDMV shall consult with the Division of Purchase and Contract in the North Carolina Department of Administration to ensure that potential Service Providers are not discriminated against.
19. A Manufacturer may enter into an exclusive North Carolina statewide franchise agreement allowing a single entity to operate as a Service Provider throughout North Carolina. Notwithstanding the provisions of any franchise agreement, a Manufacturer shall submit an Application jointly with its exclusive North Carolina Franchisee/Service Provider and shall thereby agree to joint and several responsibility with the Franchisee/Service Provider for full compliance with these Program Standards and Procedures. If a Service Provider is to operate as the exclusive North Carolina Franchisee of a Manufacturer, a copy of the franchise agreement must be filed with the provider's Application.
20. Neither a Manufacturer nor a Service Provider may be an entity which, except in conjunction with the Program, is in any way licensed, regulated, supervised, inspected, monitored, overseen or otherwise administered by NCDMV. Notwithstanding the terms of any franchise agreement, the decertification of an IIS which is subject to a franchise agreement shall serve to decertify all parties to the franchise agreement.
21. Notwithstanding the terms of any franchise agreement, no change in the identity, nature, composition or terms of an exclusive North Carolina statewide franchise agreement may be made except upon the express prior written approval of the Commissioner, who may require termination of the existing Certification and the filing of a new Application. Upon requiring the filing of a new Application in this instance, the Commissioner may modify the time limitations provided in these Standards and Procedures with reference to such an Application. Approval by the Commissioner of any change in the identity, nature, composition or terms of an exclusive North Carolina statewide franchise agreement without requiring a new Application shall not operate to extend the period of Certification.

22. The Commissioner may determine at any time that there exists a reasonable basis to deny Certification or to decertify notwithstanding compliance of an IIS and/or Service Provider with all the technical and service requirements of these Standards and Procedures.

23. Noncompliance in any way with these Standards and Procedures shall constitute a reasonable basis upon which the Commissioner may deny Certification or order decertification. Following Certification, the Commissioner shall provide reasonable notice of NCDMV's determination of noncompliance of the Service Provider and/or Manufacturer to the appropriate party(ies) and allow the Service Provider and/or Manufacturer to cure the noncompliance issue within a period of time found by the Commissioner to be reasonable for that noncompliance issue(s) to be corrected. If the noncompliance term is egregious and/or not able to be cured within a reasonable time, the Commissioner shall provide notice to the Service Provider and/or Manufacturer of such and that decertification of the Service Provider and/or Manufacture will be in effect at a certain time in the best interest of this State.

24. It is presumed that the Commissioner is acting in a fair and reasonable manner in denying Certification to either an inferior BAIID or to a Service Provider projecting inferior depth of service.

25. Within five days of receiving notice that any IIS or any BAIID of the Service Provider has failed to meet Certification or similar approval requirements, has been discontinued, superseded or permanently removed from service, or has been disapproved, decertified, cancelled, suspended, revoked, terminated or otherwise denied in any state or other jurisdiction, a Service Provider of an IIS certified by the Commissioner or a provider seeking Certification shall furnish NCDMV written notice of the action, attaching a copy of the notice, whether or not the action is being or has been challenged or appealed in any way. Any such action or failure to notify NCDMV of such shall constitute a reasonable basis upon which the Commissioner may deny Certification or order decertification.

26. A Service Provider whose Application fails to be approved by the Commissioner for any reason shall be mailed written notice of the disapproval. A new Application may not be submitted for a period of six months from the date of conclusion of any process through which the decision of the Commissioner is challenged by the Service Provider or, alternatively in the event the Commissioner's decision is not challenged, the expiration of six months from the date listed on the notification. Upon the provider's detailed written request setting out reasonable cause, the Commissioner at his/her sole discretion may reduce the six month period.

27. Upon determining to certify an IIS, the Commissioner shall issue to the Service Provider a Letter of Certification setting out the terms of Certification. Certification shall be determined upon the information provided in an Application and the results of BAIID testing conducted in conjunction with an Application.

28. The Letter of Certification shall be valid for a period of three years unless earlier voluntarily surrendered by the Service Provider or the Commissioner determines to decertify the IIS. Prior to the expiration of the Letter of Certification, the Service Provider shall complete the Certification process anew. The Service Provider shall submit a new Application no more than six but at least three months prior to the expiration of the Letter of Certification.

29. Upon decertification or voluntary surrender of a Letter of Certification, neither a Service Provider nor any successor entity may file a new Application except upon the expiration of three years following the final date of any process through which the decertification is challenged by the Service Provider, the date of notification in the event the decertification is not challenged, or the date of voluntary surrender. Upon the provider's detailed written request setting out reasonable cause, the Commissioner at his/her sole discretion may reduce the three year period to a period no less than one year if the decertification occurred or six months if the Certification was voluntarily surrendered.

30. Denial of Certification or decertification may be challenged or appealed only in such manner as may be provided by the law of the State of North Carolina.
31. A certified IIS shall be subject to formal review by NCDMV at least annually to verify full compliance with these Standards and Procedures.
32. Decertification of one IIS from a Service Provider shall constitute a reasonable basis upon which the Commissioner may order decertification of every IIS of that provider which may be certified for use in the Program.
33. During the entire period of Certification, the Service Provider shall ensure that each individual BAIID and its component parts installed in any Motor Vehicle meet or exceed the minimum requirements of these Standards and Procedures and that the BAIID is part of an IIS certified by the Commissioner. Upon request by NCDMV, the Service Provider shall furnish proof of its compliance with this requirement.
34. No modification, including but not limited to model and version changes, shall be made by a Manufacturer or Service Provider to any BAIID that is currently approved and is assigned to a Participating User or to any certified IIS or component BAIID except upon written application and the prior express written approval of the Commissioner. Modification shall not be interpreted to include the repair or replacement of parts to maintain a specific BAIID assigned to a Participating User in operational or functional order in conformity with these Standards and Procedures. Upon receipt of a written application for modification of a certified IIS, the Commissioner may require compliance with these Standards and Procedures in such manner as the Commissioner deems necessary and appropriate including but not limited to the provisions of Section VII, Testing Protocol. Modification upon written approval of the Commissioner shall not operate to extend the period of Certification and shall not result in any cost to the State of North Carolina, any political subdivision thereof, NCDMV, or any other state agency. As part of the written modification approval, the Commissioner may stipulate the time frame within which current BAIIDs of the Service Provider shall be removed from service and replaced by the modified BAIID.
35. BAIID data downloading, installation, monitoring, Calibration, service, repair and removal shall be restricted solely to the Service Provider, thereby effectively preventing the extension of Subcontracts to entities which lack long-term investment, long-term experience and/or in-depth knowledge of product and service. However, BAIID repair may be effected by a Manufacturer at the written request of the Manufacturer's exclusive North Carolina Franchisee/Service Provider.
36. Subcontracting by any Service Provider, including a Franchisee notwithstanding the terms of any franchise agreement, is prohibited, and no data downloading, installation, monitoring, Calibration, service, repair, replacement or removal of the Service Provider's BAIIDs shall be performed by a person who is not a direct employee of the provider. However, BAIID repair may be effected by a Manufacturer at the written request of the Manufacturer's exclusive North Carolina Franchisee/Service Provider.
37. The Service Provider of a certified IIS shall immediately notify NCDMV in writing if the provider has become or anticipates becoming unable to produce, supply, install, monitor, calibrate, service, maintain and/or remove its BAIIDs in full compliance with these Standards and Procedures.
38. BAIID data downloading, installation, monitoring, Calibration, service and removal by a Service Provider shall be available statewide, i.e., throughout the state, whereby a North Carolina Participating User may obtain BAIID data downloading, installation, monitoring, Calibration, service, and removal within fifty miles from any location in North Carolina.
39. Except as permitted by these Standards and Procedures during Service Calls, any/all BAIID data downloading, installation, monitoring, Calibration, service and removal shall be performed by a Service Provider at a North Carolina Service Center approved in writing by NCDMV. Repair of a BAIID removed from the vehicle of a Participating User or of a BAIID not assigned to a Participating User may be effected by a Manufacturer located outside of North Carolina.

40. No Service Center location may be changed nor may any new location be operated except upon the prior written approval and authorization of NCDMV. No Service Center shall be located at any time on the same premises and/or property or in the same facility as any entity licensed, regulated, supervised, inspected, monitored, overseen or otherwise administered by NCDMV, and no Service Center shall be associated with, managed by or staffed with personnel of any entity licensed, regulated, supervised, inspected, monitored, overseen or otherwise administered by NCDMV.
41. A Service Provider may conduct a Service Call at a location other than a Service Center of the provider upon the request of a Participating User for assistance exclusive of BAIID data downloading, initial installation, Calibration and monitoring.
42. The mailing of any BAIID assigned to a Participating User for the purpose of data downloading, Calibration, monitoring or routine service from a Service Provider to a user, from a user to a Service Provider, from a Service Center to a Service Provider or from a Service Provider to a Service Center is prohibited.
43. The provision of prompt, courteous and efficient service by a Service Provider to Participating Users on a statewide basis is of paramount importance. Failure of a Service Provider to meet this requirement shall constitute grounds for immediate decertification. Customer complaints shall be addressed and reasonable attempts made to sufficiently resolve such complaints within forty-eight hours of receipt.
44. A Service Provider shall complete BAIID installation no later than seven calendar days following the provider's receipt of a Participating User's request for installation. In the event the Participating User's vehicle requires repairs, the seven day time period shall be deemed to commence upon the Participating User's presentation of the repaired vehicle to the Service Provider. Every reasonable means shall be used to complete a BAIID installation begun on a given date on that same date notwithstanding the closing time of the Service Center.
45. A Service Provider shall maintain a toll-free, twenty-four hours per day, three hundred sixty-five days per year hotline customer phone service. Between the hours of 6:00 A.M. and 11:00 PM Eastern Time daily, such calls shall be answered live by a technician qualified to service the provider's BAIID. At all other hours, call messages may be recorded, but shall be returned by a technician qualified to service the provider's BAIID within thirty minutes of the original call. The technician's response shall include technical information and advice and, if necessary, assistance in obtaining towing or roadside service or arranging a Service Call by the Service Provider. The BAIID at issue shall be made functional or replaced within forty-eight hours of the initial inquiry if the basis of the customer issue.
46. The Service Provider, its officers, employees and agents shall strictly protect from viewing, access and disclosure all personal and medical information provided by Participating Users unless otherwise authorized in writing by NCDMV. The Service Provider shall fully comply with the Health Insurance Portability and Accountability Act of 1986 (HIPAA), the Drivers Privacy Protection Act of 1994 (DPPA), applicable General Statutes of North Carolina and all amendments to each.
47. Upon the request of NCDMV, a Service Provider shall provide, at no cost to NCDMV or the State of North Carolina and at a time, place and in a manner directed by NCDMV, comprehensive orientation and training to the employees of NCDMV regarding the provider's certified IIS and BAIID data downloading, installation, monitoring, Calibration, service, repair and removal.
48. Any reports, documents, data or other information required of the Service Provider by NCDMV for operation of the Program shall be provided by such means and method of delivery and in such form and format as directed by NCDMV, and shall be the property of NCDMV. The Service Provider shall bear any hardware or software and other costs associated with the provision of all reports, data or other information in the manner directed by NCDMV.

49. Any and all data, documents, information or records, in whatever form or wherever located, produced or generated in consequence of data downloading, installation, monitoring, Calibration, service, repair and/or removal of a Service Provider's BAIID assigned to a Participating User shall be and remain the sole property of NCDMV unless and/or until released by NCDMV, and may not be used, distributed, sold or conveyed in any manner except upon the express prior written approval of NCDMV.

50. The officers, employees, personnel and agents of any Service Provider of a certified IIS shall with reasonable notice (at least three business days) and at the provider's cost appear in North Carolina courts or before NCDMV Hearing Officers in response to subpoenas to appear, shall, if directed by a North Carolina court or NCDMV Hearing Officer, produce subpoenaed records of the Service Provider, and shall give truthful testimony authenticating and interpreting the Service Provider's records and regarding such other matters as may be directed by the court or hearing officer, including but not limited to the manufacture, functioning, maintenance and operation of the Service Provider's IIS and specific BAIIDs furnished by the Service Provider to individual Participating Users. Nothing in this agreement shall preclude a Service Provider from obtaining costs and/or witness fees from an individual or entity, other than the NCDMV, as allowed under North Carolina General Statutes.

51. (Previous paragraph #50 was deleted) NCDMV may at its sole discretion and without prior notice and at any time conduct such random quality assurance audits, reviews or inspections of the Service Provider of any certified IIS, its records, data, documents, personnel, facilities and methods of operation, as NCDMV deems necessary or appropriate and the Service Provider shall, as a condition of Certification, fully cooperate in such audit, inspection or review and shall promptly furnish any access to personnel or facilities, records, data, documents or other information as may be required by NCDMV.

52. The Service Provider of any certified IIS shall indemnify and hold harmless the State of North Carolina and any political subdivision thereof, NCDMV and any other state agency, and any officer, employee or agent of NCDMV, from any and all liability, claims, demands, suits and causes of action, fines or judgment, including costs, attorney and witness fees, and any incidental expenses, relating to injury to persons or death, to loss of, damage to or destruction of real and/or tangible personal property (including property of the State), or to any other demonstrable loss which may arise, directly or indirectly, out of any act or omission relative to the manufacture, use, installation, maintenance, monitoring, Calibration, service, repair, or removal of a BAIID, data downloading, the provision of an emergency bypass, or the performance or nonperformance of any other act required by these Standards and Procedures. This provision, as well as any and all other Standards and Procedures, shall not constitute a waiver of any sovereign immunity by the State in any form to any party in any forum.

53. The Service Provider of any certified IIS shall not perform any BAIID data downloading, installation, monitoring, Calibration, service, repair or removal without first obtaining product liability insurance, separate and apart from the insurance required in ¶ 54 below, issued by a company authorized to offer such coverage in North Carolina, with minimum liability limits of one million dollars per occurrence, with three million dollars aggregate total. This coverage shall include but not necessarily be limited to defects in product design, workmanship and materials in the manufacturing, installation, Calibration and removal of a BAIID as well as all completed operations, and shall be maintained in full force and effect and without lapse by the Service Provider at all times until granted a written release from this obligation by NCDMV. Prior to performing any BAIID data downloading, installation, monitoring, Calibration, service, repair or removal, the Service Provider of a certified IIS shall also cause a copy of the applicable policy of insurance and/or proof of insurance to be delivered to NCDMV along with a written statement by the Service Provider's insurance carrier guaranteeing thirty days notice to NCDMV prior to any cancellation of the Service Provider's insurance coverage by the carrier. Any failure by NCDMV to demand copy of the applicable policy of insurance, proof of insurance, and/or of the written guarantee of notice of cancellation shall not constitute a waiver of the Service Provider's obligation to obtain and maintain the required insurance or to deliver the required copies. Failure by the Service Provider to obtain and/or maintain the required insurance or to deliver the required documents shall constitute grounds for immediate decertification.

54. The Service Provider of any certified IIS shall not perform any BAID data downloading, installation, monitoring, Calibration, service, repair or removal without first obtaining garage keepers liability insurance, separate and apart from the insurance required in ¶ 53 above, issued by a company authorized to offer such coverage in North Carolina, with minimum liability limits of fifty thousand dollars. This coverage shall include, but not necessarily be limited to, damage to customer vehicles and personal property while in the Service Provider's care and/or custody, and shall be maintained in full force and effect and without lapse by the Service Provider at all times until granted a written release from this obligation by NCDMV. Prior to performing any BAID data downloading, installation, monitoring, Calibration, service, repair or removal, the Service Provider of a certified IIS shall also cause a copy of the applicable policy of insurance to be delivered to NCDMV as well as a written statement by the Service Provider's insurance carrier guaranteeing thirty days written notice to NCDMV prior to any cancellation of the Service Provider's insurance coverage by the carrier. Any failure by NCDMV to demand either a copy of the applicable policy of insurance or of the written guarantee of notice of cancellation shall not constitute a waiver of the Service Provider's obligation to obtain and maintain the required insurance or to deliver the required copies. Failure by the Service Provider to obtain and/or maintain the required insurance or to deliver the required copies shall constitute grounds for immediate decertification.

55. The performance or non-performance by a Service Provider of any duty or obligation set out in these Standards and Procedures shall not operate to release the Service Provider from compliance with any/all other standards and requirements.

56. The determination by a court of competent jurisdiction that a provision of these Standards and Procedures or portion thereof is invalid or illegal shall operate to affect only such provision and the remaining provisions of these Standards and Procedures shall remain in full force and effect. Any dispute arising out of these Standards and Procedures shall be governed by the law of the State of North Carolina.

57. Public announcements or news releases pertaining to NCDMV's Certification approval of the IIS of a Service Provider shall not be made without the prior written approval of the NCDMV. Written prior approval shall not apply to public announcements or news releases which do not claim Certification approval by NCDMV.

V. Required Service Provider Information.

Unless otherwise noted by the Service Provider in the Application, the furnishing by a Service Provider of the name, mailing or e-mail address, or telephone or fax number of an individual or agency shall constitute the grant to NCDMV and its agents permission to contact the named individual and/or agency and a general release by the Service Provider to the individual and/or agency of any and all information sought by NCDMV.

The Service Provider shall give careful attention to providing thorough and accurate Application information. The use of, reference to or the attachment of advertising brochures is discouraged.

The obligation to provide full, complete and accurate Application information is continuing and ongoing, and applies throughout a pending Application and throughout the entire period of Certification. A Service Provider shall provide immediate written notice to NCDMV upon becoming aware of any correction to its Application required by discovery of error or by events subsequent to filing of the Application.

NCDMV reserves the right to and hereby gives notice that it may independently seek and solicit information in order to verify information submitted by a Service Provider.

Confidential Information Instructions:

In submitting its Application, a Service Provider shall conspicuously identify with the word "Confidential" any information which the provider claims is exempt from public disclosure on the basis that it

constitutes a proprietary “trade secret” as defined in N.C. Gen. Stat. § 66-152 (3) or is otherwise protected from disclosure under N.C. Gen. Stat. § 132.1.2.

A Service Provider shall not designate its entire Application as “Confidential.” An Application or any portion thereof improperly designated as “Confidential” shall be disregarded as unresponsive.

By submission of its Application, a Service Provider agrees that the contents of the Application not conspicuously marked and identified as “Confidential” may be subject to public disclosure, and further agrees to defend, indemnify and hold harmless NCDMV and/or any other state agency and the officers, employees and agents thereof, from any claim, demand, loss, expense, cost, damage and/or injury, including attorney and witness fees, which may arise out of or result from the withholding from public disclosure of any information designated by the provider as “Confidential.”

If the Service Provider seeking Certification is submitting its Application pursuant to a franchise agreement, all the information required below shall be provided regarding each party to the franchise agreement. A copy of the pertinent franchise agreement must be attached to the Application; an Application submitted without the franchise agreement attached is fatally deficient and will be rejected.

Completed Application information may be provided below or on separate sheets if the available space is insufficient.

1. Name of the Service Provider, mailing and e-mail addresses, telephone and fax numbers.

2. Complete list, including names and addresses, of all owners of the Service Provider (if an entity other than a corporation) or of all persons or entities owning ten per cent or more of the outstanding shares of the Service Provider (if a corporation). If owners are other than individuals, a complete list, including names and addresses, of all the individuals comprising the ownership entity.

3. Complete list, including names and addresses, of the Service Provider’s officers and directors, indicating position and title.

4. a) Any business entity required to file with the North Carolina Secretary of State (including but not limited to corporations, LLP, LLC, etc.) shall provide proof of their current status with the Secretary of State with the Application. If not required to file with the Secretary of State, the business entity shall provide the exemption for filing with the Secretary of State with the Application. If the business entity is out-of-state, it shall provide documentation as to its current status from the Secretary of State from the entity’s home state or states place(s) of business or home office.

b) If the Service Provider is a business entity, provide a list (including name and address) of all subsidiaries, affiliates, and/or holding companies along with the business and financial relationship of each to the Service Provider.

5. Date the Service Provider was established as an IIS provider, and a detailed statement of the Service Provider's experience, if any, in the development, operation and maintenance of a statewide ignition interlock service program.

6. Complete list of other jurisdictions (including, but not limited to Countries, States, Counties, Provinces, Cities, and/or Local Municipalities) in which the IIS(s) and/or BAID(s) offered for Certification ha(s)(ve) been approved for use, including the mailing and e-mail addresses, telephone and fax numbers of the authorizing agency in each jurisdiction, with the mailing address, e-mail address, telephone and fax numbers of the appropriate contact person.

7. Complete list of any jurisdictions where the Service Provider or any IIS or BAID of the Service Provider or Manufacturer has ever been disapproved (either upon initial application or thereafter), discontinued, superseded, permanently removed, cancelled, suspended, revoked, terminated, decertified or otherwise denied, whether or not such action was or is currently being challenged or appealed in any way, or where a submitted application has been withdrawn by the Service Provider or Manufacturer prior to action, with the name of the authorizing agency in each jurisdiction, the name, mailing and e-mail addresses, telephone and fax numbers of the appropriate contact person, and a copy of the applicable decree or letter of transmittal, and, if applicable, any explanatory statement the Service Provider or Manufacturer wishes to present.

8. Complete list of any jurisdictions where any Service Center or other facility (whether stand-alone or in conjunction with other commercial activity), at which data downloading, installation, monitoring, Calibration, service, repair or removal of any IIS or BAID of the Service Provider is/was performed, has ever been disapproved (either upon initial application or thereafter), discontinued, suspended, revoked, terminated, decertified or otherwise disciplined or denied, whether or not such action was or is currently being challenged or appealed in any way, with the name and address of the Service Center, the authorizing agency in each such jurisdiction, the name, mailing and e-mail addresses, telephone and fax numbers of the appropriate contact person, and a copy of the applicable decree or letter of transmittal, and, if applicable, any explanatory statement the Service Provider wishes to present.

9. A thorough description of each IIS (specifically including each BAID) the Service Provider seeks to have certified, including a precise set of specifications describing the features of the IIS (and specifically each BAID) as well as detailed operating instructions. Issues such as accuracy, reliability, data and information security and retention, anti-circumvention protection, facility of use and operation, and service shall be addressed.

10. Complete list of every testing agency and/or independent laboratory, including the name, mailing and e-mail addresses, telephone and fax numbers of the appropriate contact person, to which the IIS(s) (and/or BAIDs) offered for Certification ha(s)(ve) been submitted for Certification testing and a copy of the entire agency and/or laboratory report containing the test results.

11. Complete list of every agency or company, separate and apart from the Service Provider itself, which has conducted quality assurance and/or performance audits of the Service Provider, and/or the IIS(s) and/or the BAID(s) offered for Certification, the dates of such audits, and the name, mailing and e-mail addresses, telephone and fax numbers of the appropriate contact person, and, if applicable, any explanatory statement the Service Provider wishes to present.

12. Proposed cost of service (initial and monthly), including but not limited to a fee schedule setting out any and all fees which may potentially be charged to the Participating User such as but not limited to installation fee, monthly use fee, transfer fee, or any special service or service charge fees. Current fee schedules in other jurisdictions served by the Service Provider and a copy of the Service Provider's standard agreement/contract with Participating Users shall also be included.

13. Detailed statement and description of the Service Provider's proposed Business Plan for statewide BAID distribution, data downloading, installation, monitoring, Calibration, servicing and removal throughout North Carolina, including the location of proposed Service Centers (city/town and, if available, street address), and complete organizational and operational guidelines including any proposed hours of operation which would be subject to prior written approval by the Commissioner under Section VIII, ¶ 5 a below, as well as a precise schedule of implementation upon Certification.

14. Number of BAIID units available for service a) on date of Application; b) on date of proposed commencement of service.

15. A statement that the Application shall be valid and remain in effect for one hundred eighty days from the date of signature of the Application.

16. a) A notarized affidavit from an International Organization for Standardization (“ISO”) certified testing laboratory, executed and notarized no more than five years prior to the date of the Service Provider’s Application, certifying that based upon testing completed by the laboratory no more than five years prior to the date of the Service Provider’s Application, the Service Provider’s BAIID included in the IIS submitted for Certification, identified by model, class and version, meets or exceeds the NHTSA model guidelines/specifications in effect on the date of the Service Provider’s Application, including a complete copy of the procedures employed and the actual results of all tests; or

b) in the event a conforming products list for BAIIDS has been published by NHTSA on or prior to the date of the Service Provider’s Application, a notarized affidavit by the Service Provider certifying that the provider’s BAIID included in the IIS submitted for Certification, identified by model, class and/version, has been placed on the conforming products list by NHTSA, and indicating the date of such inclusion.

17. A. A notarized statement of disclosure, fully completed and bearing the signature of the individual described in ¶ 21 below, including an affirmation that the statement is a full, true and complete disclosure of all information required, and any explanatory information the Service Provider wishes to present, regarding the following:

a) any relationship by blood or marriage, through business affiliation of any type, or through close personal association of any owners, partners, officers, directors, employees or agents of the Service Provider with any officer, employee or agent of NCDMV, any other North Carolina state agency, the Office of the Governor of North Carolina and the North Carolina General Assembly;

b) any previous or proposed debarment, suspension, or declaration of ineligibility of the Service Provider, its franchisor (if applicable) and/or its/their predecessor entit(y)(ies) for the award of contracts by any state or federal agency;

c) any previous civil judgments or pending litigation against the Service Provider, its franchisor (if applicable) and/or its/their predecessor and/or substitute entit(y)(ies), and/or any owners,

partners, officers, directors, management or supervisory employees, including the file and/or case number, and court and jurisdiction of the judgment or litigation; any previous or pending bankruptcy proceeding, whether voluntary or involuntary, involving the Service Provider and/or its predecessor and/or substitute entit(y)(ies), and/or any owners, partners, officers, directors, management or supervisory employees, including the file and/or bankruptcy petition number and the court and jurisdiction of the petition or proceeding;

d) any communication, oral, written or electronic, and the full substance thereof (copies of written or electronic communications may be attached) regarding the Program, the Service Provider's IIS and/or BAIID, the Certification process, the Committee and/or any subject or matter set out in these Standards and Procedures by any owners, partners, officers, directors, employees or agents of the Service Provider, its franchisor and/or its/their predecessor and/or substitute entit(y)(ies) with any member of the Committee and any officer, employee, agent or member of NCDMV, the North Carolina Department of Transportation, any other North Carolina state agency, the Office of the Governor of North Carolina and the North Carolina General Assembly. These communications shall not include communications concerning prior and/or current Participating Users enrolled in the Program which are unrelated to the current Certification process (day to day operations and communications) with NCDMV and/or the Participating User.

e) any gift, contribution or favor provided and/or offered to any employee of the NCDMV, contractor of NCDMV, Executive Staff of the North Carolina Department of Transportation or any member of the Committee.

SIGNATURE AND NOTARIZATION FOR THE AFFIDAVIT REQUIRED BY ¶ 17 A:

I hereby certify and swear that the response to ¶ 17 A. and all the information contained in that response is true, accurate and complete.

(Signature)

(Date)

(Typed/Printed Name)

(Notary Seal)

(Title)

(Name of Company/Corporation)

B. A notarized “Certificate of Compliance with Executive Order # 24” form and a “Certification and Assurances Affidavit” as set out herein, fully completed and bearing the signature of the individual described in ¶ 20 below.

a. **Certification of Compliance with Executive Order #24**

The undersigned certifies, to the best of his or her knowledge and belief, that:

By Executive Order #24, issued by Governor Perdue, and N.C.G.S. § 133-32, it is unlawful for any vendor or contractor (i.e. architect, bidder, contractor, construction manager, design professional, engineer, landlord, offeror, seller, Subcontractor, supplier, or vendor), to make gifts or to give favors to any State employee of the Governor’s Cabinet Agencies (i.e., Administration, Commerce, Correction, Crime Control and Public Safety, Cultural Resources, Environment and Natural Resources, Health and Human Services, Juvenile Justice and Delinquency Prevention, Revenue, Transportation (including NCDMV), and the Office of the Governor). This prohibition covers those vendors and contractors who:

- (1) have a contract with a governmental agency; or
- (2) have performed under such a contract within the past year; or
- (3) anticipate bidding on such a contract in the future.

For additional information regarding the specific requirements and exemptions, vendors and contractors are encouraged to review Executive Order #24 and G. S. § 133-32.

This Certification is a material representation of fact upon which reliance shall be placed when this Application is evaluated and upon which any Letter of Certification may issue. Submission of this Certification is a prerequisite for evaluation of this Application and any issuance of a Letter of Certification.

N.C.G.S. § 133-32 and Executive Order #24 prohibit the offer to, or acceptance by, any State employee of any gift from anyone with a contract with the State, or from any person seeking to do business with the State. By execution of this Certification and submitting an Application, you attest, for your entire organization and its employees or agents, that you are not aware that any such gift has been offered, accepted, or promised by any employees or agents of your organization.

b. **Certifications and Assurances Affidavit**

_____ (Service Provider) hereby certifies and swears that:

All information contained and each statement made in this Application is true, accurate and complete.

All prices and services have been achieved and arrived at independently without any collusion, consultation, communication or agreement with any other Service Provider or competitor, and are neither for the purpose of restricting competition nor otherwise in Violation of Federal or North Carolina antitrust laws. No attempt has been made or will be made to induce any other entity to submit or not to submit an Application for the purpose of restricting competition.

It shall not discuss or otherwise reveal, directly or indirectly, any technical or cost information contained in its Application to any other source, government or private, until receipt of a decision upon its Application.

It shall comply with the Civil Rights Act to the end that no person shall, on grounds of age, creed, sex or origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under this Application or activity conducted under any resulting Letter of Certification.

It complies with the nondiscrimination clause contained in Section 202 Executive Order 11246, as amended by Executive Order 11375, relating to Equal Employment Opportunity for all persons without regard to race, color, religion, sex, age or national origin and the implementing origin and the implementing rules and regulations prescribed by the Secretary of Labor.

It complies with the Program for Employment of the Handicapped (Affirmative Action); Regulations issued by the Secretary of Labor of the United States in Title 20, Part 741, Chapter VI, Subchapter "c" of the Code of Federal Regulations, pursuant to the provisions of Executive Order 11758, Section 503 of the Federal Rehabilitation Act of 1973, and Americans with Disabilities Act of 1992.

SIGNATURE AND NOTARIZATION FOR EACH/BOTH OF THE TWO AFFIDAVITS
REQUIRED BY ¶ 17 B:

(Signature)

(Date)

(Typed/Printed Name)

(Notary Seal)

(Title)

(Name of Company/Corporation)

18. Three references having knowledge of the Service Provider's business practices, with mailing and e-mail addresses, telephone and fax numbers.

19. Full name of preferred contact person, with position/title, mailing and e-mail addresses, telephone and fax numbers.

20. The notarized and dated signature and typed/printed name of an individual with actual authority to bind the Service Provider. If the Service Provider is an individual, the signature shall be that of the individual; if the Service Provider is an individual doing business as a firm, the Application shall be submitted in the firm name and the signature shall be that of the individual with a statement that the individual is doing business as a firm; if the Service Provider is a partnership, the Application shall be submitted in the partnership name followed by the words "by its Partner," and the signature shall be that of a general partner; if the Service Provider is a corporation, the Application shall be submitted in the corporate name, and the signature shall be that of an individual authorized to sign on behalf of the corporation followed by that person's designation.

21. I hereby certify by my sworn signature below that I am an individual with actual authority to bind the Service Provider indicated below in the name of which this Application is submitted, and that all information contained in and submitted in conjunction with this Application is true, accurate and complete. I further certify with this signed Application that the Service Provider is current on all Federal, State, and local taxes.

(Signature)

(Date)

(Typed/Printed Name)

(Notary Seal)

(Title)

(Name of Company/Corporation)

VI. System Technology

1. Each BAIID, and all its components, shall meet or exceed all guidelines as prescribed by the NHTSA Model Guidelines/Specifications in effect on the date of the Service Provider's Application (currently set forth in the Federal Register Standard: Volume 57, Number 67 (April 7, 1992)).**

**It is anticipated that the current NHTSA guidelines referenced above may be modified after September 1, 2010. Each BAIID shall meet or exceed the NHTSA guidelines in effect on the date of the Service Provider's Application. Further, in the event a conforming products list has been published by NHTSA subsequent to the public posting of these Standards and Procedures, a notarized affidavit by the Service Provider certifying that each BAIID referenced in the provider's Application, identified by model, class and version, has been placed on that list by NHTSA (see Section V, ¶ 16) shall serve to satisfy the System Technology requirement of this paragraph. When and if NHTSA guidelines are published and adopted, BAIIDs, identified by model, class and version, placed on the conforming products list by NHTSA shall be eligible for Certification.

2. In addition, each BAID, and all its components, shall operate reliably and accurately in an unsupervised environment, at minimal inconvenience to the Participating User and operators of the vehicle other than the user and passengers, and without impeding the safe operation of the Motor Vehicle, and shall meet or exceed specifications developed by the State of North Carolina and listed in ¶ 3 below.

3. Each BAID shall:

- a. be alcohol specific, i.e., react only to ethanol, and use an electrochemical (fuel cell) sensor that reacts to and measures only ethanol and minimizes positive results from any other substance;
- b. have methodology which limits activation of the Device to an authorized individual;
- c. be marked legibly and indelibly with 1) the name or trademark and country of origin of the Manufacturer, 2) a designation of series, type and version and 3) an individual and unique serial number; in addition, the version number of each Device shall be marked legibly and indelibly on the Device and on all component pieces if the Device is comprised of separate pieces (e.g., base unit, handset, etc.);
- d. analyze a deep lung sample of alveolar breath for alcohol concentration;
- e. automatically purge all alcohol before allowing subsequent analyses;
- f. have a data storage system with sufficient internal memory to allow continuous recording and maintaining of all data for a minimum of ninety days; store data with a backup system or in such a manner as not to be lost or affected by unintended data corruption, low vehicle battery voltage, loss of power supply or disengagement or disconnection of the BAID;
- g. detect, recognize and save in its data storage system in such a manner that a hard, DVD or electronic copy thereof can be produced when required by NCDMV and in a format prescribed by NCDMV, the date, time, BrAC reading (if applicable) and record of the following events:
 - date and time of Interlock Event and/or Violation;
 - any use or attempted use of the vehicle and/or the BAID;
 - the length of time of each use of the vehicle;
 - the alcohol concentration of each breath sample provided to the Device in grams per 210 liters;
 - any BrAC reading greater than .00 for each vehicle start, attempted start, Required Retest and Running Test;
 - any attempt to start the vehicle without a prior Breath Test;
 - any failure to provide required or Running Test samples;
 - any Lockout and/or Early Recall effected;
 - any attempt to tamper, alter, circumvent, override or bypass the BAID;
 - any attempt, successful or unsuccessful, to disconnect the Device, and any subsequent reconnection of the BAID;
 - any malfunction of the BAID and any interruption in BAID memory;
 - any “messages” or “warnings” issued;
 - any emergency bypass allowed;
 - any service or Calibration performed;
- h. operate without impeding the safe operation of the Motor Vehicle and passenger safety features (such as airbags), and without adversely affecting the on-board circuitry (lead-cross sections, contact safety, etc.) of the Motor Vehicle;

- i. furnish real time audible or verbal and visual notification to the user of the following:
- that the BAIID is ready to accept a breath sample;
 - that a sufficient sample of breath has been collected;
 - the pass or fail test result (but without reporting an actual BrAC level);
 - a warning that a “pass test” result is based upon a reading above 0.00, but below the Fail Point (without reporting an actual BrAC level);
 - a warning of impending Lockout;
 - that a Required Retest must be taken;
 - that a Running Test must be taken;
 - that an Early Recall is required;
 - that the available memory has reached ninety per cent of capacity;
 - that a service appointment is required seven days prior to the appointment;
 - that a required service appointment has been missed (should the user fail to keep a service appointment, the BAIID shall enter permanent lock out mode if the service is not obtained within five days after the scheduled appointment);
- j. have activated circumvention protection so as to make bypass difficult including but not limited to a method of preventing, or preserving evidence of, intended circumvention through a) the use or attempted use of bogus and/or filtered breath samples, or b) the attempted electronic bypassing of the breath sampling requirement of the Device;
- k. utilize a proactive and reasonable means of discovering and discouraging attempts at tampering, alteration, bypass and circumvention;
- l. be of a design and utilize a method of installation such that the BAIID cannot be put out of service or be rendered ineffective or destroyed without visible changes to the BAIID and/or its installation assembly;
- m. prevent bypass of the starter system or other onboard computer system and operation of the BAIID;
- n. operate at all temperatures between -40° and 85° Celsius;
- o. operate within the standard range of deviation at all driving altitudes in North Carolina (between 0 km below sea level and 2,038 m. (6,684 ft.) above sea level);
- p. be capable of configuration to discrete predetermined Fail Points, including but not limited to 0.000, 0.04 and 0.08;
- q. shall not yield a positive result upon testing with alcohol-free samples;
- r. operate and provide results/readings which are not affected by humidity, dust, volatiles (i.e., acetone, diesel or gasoline vapors, mineral spirits), smoke, exhaust fumes, electromagnetic or radio frequency interference, or normal automobile vibration;
- s. operate without being affected by normal fluctuations of power source voltage or by the usage of cellular telephone or other communication or electronic Devices;
- t. allow no more than two minutes to elapse between successful completion of an Initial Test and activation of the vehicle starter system; allow two minutes following vehicle engine stop within which a Free Restart shall be allowed;

u. upon completion of an Initial Test with a BrAC reading at or above the Fail Point, enter Temporary Lockout mode for five minutes and thereafter allow an additional five minutes for a Required Retest. Upon a Required Retest BrAC reading at or above the Fail Point, enter temporary lock out mode for a period of forty-five minutes; record failure of Participating User to take the Required Retest within the allotted five minutes.

v. require a Running Test upon audible or verbal and visual notification within five to fifteen minutes after start of the engine, and between fifteen and forty-five minutes thereafter for the duration of travel while the Motor Vehicle is in operation, and allow five minutes following notification for completion of the Running Test;

w. upon failure of the user to take a Running Test within the required five minutes if the engine is not turned off, cause the vehicle's horn or some other external audible warning to be sounded and the vehicle's headlamps to flash repeatedly until the vehicle's engine is turned off;

x. upon a Running Test alcohol concentration at or above the Fail Point, cause the horn or some other external audible warning to be sounded and the vehicle's headlamps to flash repeatedly until the vehicle engine is turned off;

y. be capable of locking out a user who provides a BrAC reading at or above the Fail Point, fails to take a Required Retest, fails to take a Running Test, fails to appear at a scheduled monitoring appointment or fails to comply with Early Recall condition;

z. record and enter into Early Recall condition requiring service/monitoring within five days for any Participating User Violation including but not limited to failure to take a Required Retest, a Required Retest alcohol concentration at or above the Fail Point, failure to take a Running Test, a Running Test alcohol concentration at or above the Fail Point, failure to appear within five days of a scheduled service or monitoring and upon any tampering/anti-circumvention attempt;

aa. in order to accommodate users who have been medically determined by NCDMV under G.S. 20-17.8 and pursuant to pulmonary function testing (PFT) to be physically incapable of normal exhalation values for a person of similar age, gender, body height and size, and ethnicity/race, be configured with the capability of permanently adjusting breath blow pressure or air volume to a Forced Vital Capacity (FVC) at least as low as 1.2 liters;

bb. have the capability of providing, if required by an LEP user, audible or verbal and visual (textual) instructions, status information, notifications (see ¶ i above) and Device labels in Spanish and such other foreign languages as may be required by NCDMV;

cc. have methodology allowing installation and full functionality in hybrid vehicles and in vehicles equipped with auto start mechanisms, anti-theft Devices or highly technical electrical systems. Upon express written approval from NCDMV, Service Providers may seek assistance in installation for vehicles under this part; however, Service Provider shall supervise such installation and maintain responsibility for such installation;

dd. have methodology which provides an indicator of the probability that a positive alcohol breath sample is the result of deep lung BrAC.

4. The BAID shall have the ability to permit an emergency bypass. The Service Provider shall accept the responsibility for determining the existence of an emergency situation.

VII. Testing Protocol

1. Device Evaluation.

a. The Service Provider shall furnish a notarized affidavit from an ISO certified testing laboratory, executed and notarized no more than five years prior to the date of the Service Provider's Application, certifying that, based upon testing completed by the laboratory no more than five years prior to the date of the Service Provider's Application, the Service Provider's BAIID included in the IIS submitted for Certification, identified by model, class and version, meets or exceeds the NHTSA model guidelines/specifications in effect on the date of the Service Provider's Application. In the event a conforming products list for BAIIDS has been published by NHTSA on or prior to the date of the Service Provider's Application, the Service Provider shall furnish its notarized affidavit certifying that the provider's BAIID included in the IIS submitted for Certification, identified by model, class and version, has been placed on its conforming products list by NHTSA, indicating the date of such inclusion. In the event of publication by NHTSA of a conforming products list on or prior to the date of the Service Provider's Application, only BAIIDs on the NHTSA conforming products list shall be eligible for Certification and no ISO affidavit would be required.

b. The Service Provider shall provide a serial number inventory of at least fifty BAIIDs of the same model, class and version proposed for use in the State of North Carolina from which FTA may select a minimum of three and as many as five for compliance testing conducted by FTA, its designee or both. A sufficient number of mouthpieces shall be supplied by the Service Provider at no charge.

c. The Service Provider shall provide a power source and mechanical Device capable of causing the submitted BAIID to function as in an automobile for demonstration purposes in a laboratory setting. Said mechanical Device shall include all attachments reflecting the normal operating functions of the BAIID (i.e., horn, siren, run voltage, grounding, tachometer or other vehicle "in operation" signal etc.).

d. The Service Provider shall also install one BAIID in a vehicle provided by FTA for testing and shall be responsible for removing the Device at the conclusion of testing.

e. The Service Provider shall demonstrate all functions featured by the BAIID including but not limited to passes, fails, Lockouts, anti-circumvention, prevention of curbside assistance provided by a bystander or other non-driver activation, etc. to FTA staff for evaluation purposes.

f. Upon conclusion of testing, the Service Provider shall provide actual copies of the information retained in Device memory as well as all reported events and forms and/or service records capable of generation by the BAIID during evaluation.

2. FTA Test Protocols.

a. The BAIID submitted for approval shall be subjected to tests described below. All tests conducted shall be documented and all BAIIDs shall be subjected to the same tests.

b. Laboratory testing shall be conducted at room temperature and prevailing atmospheric pressure unless otherwise noted. Tests utilizing ethanol shall employ either certified dry ethanol gas or wet bath simulator generated vapors at $34\text{ }^{\circ}\text{C} \pm 2\text{ }^{\circ}\text{C}$.

c. Recorded vehicle tests shall be conducted at the current ambient temperature of the vehicle interior.

3. Accuracy Validation.

a. Replicate samples (n= 20) of known ethanol vapors at concentrations of 0.010, 0.020, and 0.050 g/210-L shall be analyzed on Day Zero, Day Thirty, Day Sixty and Day Ninety to verify Calibration stability. The BAIID shall exhibit stability for the duration of the test. The resulting standard deviation for each series of testing shall be ≤ 0.008 to be considered for approval.

4. Human Testing, Non-Dosed and Dosed Volunteers.

a. Non-dosed testing shall be conducted with, preferably, nonsmoking and smoking subjects. Manufacturer deprivation period shall be observed and nondrinking status of volunteers shall be verified prior to initiation of test. No BAIID, upon observation of recommended deprivation period, shall detect alcohol.

b. Dosed testing shall be conducted with a maximum target breath alcohol concentration of approximately 0.040 g/210 L, preferably with nonsmoking and smoking subjects. Actual breath alcohol concentrations shall be verified by a properly-calibrated evidential Breath Testing Device. Drinking volunteers shall observe the Manufacturer's deprivation period. Alcohol-free breath samples shall be utilized to allow the vehicle to start. After the vehicle is started and running, retest breath samples, three in total, from the drinking volunteer containing greater than 0.020 g/210L shall be used to verify 100% retest requirement.

5. Lockout Evaluation.

a. After conducting the accuracy validation tests, the BAIID shall not undergo the prescribed maintenance. Lockout shall be verified five days after the specified service date.

6. Radio Frequency Interference,

a. While collecting a sample, 0.040 g/210 L, a cellular telephone shall transmit a call. The antenna shall be placed in the three perpendicular planes (X, Y, Z) of the Device. The results shall accurately reflect the alcohol concentration.

7. Interferent Testing.

a. The BAIID shall be immune to interferences from volatiles that could be present on user's clothing or in adjoining areas. Tests may be conducted with common alcohol-free chemicals including: acetone, diesel and gasoline vapors, and mineral spirits (paint thinner). All BAIIDs shall register 0.000 g/210L in the presence of these chemicals.

8. Detection of Tampering and Circumvention.

a. The segment of testing shall incorporate five different scenarios, power loss, circuit tampering, introduction of non-human and filtered samples and Running Test refusals.

- Power loss: the battery shall be disconnected from the test unit. The BAIID shall record the interruption in the Device memory.

- Circuit tampering: an attempt shall be made to "hot-wire" the vehicle. If successful, the BAIID shall record the interruption in the Device memory.

- Introduction of non-human samples: Balloons made of metalized nylon (Mylar[®]) and latex (or comparable Devices) containing at least 1.5 liters of air shall be used to attempt to "start" the vehicle. Compressed air, such as that used to clean electronics, shall also be tested. The BAIID shall not allow vehicle start upon ten attempts.

- Filtered samples: filters consisting of commercial cat litter, silica gel, heated water and long (4-foot) tygon tubing shall be placed between the simulator and BAIID, using

the test solution containing 0.02 w/v alcohol. The BAIID shall not allow vehicle start upon ten attempts.

- Running Test refusals: The BAIID shall record all refusals of Running Tests in its memory; refusal shall result in Early Recall condition. In addition, failure to provide a Running Test sample shall also cause the vehicle's horn or some other external audible warning to be sounded and the vehicle's headlamps to flash repeatedly until the vehicle engine is shut off. Early Recall condition shall require Device service and monitoring within five days.

- Refusal includes an attempt to provide a sample where the minimum sample requirements are not met.

9. Sample-Free Restarts.

a. The BAIID shall be programmed to allow "Free Restarts" in the case of engine stalls. After the engine power is cut, three attempts to start shall be made at ninety and at one hundred fifty seconds. The engine shall restart for each of the ninety second attempts and shall require Breath Test before starting for each of the one hundred fifty second attempts.

10. Retests.

a. Required Retests are to be programmed at up to five minutes following a Temporary Lockout of five minutes upon completion of an Initial Test with a BrAC reading at or above the Fail Point. The date, time, and alcohol concentration of all retest samples shall be recorded in the BAIID memory.

b. Running Tests are to be programmed with random intervals of five to fifteen minutes following an Initial Test in which the BrAC is below the Fail Point and the Motor Vehicle engine has been started; and of fifteen to forty-five minutes following a Running Retest in which the BrAC is below the Fail Point. The date, time, and alcohol concentration of all retest samples shall be recorded in the BAIID memory.

11. Device Display.

a. The BAIID display shall provide the following: (1) readiness for breath sample; (2) service reminder seven days prior to scheduled date; and (3) warning to obtain service if : (a) there is an alcohol concentration at or above the Fail Point; (b) the Device detects tampering or circumvention attempts; (c) there is a refusal to provide a required or Running Test sample; or (d) a scheduled service date is missed.

12. Other Tests.

a. Additionally, the BAIID may be subjected to all or some of the tests outlined in the "Model Specifications for Breath Alcohol Ignition Interlock Devices" – NHTSA tests and to other testing and examination designed to verify BAIID compliance with Section VI, System Technology not addressed by the ISO Certification or in this section, including but not limited to verification of the capability of configuration and accurate performance at the Fail Points set out in Section VI, ¶ 3 p above.

b. The BAIID may be subjected to additional tests determined by NCDMV and/or FTA needed to determine whether the BAIID complies with System Technology required under the applicable Standards and Procedures.

VIII. Service Standards and Requirements

All standards and requirements set out in other sections of these Standards and Procedures are likewise applicable and effective as to every Service Provider notwithstanding not being duplicated below in Section VIII.

All service standards and requirements are subject to amendment and/or amplification by NCDMV at its sole discretion as experience, efficiency of process or change in the applicable law may dictate. NCDMV shall give a minimum of thirty days written notice of any amendment and/or amplification of Service Provider service standards and requirements. Neither amendment and/or amplification of Service Provider service standards and requirements nor a Service Provider's compliance with amended and/or amplified service standards shall operate to extend the period of Certification.

1. Program Costs.

a. Cost to a Participating User shall not be increased for twelve months once service has been established and shall not be increased by more than five per cent within any twelve month period thereafter. A Service Provider shall have its fee schedule for all potential charges, including but not limited to installation, monthly use, transfer and any special service or Service Call fees, visibly and prominently displayed in each Service Center. No fee shall be charged for removal of a BAIID upon completion of a Participating User's contract with the Service Provider or upon removal governed by ¶ 1(f) below, or for any special service or Service Call attributable to BAIID defect, failure or malfunction without intentional fault of the Participating User.

b. A Participating User shall be responsible for the cost of transferring a BAIID to another vehicle for the same Participating User.

c. A Service Provider shall be responsible for all repair and/or replacement costs in connection with a Participating User's vehicle resulting from a BAIID improperly installed or removed by the provider or BAIID defect, failure or malfunction without intentional fault of the Participating User.

d. A Service Provider shall not carry out any action on a Participating User's vehicle unrelated to BAIID data downloading, installation, monitoring, Calibration, service, repair, replacement or removal, and shall not perform any mechanical/service or repairs on a Participating User's vehicle.

e. Mechanical defects present in a Participating User's vehicle which prevent the installation or operation of a BAIID shall be referred to the vehicle owner/Participating User. Failure of a Participating User to repair such defects may constitute a Program Violation by the user unless a qualifying repaired or substitute vehicle is presented for BAIID installation by the user within ten calendar days. This period of time may be extended by NCDMV in its sole discretion for good cause shown.

f. Early termination of the Participating User's contract with the Service Provider shall be without penalty if due to full completion of Program requirements by the Participating User or if the Participating User's Compliance Term has been revoked and/or suspended by NCDMV and/or the order of a court of competent jurisdiction.

g. All Service Provider costs assessed to Participating Users shall be uniform and consistent at all the provider's Service Centers throughout the state, and costs shall not vary depending upon a Participating User's vehicle make or model without the prior written approval of NCDMV.

2. Installation Standards.

a. The Service Provider shall inspect all vehicles prior to BAIID installation to determine that each vehicle's mechanical and electrical components that are or may be affected by the BAIID are all in proper operating condition, and no BAIID shall be installed unless and until the Motor Vehicle is capable of such installation.

b. BAIID installation shall be made in a professional manner and in accordance with acceptable industry standards no later than seven calendar days following a Participating User's presentation of an installation request to the Service Provider. Prior to releasing a vehicle back to a Participating User, the Service Provider shall verify that an installed BAIID is functioning properly and has been calibrated within plus or minus (+/-) 0.005g/210L of the stated alcohol concentration using a reference sample which is within plus or minus (+/-) 0.005g/210L of its predicted value as stated in its packaging.

c. All BAIID installation shall include activated anti-circumvention and tamper-proof features including but not limited to a unique and identifiable covering, seal, epoxy or resin at all exposed electrical connections; connections shall be located under the dash or in an inconspicuous area of the vehicle.

d. No part of any BAIID installation shall be performed by individuals not trained and directly employed by the Service Provider.

e. The Service Provider shall supply a proper warning of liability and legal consequences of tampering with or circumventing the BAIID. The warning shall be in label form in a prominent location on the BAIID or near the breath opening.

f. The Service Provider shall record and maintain the odometer reading of each Motor Vehicle of a Participating User into which a BAIID is installed upon the initial installation and upon all subsequent service and/or monitoring visits.

g. The Service Provider shall convey assurance to NCDMV, the Court and/or any required oversight entity under the General Statutes of North Carolina that all criteria for installation and operation of the BAIID have been satisfied.

h. Removal of the BAIID shall be done in such a manner as not to affect or impair the safe operation of the Motor Vehicle and to return the vehicle to its normal operating condition, including but not limited to reconnecting and fully insulating all severed wires. All components of the Motor Vehicle altered by installation of the BAIID shall be restored to their original, pre-installation condition.

3. Service and Monitoring Requirements.

a. Servicing and monitoring of each BAIID installed in the vehicle of a Participating User, an actual, on-site physical inspection of the vehicle and BAIID, and data downloading shall occur at a Service Center of the Service Provider within sixty days after the initial installation and every sixty days thereafter unless the period is modified upon written direction of NCDMV. A Calibration accuracy test of the BAIID shall be performed at each service appointment; if the BAIID is not within plus or minus (+/-) 0.005g/210L of the stated alcohol concentration using a reference sample which is within plus or minus (+/-) 0.005g/210L of its predicted value as stated in its packaging, the Service Provider shall recalibrate the BAIID to bring it within the required variance or replace the BAIID immediately.

b. The Service Provider shall ensure that neither a Participating User nor any unauthorized persons are able to witness any part of BAIID data downloading, installation, monitoring, Calibration, servicing, repair, replacement and/or removal.

c. The Service Provider shall ensure that no unauthorized person may view or gain access to personal or medical information of Participating Users or other secured materials, including but not

limited to tamper seals, installation instructions, computer discs and any other material used to download BAIID data or install, service, calibrate, monitor or remove the provider's BAIIDs.

d. The Service Provider shall not install a BAIID on a vehicle owned or operated by any of its employees and/or family members which is required to be installed pursuant to an order of a court, NCDMV or other requirement to operate a Motor Vehicle without the express written approval of NCDMV.

e. The Service Provider shall maintain records of each Participating User, including the results of every service and monitoring, and the Service Provider shall convey all requested information to NCDMV, the Court or any required oversight entity under the General Statutes of North Carolina as directed by NCDMV. Notwithstanding the provisions of Section IV, ¶¶ 47 and 48 above, if any Participating User Violation or failure to abide by the terms and conditions of the Program is noted by the Service Provider, the Participating User shall also be furnished a copy of the report at no charge. No extraneous comments shall be placed in the reports by the Service Provider.

f. Hot-line service inquiries, Service Calls and Participating User complaints (including a complete description of the issue and the resolution) received by a Service Provider shall be logged and reported to NCDMV monthly on a schedule as directed by NCDMV.

g. The Service Provider shall immediately report to NCDMV, in a mode, manner and format as directed by NCDMV and at the Service Provider's cost, within twenty-four hours of occurrence: 1) any BAIID bypass authorized by the Service Provider, including the name of the specific provider employee who authorized the bypass; 2) any incident whereby viewing or access of personal or medical information of Participating Users unauthorized by NCDMV or of other secured materials has occurred; 3) any incident whereby a Participating User or other unauthorized person has witnessed any part of a BAIID data downloading, installation, monitoring, Calibration, servicing, repair, replacement and/or removal; or 4) when a BAIID has been installed by a provider on a vehicle owned or operated by any of its employees and/or family members without the express written approval of NCDMV.

h. The Service Provider shall report to NCDMV, in a mode, manner and format as directed by NCDMV and at the Service Provider's cost, within twenty-four hours of detection, disclosure and/or actual or constructive notice: 1) any evidence of actual or attempted altering, tampering with, bypassing or removal of the BAIID; or 2) any Participating User Violation as defined by NCDMV or failure by the user to abide by the terms and conditions of the Program. Once Violations are detected, disclosed or noted, the Service Provider shall have no discretion regarding timing or content of the Violation.

i. The Service Provider shall also report all information constituting a Violation as defined by NCDMV to the Court or any required oversight entity under the General Statutes of North Carolina.

4. User Orientation and Support

a. Orientation and "hands on" training regarding the provider's BAIID shall be conducted by the Service Provider for the Participating User and others who shall operate the Motor Vehicle in which the BAIID is being installed. The Service Provider shall furnish identical Spanish language (or other foreign language as required by NCDMV) orientation and training when needed to accommodate LEP Participating Users.

b. At the initial BAIID installation, the Participating User shall be required to pass at least three Breath Tests on a functioning BAIID to demonstrate the user's proficiency in the normal operation of the BAIID. No Service Provider shall install a BAIID in the vehicle of a Participating User who is unable to pass the Breath Tests.

c. The Service Provider shall furnish the Participating User written instructions on how to clean and care for a BAID. The Service Provider shall furnish identical Spanish language (or other foreign language as required by NCDMV) written instructions when needed to accommodate LEP Participating Users.

d. At the initial BAID installation, the Service Provider shall furnish the Participating User a complete reference and problem solving guide which shall include the provider's toll-free hotline number, the location of all North Carolina Service Centers, servicing procedures, any emergency procedures and a description of the type of vehicle malfunctions or repairs that may affect the BAID, informing the user of steps to be followed when such repairs are necessary. In addition, the guide shall include a conspicuous warning that the BAID detects non-compliance as well as a current fee schedule for all potential charges which may be incurred by the Participating User. The Service Provider shall furnish an identical Spanish language (or other foreign language as required by NCDMV) guide when needed to accommodate LEP Participating Users. The Service Provider shall not state in the guide, in instructions or other materials furnished to the Participating User, or in the provider's advertising or promotional materials, that the Service Provider's IIS is "certified," "authorized" or "approved" (or any similar phraseology) by NCDMV and/or the State of North Carolina.

e. At the initial BAID installation, the Service Provider shall furnish the Participating User a hard copy of the agreement between the user and the provider (including but not limited to a statement of all fees/charges) signed by both the provider and the user and clearly specifying any warranty details, the schedule of payments, any additional charges that may be incurred by the Participating User and a list of such items or services that may be available without charge. The Service Provider shall furnish an identical Spanish language (or other foreign language as required by NCDMV) statement when needed to accommodate LEP Participating Users.

f. Two copies of a checklist approved by NCDMV shall be completed at orientation and signed by the Service Provider and the Participating User (who shall retain one completed copy). The Service Provider shall furnish an identical Spanish language (or other foreign language as required by NCDMV) checklist when needed to accommodate LEP Participating Users.

g. At the initial BAID installation, the Service Provider shall furnish to the Participating User at no charge a number of disposable mouthpieces.

5. Facility and Personnel Requirements.

a. The Service Provider shall maintain adequate staff at all Service Centers so as to ensure an acceptable level of service including but not limited to the avoidance of delays in service and lengthy waiting periods, and the hours of operation of the Service Centers shall be of a frequency and flexibility as to cause the least inconvenience to Participating Users. Except as authorized in writing by the Commissioner, employees of the Service Provider shall at a minimum be present and available at each Service Center to answer questions, install BAIDs, handle mechanical problems, perform maintenance, service and monitoring, download transmitted data and perform any required BAID replacement between the mandatory business hours of 8:00 AM and 6:00 PM Eastern Time Monday through Saturday. For Service Centers located in less densely populated areas and upon detailed written request setting forth the Service Provider's justification, the Commissioner at his/her sole discretion may authorize adjustment of these mandatory periods of operation. At least one trained installer shall be on duty and available for BAID installation at each Service Center at all times during the hours of operation.

b. Upon receipt of a Letter of Certification, the Service Provider shall employ a resident IIS coordinator as the provider's point of contact in this State. The coordinator's duties shall include but not be limited to facilitation of contact between the provider and NCDMV, responding to problems at

any of the provider's Service Centers and receipt and resolution of service and other issues/complaints from Participating Users. The Service Provider's IIS coordinator shall maintain mandatory business hours of 8:00 AM to 6:00 PM Eastern Time Monday through Thursday and 8:00 AM to 5:00 PM Eastern Time on Fridays, excluding State Holidays. The Service Provider shall furnish to NCDMV mobile/cell telephone number(s) at which the coordinator may be contacted.

c. The Service Provider shall provide and maintain with NCDMV a current and complete listing of the location of all of the provider's Service Centers including the physical/street address, mailing address, e-mail address and telephone number(s).

d. Employees of a Service Provider performing reporting duties or BAIID data downloading, installation, monitoring, Calibration, service, repair or removal shall not have been convicted of a crime substantially related to these job responsibilities. This shall include but not be limited to any felony offense, any crime of moral turpitude, any drug or alcohol offense including driving while impaired, and perjury or any type of sworn falsification. Upon any employee being charged with and/or convicted of any such offense, the Service Provider shall immediately notify NCDMV both of the charge and the conviction, notwithstanding that the employee may have been terminated by the provider. The Service Provider's obligation to report is a continuing one throughout the employee's employment, and attaches immediately upon any charge of an offense listed above notwithstanding that the employee may have been or may subsequently be terminated by the provider.

e. Prior to a Service Provider's employee performing any reporting duties or BAIID data downloading, installation, monitoring, Calibration, service, repair or removal, the Service Provider shall submit to NCDMV, the Court and/or any required oversight entity under the General Statutes of North Carolina both a national criminal record check and a complete driver license history from each current and prior jurisdiction of residence of that employee.

f. All technicians and other persons employed shall be hired by the Service Provider and be under its direct and immediate employment. Personnel shall be trained by the Service Provider and certified by the Service Provider to install, monitor, calibrate, service and remove BAIIDS and to download transmitted data.

g. No employee or agent of a Service Provider shall by any act or omission aid or assist a Participating User in circumventing or tampering with a BAIID. The Service Provider shall report any such act or omission immediately to NCDMV. This obligation to report is a continuing one throughout each employee's employment, and attaches immediately upon the act or omission notwithstanding that the employee may subsequently be terminated by the provider.

h. No employee or agent of a Service Provider shall, directly or indirectly, conduct or cause to be conducted any solicitation or advertising (including but not limited to posting and/or distributing handbills or telephone number tear-off sheets) on or about the premises of any North Carolina courthouse, courtroom, or local or state government buildings in Violation of Federal, State, County and/or local regulations. No employee or agent of a Service Provider shall, directly or indirectly, conduct or cause to be conducted any solicitation or advertising (including but not limited to posting and/or distributing handbills or telephone number tear-off sheets) on or about the premises of a License Plate Agency regulated by NCDMV.

6. Evaluations, Reports, and Information Dissemination.

a. The Service Provider shall provide information requested by NCDMV, the Court and/or any required oversight entity under the General Statutes of North Carolina regarding Participating Users' complaints, concerns, technical problems or any other information.

b. As a matter of routine, NCDMV, the Court or any required oversight entity under the General Statutes of North Carolina may require summary reports and/or specific information regarding individual participants for purposes of overseeing and administering the Program. The reports and information shall be provided by the Service Provider and shall be in a format and form designated by NCDMV. The Service Provider shall bear all costs involved in the provision of such information and reports including but not limited to the purchase of any requisite computer hardware, software or other equipment.

c. The reports shall include but not be limited to: compilation of the total number of Participating Users, total referrals, number of Participating Users successfully completing the Program, Participating Users dismissed for noncompliance, Participating User complaints and corrective actions, technical problems encountered with the Service Provider's BAIIDS, and incidents of tampering, attempted circumvention and the methodology of each.

d. The reports shall also include the number of emergency by-passes issued, the name of the specific Service Provider employee who authorized each emergency by-pass, the reasons for each emergency by-pass, judicial district and county breakdowns of all categories and BAIID defects by model, version and serial numbers.

e. The reports shall also include any other information which may be required by NCDMV to determine the success or failure of the Program, including but not limited to Participating User and other vehicle user operation error and faulty automotive equipment that may impact successful implementation of the BAIID.

f. The Service Provider shall be responsible for collecting and maintaining all statistical and/or other information of importance to the proper oversight and administration of the Program as determined by NCDMV, including but not limited to the monitoring records of each Participating User. The Service Provider shall be responsible for the recognition and reporting of statistical and/or virtual trends to NCDMV.

g. The Service Provider shall supply at the provider's expense a secure intrastate internet site for dissemination of all Participating User Program information. The information shall be real time and security-accessible only by NCDMV, the Court and/or any required oversight entity under the General Statutes of North Carolina.

h. The Service Provider shall furnish to NCDMV a valid and active user name and password so as to enable NCDMV to log on and monitor and/or review all information maintained electronically by the provider regarding each Participating User.

IX. Decertification of Ignition Interlock Service Providers.

Violation of any term and condition set out in these Standards and Procedures, notwithstanding not being specified in Section IX below as grounds for decertification, shall constitute a reasonable basis upon which the Commissioner may decertify an IIS.

Any act or omission of an employee or agent of a Service Provider is chargeable to the provider notwithstanding that the provider may not have direct knowledge of such act or omission.

1. Reasonable bases upon which the Commissioner may decertify an IIS shall include but not be limited to the following:

- a. Any false, inaccurate or misleading information furnished by the Service Provider at any time or in any format including but not limited to an Application, report, record, statement and/or reproduction.
- b. Conviction of any official, officer, director or agent of the Service Provider of any applicable state or federal law including but not limited to any felony offense, any crime of moral turpitude and perjury or any type of sworn falsification.
- c. Insolvency or bankruptcy or any act of insolvency or bankruptcy on the part of the Service Provider, failure to satisfy any final judgment within ten calendar days after entry thereof, and/or making an assignment for the benefit of creditors.
- d. Collusion among Service Providers at any time or failure of a Service Provider to furnish a notarized non-collusion affidavit upon request. Upon decertification of one participant in collusion, all other participants shall be decertified or disqualified from Certification.
- e. Decertification, disapproval, cancellation, suspension, revocation, termination or other denial of any IIS, BAIID or Service Center of the Service Provider at any time in any other jurisdiction, whether or not such action has been challenged or appealed in any way.
- f. Failure at any time of an IIS, BAIID or Service Center of the Service Provider to meet Certification or similar approval requirements upon application in any other jurisdiction, whether or not such failure has been challenged or appealed in any way.
- g. Failure of a Service Provider to maintain in full force and effect for any period of time the product and garage keeper's liability insurance required by these Standards and Procedures.
- h. Any failure of a Service Provider to protect from viewing, access and disclosure not authorized by NCDMV any personal or medical information provided by any Participating User or failure to comply fully with all requirements of the HIPAA and DPPA.
- i. Any failure of the agents or employees of a Service Provider to appear in North Carolina courts or before NCDMV Hearings officers in response to subpoenas to appear, or any failure by a Service Provider to reimburse NCDMV, the employer of any non-DMV employee member of the Committee or the employee or Committee member directly if no longer employed for witness fees and costs occasioned by an employee or Committee member providing testimony in any civil, criminal or any other proceeding regarding the Certification, decertification or use of the Service Provider's IIS as dictated by North Carolina General Statutes.
- j. Any failure of a Service Provider to comply with a written order of the Commissioner within five working days of the date of the order unless otherwise provided in the order.
- k. Any failure of a Service Provider to provide BAIID data downloading, installation, monitoring, Calibration, servicing or removal on a statewide basis, i.e., throughout the state, or any failure of a Service Provider to provide BAIID data downloading, installation, monitoring, Calibration, servicing or removal within fifty miles from any location in North Carolina.
- l. Any failure by a Service Provider to provide prompt, courteous and efficient service to Participating Users, or any failure by a Service Provider to maintain a toll-free, twenty-four hours per day, three hundred sixty-five days per year hotline phone service which answers calls live between the hours of 6:00 A.M., and 11:00 P.M. Eastern Time daily and responds to recorded messages left at other times within thirty minutes of the original call.

m. Any actual or attempted BAIID data downloading, installation, monitoring and Calibration of a BAIID by a Service Provider at a location other than a North Carolina Service Center approved by NCDMV.

n. Any failure of a Service Provider to supply services within the time limitations provided in these Standards and Procedures, or any failure to maintain workers, equipment, Devices or service facilities adequate to supply product and services in conformity with these Standards and Procedures.

o. Any installation or attempted installation by a Service Provider in a Participating User's vehicle of a BAIID which fails to meet or exceed the minimum standards required by these Standards and Procedures or which is not a component of an IIS certified by the Commissioner.

p. Any failure by a Service Provider to complete BAIID installation within seven calendar days of a Participating User's presentation of a request for installation to the Service Provider.

q. Any modification, including model and version changes, by a Service Provider of a certified IIS or any specific BAIID without having first obtained the written approval of the Commissioner.

r. Any use or attempted use by a Service Provider of a Subcontractor for BAIID data downloading or reporting Participating User information, or for the installation, monitoring, Calibration, service, repair, replacement or removal of any individual certified BAIID, or any actual or attempted BAIID data downloading or reporting Participating User information, or installation, monitoring, Calibration, service, repair, replacement or removal of any individual certified BAIID by a person who is not a direct employee of the Service Provider, except as permitted under Section VI, ¶ 3(cc).

s. Any failure of a Service Provider to cooperate in any manner in a request for information, an audit, review or inspection conducted by NCDMV.

t. Any act or omission of a Service Provider which aids or assists a Participating User in circumventing or tampering with a BAIID.

u. Any refusal or failure of a Service Provider to replace a defective BAIID.

v. Defects in design, materials or workmanship causing failure of a BAIID.

w. Changes in IIS technology such that continued Certification of a certified IIS would not be, as determined by NCDMV, in the best interest of the state of North Carolina.

2. Upon receipt of a Notice of Decertification duly executed by the Commissioner, the Service Provider of a previously certified IIS shall:

a. Immediately cease installation of any BAIID of the Service Provider.

b. Complete and bear the cost of:

- The removal of every BAIID of the Service Provider remaining in vehicles of Participating Users on the effective date of decertification and the facilitation of the simultaneous installation of a BAIID of the Service Provider of a certified IIS. The selection of the substitute Service Provider shall be solely that of the Participating User;

- The retrieval of any BAID subject to the decertification order if removed by another certified Service Provider; the removing provider shall immediately notify the decertified provider as to where the removed BAID may be retrieved;
- The reimbursement to a Participating User of the full sum advanced by the user for deposit or unrealized monthly charges or other services immediately upon removal of a BAID subject to the decertification order, and reimbursement to a Participating User of any new installation fee the user is required to pay the Service Provider of a certified IIS;
- The notification, at least ten days prior to the effective date of decertification, of all Participating Users affected by the decertification order;
- The transfer of all Participating User records and other applicable documents to a location and in a format as directed by NCDMV;
- Any other action deemed necessary and directed by NCDMV to facilitate implementation of the decertification order and the transition of Participating Users to a BAID of the Service Provider of a certified IIS.