State of Vermont
Department of Public Safety
VERMONT FORENSIC LABORATORY
103 South Main Street
Waterbury, VT 05671
P.O. BOX 47
Waterbury, VT 05676-0047

TEL: 802•244•8788
FAX: 802•241•5557
E-MAIL: cjs0lab@state.vt.us
http://vfl.vermont.gov

NOW COMES Trisha L. Conti, affiant, being duly sworn and on oath, deposes and says:

1) I am a Senior Forensic Chemist employed by the Vermont Forensic Laboratory as the Alcohol Program Supervisor. This position includes oversight of breath and blood testing for ethyl alcohol, subsequently referred to as alcohol.

2) I have been recognized in the courts of the state of Vermont as an expert in the fields of analytical chemistry, the theory, operation and use of the DataMaster DMT, the absorption and elimination of alcohol in the human body, the relation of the result of the analytical process to an earlier point in time and the effects of alcohol on the human body.

3) I am familiar with the Vermont Department of Public Safety's rules concerning analysis of breath samples for alcohol content (effective 3/29/2013).

4) The evidential breath alcohol testing device in use in Vermont is the DataMaster DMT, an instrument which employs infrared absorption as its method of analysis. Through rulemaking, the principle of absorption of infrared energy has been adopted as an approved method of breath alcohol testing.

5) I have been trained by the manufacturer of the DataMaster DMT to operate, calibrate, certify, maintain and install these instruments.

6) The DataMaster DMT has been tested and approved by the federal government as an evidentiary device. The DataMaster DMT appears on the Department of Transportation, National Highway Traffic Safety Administration's list of Conforming Products published in the Federal Register (Federal Register / Vol. 77, No. 115 / Thursday, June 14, 2012).

7) Through rulemaking, performance standards have been established for evidential instrumentation. The DataMaster DMT meets the performance standards because:

   A) The DataMaster DMT is capable of accepting and analyzing a subject's exhaled alveolar, or deep lung air (breath).

   B) The DataMaster DMT is capable of analyzing replicate samples containing a known concentration of alcohol with a precision of plus or minus 5% from their mean when alcohol concentrations are reported to three significant figures. The DataMaster DMT reports results as the number of grams of alcohol per 210 liters of breath (g/210L).

   C) The DataMaster DMT meets and exceeds the minimum test accuracy required by rule for alcohol testing of plus or minus 10% or 0.005 g/210L, whichever is greater, when analyzing a simulated breath sample of a known concentration, when alcohol concentrations are reported to three significant figures. This demonstrated capability directly extends to accurately evaluating a breath sample.

D) The DataMaster DMT is capable of detecting the presence of compounds in breath which could potentially interfere with the accurate determination of a breath alcohol concentration.

E) The DataMaster DMT and the methods used for determination of breath alcohol concentration for evidential purposes have been approved by the Commissioner of Public Safety.

8) Based upon testing performed within and outside the state of Vermont, my knowledge of the scientific literature regarding breath alcohol testing, and my training and experience with the instrument, it is my opinion that the DataMaster DMT is an accurate and reliable instrument for determining the alcohol concentration in a sample of a person's breath.

9) The DataMaster DMT provides a reliable and accurate means for analysis of breath alcohol samples. The software on the DataMaster DMT is designed as a fail-safe; in order to proceed with a subject test and report an ethanol result, the instrument must meet all internal and external quality control checks. The reporting of an alcohol concentration of a person's breath by the DataMaster DMT is evidence that the instrument successfully met the performance standards contained in the rules at the time the breath sample was analyzed.

10) A DataMaster DMT result obtained by an officer certified to operate the instrument and when taken in accordance with the procedures incorporated in the Vermont Criminal Justice Training Council Student Manuals in effect at the time of testing and approved by the Commissioner of Public Safety, is accurate and reliable and is in compliance with the provisions of the Department of Public Safety's rules.

Dated at Waterbury in the county of Washington, Vermont this 8th day of May, 2014.

Trisha L. Conti, Ph.D., Affiant

Subscribed to and sworn before me at Waterbury, Vermont on this 8th day of May, 2014.

Notary Public

Commission Expires: 2.10.2015