

**Amendment No. 3
TO THE CONTRACT FOR
NON-CRIMINAL JUSTICE FINGERPRINT AND RELATED SERVICES PROGRAM
FOR THE STATE OF TEXAS
405-C5-9013**

This Amendment No. 3 to this Contract between the Texas Department of Public Safety ("TXDPS"), an agency of the State of Texas, and MorphoTrust USA, LLC ("Vendor"), is entered into by and between TXDPS and Vendor, referred to herein as "the Parties."

I. Recitals

Whereas, on August 22, 2005, TXDPS and Identix Identification Services, LLC, entered into this Contract to be effective August 22, 2005;

Whereas, on August 23, 2005, TXDPS issued a Purchase Order 405-C5-9013, under this Contract to Identix Identification Services, LLC;

Whereas, TXDPS and Integrated Biometric Technology, LLC, entered into Amendment No. 1 to this Contract, effective as of May 22, 2007, to reflect the company's name change from Identix Identification Services, LLC, to Integrated Biometric Technology, LLC, and to revise Vendor's duties related to payment of state and federal fees for background checks;

Whereas, TXDPS and Integrated Biometric Technology, LLC, entered into Amendment No. 2 to this Contract, effective as of August 21, 2008, to extend this Contract from August 22, 2008 through September 30, 2008;

Whereas, on August 21, 2008, TXDPS issued a Purchase Order Change Notice to Identix Identification Services, LLC, to extend this Contract from August 22, 2008 through September 30, 2008;

Whereas, on September 23, 2008, TXDPS issued a Purchase Order Change Notice to Identix Identification Services, LLC, to extend this Contract from October 1, 2008 through August 21, 2010;

Whereas, on July 15, 2010, TXDPS issued a Purchase Order Change Notice to Integrated Biometric Technology Services, LLC, d/b/a L-1 Enrollment Services Division, to extend this Contract from August 22, 2010 through August 21, 2012;

Whereas, on August 28, 2012, TXDPS issued a Purchase Order Change Notice to Integrated Biometric Technology Services, LLC/L-1 Identity Solutions, to renew this Contract for the period of August 22, 2012 through August 21, 2014;

Whereas, on December 27, 2012, Integrated Biometric Technology, LLC, merged with and into IBT Acquisition, LLC;

Whereas, on December 28, 2012, IBT Acquisition, LLC, merged with and into MorphoTrust USA, Inc.;

Whereas, on April 2, 2014, Vendor provided a letter to TXDPS indicating that Vendor was converted to a limited liability company on December 31, 2013 and Vendor's corporate name was officially changed from MorphoTrust USA, Inc. to MorphoTrust USA, LLC;

Whereas, Exhibit A, Service Level Agreement, Section IV(26) of this Contract provides that Vendor may partner with entities approved by TXDPS for the hosting of fingerprint capture sites;

Whereas, TXDPS desires to host a fingerprint capture site at certain TXDPS offices;

Whereas, TXDPS desires to include additional Vendor monitoring components;

Whereas, Section VII(H) of this Contract provides that no modification or amendment to this Contract will become valid unless in writing and signed by both Parties and that only the TXDPS Director or his/her designee is authorized to sign changes or amendments; and

Whereas, Section VII(QQ) of this Contract provides that TXDPS may, from time to time, modify terms or require changes in the services of Vendor to be performed under this Contract, and that such modifications or changes which are mutually agreed upon by and between TXDPS and Vendor, will be incorporated in a written amendment to this Contract.

Now, therefore, the Parties hereby agree as follows:

II. Terms

A. Amend Exhibit A, Service Level Agreement, of this Contract by adding the following provisions:

1. IV. RESPONSIBILITIES OF THE VENDOR

- Vendor shall provide all onsite inspection reports to TXDPS within thirty (30) calendar days of completion of its inspection.
- Vendor shall utilize its existing toll free number (800-467-2080) to capture customer acknowledgments, questions, comments, or concerns. Vendor shall post its toll free number at each fingerprinting location for customers to use if they should have any acknowledgments, questions, comments, or concerns. Vendor shall provide to TXDPS all customer contact data and all acknowledgments, questions, comments, or concerns from the toll free number.

2. V. TXDPS Host Locations

TXDPS grants the non-exclusive use of TXDPS office space at the locations identified below, referred to as "the Premises," as a host location for Vendor's fingerprint capture site for the sole purpose of providing the services as provided in this Contract.

1. TXDPS Host Locations for Fingerprint Capture Site

- a. 216 E Wells Branch Parkway, Pflugerville, Texas 78660
- b. 1413 Texoma Parkway, Sherman, Texas 75090

2. Vendor Responsibilities. Vendor shall:

- a. Provide on-site non-criminal justice electronic fingerprint capture and related services, referred to as "Fingerprint Applicant Services of Texas" or "FAST," to customers. Any other service or use by Vendor related to the Premises under this Contract is strictly prohibited;
- b. Provide, install, and maintain all equipment, including Live Scan devices, supplies, furniture, workstations, and staff to facilitate providing the services as described herein, with no reimbursement from TXDPS;
- c. Select all furniture and workstations, at its sole expense, from the TXDPS-approved selections and receive pre-approval by the specified TXDPS manager for that facility;
- d. Provide its own telephone and internet service;
- e. Provide any signage as required and approved by the specified TXDPS manager for that facility;
- f. Provide the services described herein to customers by appointment only during the TXDPS office normal business hours, excluding holidays and other unforeseen closures;

- g. Provide all personnel related to the on-site delivery of services, and supervise and maintain responsibility for its employees and ensure that each provides the same standards of confidentiality, security, and customer service as TXDPS requires of its employees. Vendor shall promptly remove from performance of any services under this Contract any of its employees who are not meeting these standards and substitute the employee with a qualified and trained employee;
- h. Abide by policies regarding professional work attire in the specified TXDPS office;
- i. Separately obtain, collect, process, secure, and account for its processing fees for each customer transaction that it performs in accordance with this Contract;
- j. Keep the Premises in good repair and condition. Upon termination of this Contract, Vendor shall leave the Premises in the same condition, minus normal wear and tear. If at any time during this Contract, Vendor causes damage to the Premises beyond normal wear and tear, then Vendor shall pay for those repairs;
- k. Receive prior written approval from the specific TXDPS facility management of Vendor's implementation plan before installation of any equipment or technology; and
- l. Not use any TXDPS equipment or resources other than those specifically identified herein.

Vendor shall retain ownership of all equipment, supplies, furniture, and workstations provided and installed by Vendor at its own expense. Vendor shall have full responsibility for any theft, damage, or loss of equipment, supplies, furniture, and workstations resulting from Vendor's use of the Premises. TXDPS will not reimburse Vendor for any of its expenses or losses in providing these on-site services.

- 3. TXDPS Responsibilities. TXDPS shall:
 - a. Provide office space measuring 7' x 7' per Live Scan workstation;
 - b. Provide utilities, electricity, gas, and maintenance of the Premises;
 - c. Notify Vendor of any changes to the TXDPS normal office hours schedule;
 - d. Provide secure card key access to the Premises for authorized employees of Vendor;
 - e. Provide access to breakrooms and restrooms for authorized employees of Vendor; and

f. Coordinate with Vendor in its review of Vendor's implementation plan prior to the installation of any equipment or technology.

4. Upon termination or expiration of this Contract, Vendor shall remove all of its equipment, supplies, furniture, and workstations from the Premises within thirty (30) calendar days of the termination or expiration.

5. Vendor shall use the Premises solely as described herein. Vendor shall not sublease or assign its use of the Premises. TXDPS shall have access and use at all times to the Premises that Vendor is using. Vendor shall take all reasonable measures to keep the Premises secure that are in its use and control.

B. Amend Section VII, Terms and Conditions, of this Contract by adding the following provisions:

1. YY. No Liability for Employees

Each Party to this Contract shall have no liability whatsoever for the actions or omissions of an individual employed by another Party, regardless of where the individual's actions or omissions occurred. Each Party is solely responsible for the actions and/or omissions of its employees, officers and agents; however, such responsibility is only to the extent required by Texas law. Where injury or property damage result from the joint or concurring acts and/or omissions of the Parties, liability, if any, shall be shared by each Party in accordance with the applicable laws of the State of Texas, subject to all defenses, including governmental immunity. These provisions are solely for the benefit of the Parties hereto and not for the benefit of any person or entity not a Party hereto; nor shall any provision hereof be deemed a waiver of any defenses available by law.

3. ZZ. No Joint Enterprise

The provisions of this Contract are not intended to create, nor shall they be in any way construed to create a joint venture, a partnership, or to create the relationships of an employer-employee or principal-agent, or to otherwise create any liability for the Parties whatsoever with respect to the Parties' indebtedness, liabilities, and obligations.

4. AAA. No Apparent Agency

Neither Party has authority for or on behalf of the other except as provided in this Contract. No other authority, power, partnership, or rights are granted or implied.

5. BBB. Availability of TXDPS Manpower

All TXDPS obligations and requirements are subject to the availability of TXDPS manpower and are subject to the practicability of TXDPS to perform such obligations and requirements. The determination regarding availability of TXDPS manpower, the assignment of such manpower, and the practicability of TXDPS to perform such obligations and requirements is within the sole discretion of TXDPS.

6. CCC. Force Majeure

Neither Party shall be liable to the other for any default or delay in the performance of its obligations under this Contract caused by force majeure, provided the Party seeking to be excused has prudently and promptly acted to take any and all reasonable corrective measures that are within the Party's control. Force majeure is defined as those causes beyond the control of the Party required to perform that are generally recognized under Texas law as a force majeure event, such as acts of God, unusual weather conditions, fire, riots, sabotage, acts of God, unusual weather conditions, fire, riots, sabotage, acts of domestic or foreign terrorism, or any other cause beyond the reasonable control of such Party.

7. DDD. Severability

If any provision of this Contract is held to be invalid, unenforceable, or illegal in any respect, such provision shall be fully severable, and the remainder of this Contract shall remain valid and in full force and effect.

8. EEE. Prohibition on Certain Contracts

Under Section 2155.006(b), Texas Government Code a state agency may not accept a bid or award a contract, including a contract for which purchasing authority is delegated to a state agency, that includes proposed financial participation by a person who, during the five-year period preceding the date of the bid or award, has been: (1) convicted of violating a federal law in connection with a contract awarded by the federal government for relief, recovery, or reconstruction efforts as a result of Hurricane Rita, as defined by Section 39.459, Utilities Code, Hurricane Katrina, or any other disaster occurring after September 24, 2005; or (2) assessed a penalty in a federal civil or administrative enforcement action in connection with a contract awarded by the federal government for relief, recovery, or reconstruction efforts as a result of Hurricane Rita, as defined by Section 39.459, Utilities Code, Hurricane Katrina, or any other disaster occurring after September 24, 2005. Under Section 2155.006, Texas Government Code, Vendor certifies

that it is not ineligible to receive this Contract and acknowledges that this Contract may be terminated and payment withheld if this certification is inaccurate.

C. Amend Section VII(Z) of this Contract by replacing with the following:

Z. Handling of Written Complaints

Vendor may direct their written complaints to the following TXDPS office:

Texas Department of Public Safety
Attn: Monica Presson
5805 North Lamar Boulevard, Building A
Austin, Texas 78752
Telephone: (512) 424-7139
Fax: (512) 425-5019
Email: Monica.Presson@dps.texas.gov

D. Amend Section IX of this Contract by replacing with the following:

IX. NOTIFICATION REQUIREMENTS

Any notice required or permitted under this Contract shall be directed to the respective Parties at the addresses shown below and shall be deemed given: (1) when delivered in hand and a receipt granted; (2) when received if sent by certified mail, return receipt requested; or (3) when received if sent by confirmed facsimile or email:

Notices to Vendor: MorphoTrust USA, LLC
Attn: General Counsel
296 Concord Road, Suite 300
Billerica, Massachusetts 01821

Email: legalnotices@morphotrust.com

With a copy to:

MorphoTrust USA, LLC
Attn: Charles Carroll
6840 Carothers Parkway, Suite 601
Franklin, Tennessee 37067

Notices to TXDPS: Texas Department of Public Safety
Attn: Monica Presson
5805 North Lamar Boulevard, Building A
Austin, Texas 78752
Telephone: (512) 424-7139
Fax: (512) 425-5019
Email: Monica.Presson@dps.texas.gov

With a copy to:

Texas Department of Public Safety
Attn: Angie Kendall
5805 North Lamar Boulevard, Building G
Austin, Texas 78752
Telephone: (512) 424-2471
Fax: (512) 424-5911
Email: Angie.Kendall@dps.texas.gov

Either of the Parties may change its address or designated individual(s) to receive notices by giving the other Party written notice as provided above, specifying the new address and/or individuals and the date upon which it shall become effective.

- E. Only individuals expressly authorized by the Director of TXDPS by reference to this paragraph ILE of this Amendment No. 3 may provide written approvals on behalf of TXDPS under this Contract.
- F. This Amendment No. 3 represents the entire agreement between the Parties concerning the subject matter of this Amendment No. 3 and supersedes any and all prior or contemporaneous oral or written statements, agreements, correspondence, quotations, or negotiations.
- G. Except as expressly provided herein, all other provisions of this Contract and prior Amendments and Purchase Order Change Notices remain unchanged and are in full force and effect and are ratified and affirmed by the Parties. By their execution and delivery of this Amendment No. 3 neither Party waives or releases any default thereunder.
- H. If there is a conflict between this Contract and any prior Amendments, then the following shall control in this order of priority:
 - 1. Amendment No. 3
 - 2. Amendment No. 2

- 3. Amendment No. 1
- 4. Purchase Order Change Notices
- 5. Contract

I. This Amendment No. 3 shall be effective as of the date of the last Party to sign.

III. Signatories

The undersigned signatories represent and warrant that they have full authority to enter into this Amendment No. 3 on behalf of the respective Parties. This Amendment No. 3 may be executed in one or more counterparts, each of which is an original, and all of which constitute only one agreement between the Parties.

TXDPS

By: _____

Cheryl MacBride

Printed Name

Deputy Director of Services

Title

Date

6/3/14



MorphoTrust USA, LLC

By: _____

Robert Eckel

Printed Name

President & Chief Executive Officer

Title

Date

5/20/14