



## SERVICE AGREEMENT TERMS & CONDITIONS

This AGREEMENT is made and entered into this \_\_\_ day of \_\_\_\_\_, 20\_\_\_, by and between 3M Cogent, Inc. ("3M Cogent"), with its principal place of business located at 639 North

Rosemead Blvd, Pasadena, CA 91107 and \_\_\_\_\_  
("Contractor"), whose principal place of business is located at

\_\_\_\_\_, the "Parties."

### WITNESSETH

**WHEREAS:** Contractor is defined as a person or business which provides fingerprinting services under terms specified in this service agreement.

**WHEREAS:** The Repository is defined as the authority, either law enforcement or other, legally entitled to receive electronic fingerprint submissions from the Contractor by way of 3M Cogent.

**WHEREAS:** 3M Cogent has requested that Contractor provide the services specified in attached Exhibit A, Scope of Work, and Contractor agrees to provide such services;

**WHEREAS:** 3M Cogent has requested that Contractor comply with personnel and security access requirements set forth by the Cogent Systems Privacy Statement in attached Exhibit B;

**NOW, THEREFORE,** the Parties agree as follows:

### ARTICLE 1. PAYMENT.

3M Cogent will deliver Livescan equipment to Contractor, configured to support fingerprint submission transaction(s) to the Repository, for a total payment by the Contractor of <See Exhibit D>.

3M Cogent agrees to pay Contractor a payment per successfully submitted transaction, as defined by Exhibit C. Payment shall be made to the Contractor upon verification that the transaction submissions meet the requirements defined in Exhibit A Scope of Work. Payment for all transactions for any specific month will be paid within \_30\_ days of the last calendar day of that month.

### ARTICLE 2. EQUIPMENT, MAINTAINENCE AND FACILITIES.

3M Cogent will provide Contractor with Livescan equipment that will consist of a Livescan fingerprint scanner and 3M Cogent Livescan software seat license for <See Exhibit D> and conditions stated in ARTICLE 1. This equipment shall include a fingerprint scanner, personal computer, monitor (if a desktop unit), and all required computer cabling; facility cabling not included.

Contractor's internet connection and cabling is provided by Contractor. Contractor shall provide the facility in which the equipment will be housed and the personnel to facilitate the transaction. The Contractor shall provide the appropriate internet connection, electrical power, and any other network equipment required for communication.

Contractor agrees to purchase Livescan maintenance at <See Exhibit D> to cover the maintenance and support of the Livescan fingerprint scanner and Livescan software seat license only.

1. 3M Cogent provides computer, Livescan software seat license and scanner maintenance

Contractor agrees to make available their facility; labor and Livescan to the general public and offer public fingerprinting during the hours listed.

1. Contractor's published hours of operation listed on the 3M SITE INFORMATION FORM which is to be completed by the Contractor.

### **ARTICLE 3. EQUIPMENT OWNERSHIP AND PROMOTION.**

Contractor understands that Contractor owns the Livescan equipment and software seat license.

This equipment shall only be used in conjunction with the collection and submission of data to 3M Cogent and shall not be used for any other purpose without 3M Cogent's express written permission. The Contractor consents to the use of the Contractor's name and place of business in conjunction with the promotion, use, and scheduling of the background check service if Contractor provides fingerprinting services that would be available to the general public.

### **ARTICLE 4. INDEPENDENT CONTRACTOR.**

The relationship between the parties under this Agreement shall be one of independent contractors. Neither Contractor nor any of its employees shall be employees or agents of 3M Cogent and are not entitled to participate in any 3M Cogent pension plans, retirement, health and welfare programs, or any similar programs or benefits, as a result of this Contract.

Contractor employees or agents rendering services under this Agreement shall not be employees of Cogent for federal or state tax purposes, or for any other purpose. Contractor acknowledges and agrees that it is the sole responsibility of the Contractor to report as income the fees and compensation it receives from 3M Cogent pursuant to this agreement and to make the requisite tax filings and payments to the appropriate federal, state, and/or local tax authorities. No part of the payments made by 3M Cogent to Contractor shall be subject to withholding by 3M Cogent for the payment of social security, unemployment, or disability insurance, any other state or federal tax obligation of Contractor.

Contractor agrees to defend, indemnify and hold 3M Cogent harmless from any and all claims, losses, liabilities, or damages arising from any contention by a third party that an employer-employee relationship exists between 3M Cogent and Contractor by reason of this Contract.

3M Cogent assumes no liability for workers' compensation or liability for loss, damage or injury to persons or property during or relating to the performance of services under this Contract.

### **ARTICLE 5. FINGERPRINTING REQUIREMENTS.**

Contractor shall provide to the 3M Cogent the names of all employees assigned to perform work under this Contract if requested. Compliance with standard Livescan operations, as defined by 3M Cogent in its Livescan training curriculum, is a condition of this Contract, and 3M Cogent reserves the right to suspend or terminate this Agreement at any time for noncompliance.

It is the responsibility of the Contractor to comply with personnel and security access requirements set forth by the 3M Cogent Systems Privacy Statement as it relates to the collection of personal information.

It is 3M Cogent's policy to ensure that all Contractors are clear of any criminal record and Contractor or their employee's may be background checked, at 3M Cogent's expense, prior to becoming an Applicant Livescan Operator.

#### **ARTICLE 6. MUTUAL INDEMNIFICATION.**

Each of the Parties shall defend, indemnify and hold harmless the other Party, its officers, agents and employees from any and all claims, liabilities and costs, for any damages, sickness, death, or injury to person(s) or property, including payment of reasonable attorney's fees, and including without limitation all consequential damages, from any cause whatsoever, arising directly or indirectly from or connected with the operations or services performed under this Contract, caused in whole or in part by the negligent or intentional acts or omissions of the Parties or its agents, employees or subcontractors.

It is the intention of the Parties, where fault is determined to have been contributory, principles of comparative fault will be followed and each Party shall bear the proportionate cost of any damage attributable to fault of that Party. It is further understood and agreed that such indemnification will survive the termination of this Contract.

#### **ARTICLE 7. TERMINATION.**

Either Party may terminate this Agreement without cause upon giving the other Party thirty days written notice. Notice shall be deemed given when received by the Party, or no later than three days after the day of mailing, whichever is sooner. During the thirty day period the Contractor is required to facilitate and submit fingerprints for any remaining applicant scheduled for processing at the Contractor's facility. All transactions successfully submitted by the Contractor during this period, as well as any payments due the Contractor from 3M Cogent Systems, shall be paid by 3M Cogent.

#### **ARTICLE 8. ASSIGNMENT.**

This Agreement is for personal services to be performed by the Contractor. Neither this Agreement nor any duties or obligations to be performed under this shall be assigned without the prior written consent of 3M Cogent, which shall not be unreasonably withheld. In the event of an assignment to which 3M Cogent has consented, the assignee or his/her or its legal representative, shall agree to perform, and be bound by all covenants and obligations contained in this Agreement.

#### **ARTICLE 9. ENTIRE AGREEMENT.**

This Agreement contains the entire agreement between the parties and supersedes all prior understanding between them with respect to the subject matter of this Agreement. There are no promises, terms, conditions or obligations, oral or written, between or among the parties relating to the subject matter of this Agreement that are not fully expressed in this Agreement. This Agreement may not be modified, changed, supplemented or terminated, nor may any obligations under this Agreement be waived, except by written instrument dated subsequent hereto, signed by the party to be charged.

#### **ARTICLE 10. CONFLICT OF INTEREST.**

The Contractor shall abide by and be subject to all applicable 3M Cogent policies, regulations, statutes or other laws regarding conflict of interest together with all provisions of the Contract relating to conflicts of interest. Contractor shall not hire any officer or employee of 3M Cogent to perform any service covered by this Contract.

#### **ARTICLE 11. NONDISCRIMINATION.**

It is the policy of the 3M Cogent that in connection with all services performed under contract, there shall be no discrimination against any prospective or active employee engaged in the work because of race, color, ancestry, national origin, handicap, religious creed, sex, age or marital status. Contractor agrees to comply with all applicable federal and state laws.

**ARTICLE 12. SEVERABILITY.**

Should any term or provision of this Agreement be determined to be illegal or in conflict with any state or federal law, the validity of the remaining portions or provisions shall not be affected thereby. Each term or provision of this Agreement shall be valid and be enforced as written to the full extent permitted by law.

**ARTICLE 13. VENUE.**

If any dispute shall arise concerning the interpretation or application of the terms of this Agreement, venue shall be proper in any federal or state court.

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the date first above shown.

**3M COGENT**

**CONTRACTOR:**

By: \_\_\_\_\_

By: \_\_\_\_\_

Name: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_

**EXHIBIT A  
STATEMENT OF WORK**

- 3M Cogent makes no claim concerning the fingerprint transaction volume Contractor may expect.
- Contractor may not charge additional fingerprint fees unless otherwise provided for in this agreement
- Contractor will receive Applicants for fingerprint collection services during Contractor's fingerprint hours published on the 3M Cogent web page.
- Contractor will inform 3M Cogent of any anticipated business closure or change in fingerprint hours a minimum of fourteen (14) days in advance.

**Contractor will facilitate the Applicant's background check transaction in the following ways:**

1. Contractor will provide the internet connection required for operation of the Livescan, which includes the availability of internet ports required for incoming and outgoing communications with the Livescan
2. Contractor will review the Applicant's State accepted form of ID before processing the Applicant's transaction. Positive ID for the Applicant must be determined before moving forward. If positive ID can not be established the Applicant transaction must not be completed. Contractor will be provided a list of valid forms of State accepted ID's
3. If required, Contractor will type/enter into the Livescan the unique identifier associated with the Applicant's State accepted form of ID.
4. Contractor will ask the Applicant to review their demographic information for correctness before proceeding with the collection of the Applicant's fingerprints
5. Contractor will facilitate the collection of the Applicant's fingerprints via the "hands-on" fingerprinting method. Applicants shall not fingerprint themselves. Contractor will collect Applicant fingerprints, including one each of a Left and Right hand four finger "flats" scan. One each of Left and Right thumb "flats" scan and eight "roll" scans of the remaining fingers
6. Contractor will maintain a fingerprint rejection rate of less than (<) 2%. Rejection rates are available to every Contractor via 3M Cogent's online Site Administration web page. Termination of Contractor's Agreement with 3M Cogent is possible if Contractor cannot maintain a fingerprint rejection rate of less than (<) 2% or if State law enforcement deems contractor un-compliant for 3 consecutive months or more than 6 months in a year.
7. Contractor will accept guaranteed payment (money order or cashiers check), to be noted and placed in a pre-addressed stamped envelope provided by 3M Cogent. Guaranteed payments may be batched in a single envelope and mailed at the Contractor's discretion provided they are mailed not less than every two weeks
8. No cash transactions will be accepted by the Contractor unless specifically provided for by addendum to this agreement
9. No additional fees may be established by the Contractor for the service of Applicant fingerprinting unless specifically provided for by addendum to this agreement
10. Contractor employees associated with the collection of Applicant fingerprints are subject to a fingerprint based criminal background check, paid for by 3M Cogent.
11. Contractor will establish regular business hours for fingerprinting. Fingerprinting will be offered on a walk-in basis. At a minimum fingerprinting will occur at the Contractor's primary place of business during the Contractor's regular business hours. These hours may be shortened or fewer days made available ONLY by advance agreement with 3M Cogent. Contractor may offer extended or weekend hours at their discretion but these offerings must be communicated to 3M Cogent for posting on the 3M Cogent web page
12. Contractor will inform 3M Cogent within twenty four (24) hours if an Applicant is turned away by the Contractor for any reason
13. Contractor MAY be required to electronically correct Applicant registration errors present on the Livescan so as to prevent the Applicant from being turned away for fingerprinting
14. Contractor will provide efficient, courtly service

## **EXHIBIT B**

### **3M Cogent Privacy Statement as it Relates to the Collection of Personal Information**

Cogent Systems is committed to protecting the privacy of all applicants who utilize its Applicant Fingerprint Collection Services. This statement outlines our commitment to providing comprehensive privacy and security that ensures the protection of all data collected throughout the entire process including personal data, financial data (credit/debit card) details as well as the collection of applicant fingerprint data. The security is effective whether the collection of data takes place over the Cogent secured applicant services websites, over the telephone (call center) or at the any of the Cogent fingerprints enrollment centers.

#### **Collection of Personal Information**

In order to submit a fingerprint-based background check through the FBI, applicants are asked to provide demographic data about themselves including critical data elements such as name, date of birth, home address, Social Security Number, and address as well as other distinguishing characteristics such as weight, height, sex and race. In some cases, applicants may be asked to provide personal information, such as their e-mail address, home or work telephone number.

Depending on the payment type chosen, applicants may be asked for details concerning their credit/debit card. Data collected will include name of card holder, card number, expiration date, verification code, and billing address. Cogent is in compliance with the Payment Card Industry Data Security Standard (PCI –DSS) when processing, transmitting, or storing the applicant's credit/debit card data.

#### **Use of Personal Information**

Cogent collects and uses applicant's personal information to generate a complete FBI-compliant fingerprint-based background check record that can be electronically transmitted to state and/or federal authorities. Delivering a complete record is impossible without the collection of applicant's personal information. The collection of the required personal data and fingerprint images is done for the sole purpose of carrying out the fingerprint-based background check transaction requested by applicants. Applicant's personal information data is removed from the fingerprint capture station as the transaction is electronically transmitted to the Applicant Processing Secured Server, which is owned and operated by Cogent and is located at Cogent's offices in Pasadena, CA.

#### **Sharing of Personal Information**

Cogent will not disclose applicant's personal information to any entity outside of the designated recipients or authorized recipient of the background check results. The designated recipients may be the Federal Bureau of Investigation and/or the authorized State law enforcement entity. The authorized recipient of background check results is determined by state and federal law.

Cogent Fingerprint collection locations and their employee have access to personal Applicant information, including fingerprint images and demographic information, which are considered under the law to be confidential. Cogent's Fingerprint collection locations and their employees, Applicant Livescan Operators or ALO's, will not disclose any applicant's personal information. An ALO is responsible for understanding and complying with the written duties and responsibilities related to the protection, use and handling of confidential Applicant information. Cogent employees or sub-contractors are required to sign Cogent's Applicant Livescan Operator Non-Disclosure Form.

In the event that applicant's choose to pay for their transactions via a credit or a debit card, the applicant's credit card/debit card information will be submitted for payment approval by the applicant's bank or financial institution for the processing and approval of payment.

Cogent does not and will not share applicant's personal information with third parties for marketing or any other purposes.

#### **Security of Personal Information**

Cogent is committed to protecting the security of applicant's personal information. We utilize several security technologies to help protect applicants' personal information from unauthorized access, use, or disclosure. The first layer of protection is the deletion of an applicant's data from the fingerprint capture station as soon as the transmission is completed successfully. Other layers of security include the encryption of fingerprint-capture system drives, ensuring limited and authorized access only to the system. We also encrypt the transmission of personal information over the Internet and utilize the Secure Socket Layer (SSL) protocol for Web transmission.

To ensure the security of captured and transmitted data, Cogent utilizes 3DES encryption for the transaction between the fingerprint capture station and the secured central server which is located at Cogent's office. Cogent utilizes a custom secure package to ensure the integrity of the data being supplied and submitted electronically. Additionally, Cogent utilizes industry-standard encryption program to ensure that all data is securely transmitted between all systems.

Cogent retains applicant's data for a period of 30 days to ensure that applicant's transactions have been successfully processed by the FBI systems and also ensure that the payment for the transaction has cleared. At the end of the 30-day period, applicant's personal data is completely wiped out of the systems. It should be noted that another primary reason for temporarily retaining applicant's data is to allow for processing applicant's transaction for a second time, at no additional charge, in the event that a transaction is rejected by either the FBI.

## EXHIBIT C

### 3M Cogent Fingerprint Collection Fees

In the event the Contractor provides public fingerprint hours in excess of 24 hours a week, the following fees, payable by 3M Cogent, will apply.

3M Cogent Fee (excluding state and federal charges) Collected from Applicant	3M Cogent Fee Paid to Contractor
< \$13.00	\$3.00
\$13.01 to \$15.99	\$3.50
\$16.00 to \$19.99	\$4.00