

DATA TRANSFER AGREEMENT

This Data Transfer Agreement (“**Agreement**”) is by and between the Texas Department of Public Safety (“**Provider**”), and the **National Institute of Standards and Technology** (“**NIST**”), a federal agency within the United States Department of Commerce for the transfer of non-public data for research purposes. Provider and NIST shall be referred to individually as “**Party**” and together as “**Parties**.” The Parties hereby agree as follows:

1. In accordance with relevant law, including Texas Government Code Annotated §552.001, Provider agrees to provide fingerprint records (“**Data**”) to Gregory Fiumara (“**NIST Representative**”) of the Image Group at NIST’s Information Technology Laboratory. Provider agrees not to provide to NIST any identifiable private information of any living individual or any code to identify any identifiable private information. NIST agrees not to attempt to decipher any identifiable private information from the Data or to identify the individual who is the subject of the Data. Provider reserves the right to distribute the Data to others and to use it for its own purposes.
2. NIST must only use the Data for NIST’s efforts to conduct internal research for the project entitled “ITL-16-0032: Longitudinal Study of Automated Fingerprint Technologies” (“**Research Project**”) and for related projects within the Information Technology Laboratory, provided that NIST uses the Data for such related projects in accordance with the terms of this Agreement and that NIST’s related project receives a human subjects research review by NIST’s Human Subjects Protections Office or NIST Institutional Review Board, as appropriate.
3. To the extent permitted by law, NIST agrees to treat in confidence, for a period of ten (10) years from the date of its disclosure, the Data, derivatives of the Data to the extent they contain Data, and any of Provider’s written proprietary information about the Data that is marked as confidential (“**Proprietary Information**”), except for any information that was previously known to NIST, that is or becomes publicly available, that is disclosed to NIST by a third party under no obligation of confidentiality, that is independently developed by NIST or its agents or consultants who had no access to the Proprietary Information, or that Provider gives written consent to NIST to disclose.
4. Provider agrees that NIST may disclose the Data and Proprietary Information to its collaborators, provided that the collaborators are bound by confidentiality obligations no less restrictive than the terms of this Agreement.
5. NIST’s obligations under this provision are consistent with and do not supersede, conflict with, or otherwise alter the employee obligations, rights, or liabilities created by existing statute or Executive order relating to (1) classified information, (2) communications to Congress, (3) the reporting to an Inspector General of a violation of any law, rule, or regulation, or mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety, or (4) any other whistleblower protection. The definitions, requirements, obligations, rights, sanctions, and liabilities created by controlling Executive orders and statutory provisions are incorporated into this Agreement and are controlling.
6. The Parties agree that NIST may publicly disclose its results from the Research Project, provided that no Data or Proprietary Information is contained therein.
7. This Agreement shall be effective upon full execution by both parties (“**Effective Date**”) and shall expire after ten (10) years, unless terminated earlier by either Party after thirty (30) days advance notice to the other Party. Upon completion of the Research Project, or upon expiration or earlier termination of this Agreement, whichever occurs first, NIST will destroy or return the Data as mutually agreed by NIST and Provider, except for one copy, which will be subject to the terms of this Agreement, so that NIST may comply with its Federal record retention policies.
8. The Data is provided as a service to the research community. IT IS BEING SUPPLIED TO NIST WITH NO WARRANTIES, EXPRESS OR IMPLIED, INCLUDING ANY WARRANTY OF MERCHANTABILITY

OR FITNESS FOR A PARTICULAR PURPOSE. Provider makes no representations that the use of the Data will not infringe any patent or proprietary rights of third parties.

- 9. NIST shall retain title to any patent or other intellectual property rights in inventions made by its employees in the course of the Research Project.
- 10. Provider agrees not to claim, infer, or imply Governmental endorsement of the Research Project, personnel conducting the Research Project or any resulting commercial product(s).
- 11. As an agency of the federal government, NIST's responsibility for the payment of claims for the loss of property, personal injury or death, or otherwise arising out of any negligent act or omission of its employees in connection with the performance of work under this Agreement shall be governed by the Federal Torts Claims Act.
- 12. This Agreement shall be governed by and construed in accordance with the laws of the United States. All Actions concerning this Agreement shall be brought in the Federal district courts of the United States.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their duly authorized representatives as follows:

PROVIDER:

By: 

3/17/17
Date



OGC Reviewed

Mike Lesko
Assistant Director, Law Enforcement Support Division

Provider Mailing Address for Notices: Texas Department of Public Safety
5805 N. Lamar Blvd., Bldg. G
Austin, TX 78752

NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY:



3/16/17
Date

Mr. Shahram Orandi
Chief, Information Access Division



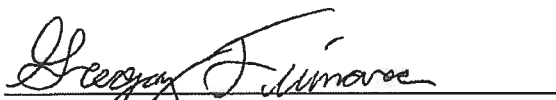


17 Mar 2017
Date

Charles Romine
Director, Information Technology Laboratory

Mailing Address for Notices: NIST Technology Partnerships Office, 100 Bureau Drive, Gaithersburg, MD 20899-2200
E-mail: ipp@nist.gov

Read and Acknowledged by NIST Representative:



17 March 2017
Date

Gregory Blumara
Image Group, Information Technology Laboratory

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1. In accordance with relevant law, including Texas Government Code Annotated §552.001, Provider agrees to provide biometric records with metadata of fingerprint, palm, face, scars/marks/tattoos, and/or iris of deceased individuals (“**Data**”) to Gregory Fiumara (“**NIST Representative**”) of the Image Group at NIST’s Information Technology Laboratory. Provider agrees not to provide to NIST any identifiable private information of any living individual or any code to identify any identifiable private information. NIST agrees not to attempt to decipher any identifiable private information from the Data or to identify the individual who is the subject of the Data. Provider reserves the right to distribute the Data to others and to use it for its own purposes.
2. NIST must only use the Data for NIST’s efforts to conduct internal research for the project entitled “ITL-17-0017: Creation and Public Distribution of Biometric Datasets of Excluded Human Data” (“**Research Project**”) and for related projects within the Information Technology Laboratory, provided that NIST uses the Data for such related projects in accordance with the terms of this Agreement and that NIST’s related project receives a human subjects research review by NIST’s Human Subjects Protections Office or NIST Institutional Review Board, as appropriate.
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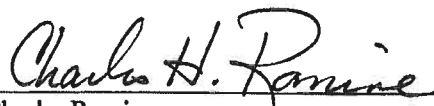


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NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY:


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Chief, Information Access Division

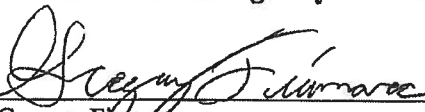
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Date


Charles Romine
Director, Information Technology Laboratory

17 Mar 2017
Date

Mailing Address for Notices:
NIST Technology Partnerships Office, 100 Bureau Drive, Gaithersburg, MD 20899-2200
E-mail: ipp@nist.gov

Read and Acknowledged by NIST Representative:


Gregory Fumara
Image Group, Information Technology Laboratory

17 March 2017
Date