

STATE OF TEXAS

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COUNTY OF FORT BEND

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**ADDENDUM TO LEXISNEXIS VITALCHEK NETWORK INC.'S AGREEMENT
FOR VITAL RECORDS SERVICE**

THIS ADDENDUM ("Addendum") is entered into by and between Fort Bend County, ("County"), a body corporate and politic under the laws of the State of Texas, and LexisNexis VitalChek Network Inc. ("VitalChek"), a company authorized to conduct business in the State of Texas (hereinafter collectively referred to as the "parties").

WHEREAS, the parties have executed and accepted VitalChek's Vital Records Service Agreement (the "Agreement"), attached hereto as Exhibit "A" and incorporated by reference, for the use of specified services concerning the processing and delivery of request for vital records (the "Product"); and

WHEREAS, the following changes are incorporated as if a part of the Agreement:

1. **Term.** The term of the Agreement is effective upon execution of both parties, and shall expire no later than one year after the execution of the Agreement by both parties, unless terminated sooner pursuant to the Agreement. This Agreement shall not automatically renew, but may be subsequently renewed in writing upon agreement of the parties.
2. **Payment; Non-appropriation; Taxes.** Payment, if any, shall be made by County within thirty (30) days of receipt of invoice. It is specifically understood and agreed that in the event no funds or insufficient funds are appropriated by Fort Bend County under this Agreement, Fort Bend County shall notify all necessary parties that this Agreement shall thereafter terminate and be null and void on the last day of the fiscal period for which appropriations were made without penalty, liability or expense to Fort Bend County. County is a body corporate and politic under the laws of the State of Texas and claims exemption from sales and use taxes. A copy of a tax-exempt certificate will be furnished upon request.
3. **Limit of Appropriation.** VitalChek clearly understands and agrees, such understanding and agreement being of the absolute essence of this Agreement, that County shall have available the total maximum sum of Zero dollars (\$0.00), specifically allocated to fully discharge any and all liabilities County may incur. VitalChek does further understand and agree, said understanding an agreement also being of the absolute essence of this Agreement, that the total maximum compensation that VitalChek may become entitled to and the total maximum sum that County may become liable to pay to VitalChek shall not under any conditions, circumstances, or interpretations thereof exceed Zero dollars (\$0.00).
4. **Confidential Information.** VitalChek expressly acknowledges that County is subject to the Texas Public Information Act, TEX. GOV'T CODE ANN. §§ 552.001 *et seq.*, as amended, and notwithstanding any provision in the Agreement to the contrary, County will make any information related to the Agreement, or otherwise, available to third parties in accordance with the Texas Public Information Act. Any proprietary or confidential information marked as such provided to County by VitalChek shall not be disclosed to any third party, except as directed by the Texas Attorney General in response to a request for such under the Texas Public Information Act, which provides for notice to the owner of such marked information

- and the opportunity for the owner of such information to notify the Attorney General of the reasons why such information should not be disclosed.
5. **Indemnity.** The parties agree that under the Constitution and laws of the State of Texas, County cannot enter into an agreement whereby County agrees to indemnify or hold harmless another party; therefore, all references of any kind to County defending, indemnifying, holding or saving harmless VitalChek for any reason are hereby deleted.
 6. **Applicable Law; Arbitration; Attorney Fees.** The laws of the State of Texas govern all disputes arising out of or relating to this Agreement. The parties hereto acknowledge that venue is proper in Fort Bend County, Texas, for all legal actions or proceedings arising out of or relating to this Agreement and waive the right to sue or be sued elsewhere. Nothing in the Agreement shall be construed to waive the County's sovereign immunity. County does not agree to submit disputes arising out of the Agreement to binding arbitration. Therefore, any references to binding arbitration or the waiver of a right to litigate a dispute are hereby deleted. County does not agree to pay any and/or all attorney fees incurred by VitalChek in any way associated with the Agreement.
 7. **Certain State Law Requirements for Contracts.** The contents of this Section are required by Texas Law and are included by County regardless of content.
 - a. Agreement to Not Boycott Israel Chapter 2271 Texas Government Code: By signature below, VitalChek verifies VitalChek does not boycott Israel and will not boycott Israel during the term of this Agreement.
 - b. Texas Government Code § 2251.152 Acknowledgment: By signature below, VitalChek represents pursuant to § 2252.152 of the Texas Government Code, that VitalChek is not listed on the website of the Comptroller of the State of Texas concerning the listing of companies that are identified under § 806.051, § 807.051, or § 2253.153.
 8. **Modifications.** No other provisions to this Agreement apply except for the terms which appear in this Addendum and Exhibit A. The parties may not amend or waive this Agreement, except by a written agreement executed by both Parties.
 9. **Human Trafficking.** BY ACCEPTANCE OF CONTRACT, VITALCHEK ACKNOWLEDGES THAT FORT BEND COUNTY IS OPPOSED TO HUMAN TRAFFICKING AND THAT NO COUNTY FUNDS WILL BE USED IN SUPPORT OF SERVICES OR ACTIVITIES THAT VIOLATE HUMAN TRAFFICKING LAWS.
 10. **Use of Customer Name.** VitalChek may use County's name without County's prior written consent only in any VitalChek's customer lists, any other used must be approved in advance by County.
 11. **Product Assurance.** VitalChek represents and warrants that its hardware, software and any related systems and/or services related to its software and/or hardware (collectively, the "Product") furnished by VitalChek to County will not infringe upon or violate any patent, copyright, trademark, trade secret, or any other proprietary right of any third party. VitalChek will, at its expense, defend any suit brought against County and will indemnify County against an award of damages and costs (including reasonable attorney fees, court costs and appeals), made against County by settlement or final judgment of a court that is based on a claim that the use of the VitalChek's Product infringes an intellectual property right of a third party. Such defense and indemnity shall survive termination or expiration of the Agreement and the VitalChek's liability for the above is not limited by any limitation of liability clauses that may appear in any document executed by the Parties.

12. **Conflict.** In the event there is a conflict between this Addendum and the Agreement, this Addendum controls.
13. **Electronic and Digital Signatures.** The Parties to this Agreement agree that any electronic and/or digital signatures of the Parties included in this Agreement are intended to authenticate this writing and to have the same force and effect as the use of manual signatures.
14. **County Data.** Nothing in this Agreement will be construed to waive the requirements of § 205.009 of the Texas Local Government Code.

IN WITNESS WHEREOF, this Addendum is signed, accepted, and agreed to by all parties by and through the parties or their agents or authorized representatives. All parties hereby acknowledge that they have read and understood this Addendum and the attachments and exhibits hereto. All parties further acknowledge that they have executed this legal document voluntarily and of their own free will.

FORT BEND COUNTY

Jamie Kovar
Interim Purchasing Agent

Date

LEXISNEXIS VITALCHEK NETWORK INC.

Authorized Agent - Signature

JEFFREY B. PIEFKE
Authorized Agent- Printed Name

VICEPRESIDENT & GENERAL MANAGER
Title

2-10-2020
Date

Reviewed by
LNRS
Legal

Printed on 2/10/2020 at 12:56:16 PM

AUDITOR'S CERTIFICATE

I hereby certify that funds in the amount of \$_____ are available to pay the obligation of Fort Bend County within the foregoing Agreement.

Robert Ed Sturdivant, County Auditor

Exhibit A: VitalChek's Vital Records Service Agreement

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Exhibit A



LexisNexis® VitalChek Network Inc.
Vital Records Service Agreement

This agreement ("Agreement") is entered into as of _____ (the "Effective Date"), by and between LexisNexis VitalChek Network Inc. ("VitalChek") with its principal place of business located at 6 Cadillac Drive, Suite 400, Brentwood, TN 37027 and Fort Bend County, County Clerk ("Agency") with its principal place of business located at 301 Jackson Street Richmond, Texas 77469.

WHEREAS, VitalChek is engaged in the business of providing a service which expedites the remote application, processing and delivery of requests for vital records (hereinafter referred to as the "Service" which is more particularly described in Appendix I attached hereto); and,

WHEREAS, Agency is desirous of installing the Service and providing access to the service to the public;

NOW THEREFORE, in exchange for the mutual consideration set forth herein, VitalChek and Agency do hereby agree as follows:

1. VitalChek shall, at its expense, install at mutually agreed upon facilities of Agency all hardware and software associated with the Service, to the extent detailed in Appendix I attached hereto (the "Equipment").
2. VitalChek shall, at its expense, train and authorize appropriate personnel of Agency in the use and operation of the hardware and software associated with the Service.
3. VitalChek will make payment to Agency in an amount equal to Agency's charges for all properly authorized requests in connection with services rendered by Agency and which are correctly processed through the Service. Such payments shall be made in a manner acceptable to both parties.
4. VitalChek will charge the consumer/applicant a convenience fee for the use of the Service, ("Fees"), and will accept payment of such fees through the use of a valid payment method then accepted by VitalChek, which may include, without limitation, Visa, MasterCard, Discover Card or American Express credit card, as well as major debit cards in VitalChek reasonable discretion.
5. In conformity with industry security requirements, and in order to maintain the highest level of cardholder data security, VitalChek has instituted, among other policies, Paper and Electronic Media Policies, which are designed to meet or exceed industry security standards (the "VitalChek Policies"). A copy of the VitalChek Policies has been provided to Agency, and Agency agrees to comply with such policies as amended from time to time as well as with appropriate industry accepted security practices for handling non-public personal information. Agency acknowledges and agrees that cardholder data may only be used for assisting in completing a card transaction or as required by applicable law. Each party warrants that it will abide by all applicable federal, state, and local laws, ordinances, codes and regulations in the performance of its obligations under this Agreement (collectively, the "Laws").
6. A Party herein will not be liable to the other Party or to its customers for any delay or failure in its performance of any of the acts required by this Agreement if and to the extent that such delay or failure arises beyond the reasonable control of such Party, including, without limitation, acts of God or public enemies, labor disputes, equipment malfunctions, computer downtime, material or component shortages, supplier failures, embargoes, earthquakes, rationing, acts of local, state or national governments or public agencies, utility or communication failures or delays, fire, flood, epidemics, riots and strikes.
7. EXCEPT AS PROVIDED HEREIN, NEITHER VITALCHEK NOR ANY SUPPLIER MAKES ANY REPRESENTATIONS OR WARRANTIES, EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE WITH RESPECT TO THE SERVICES FURNISHED PURSUANT TO THIS AGREEMENT, INCLUDING ANY APPLICABLE HARDWARE.

8. It is agreed that under this Agreement VitalChek does not transfer, and Agency does not obtain, any patent rights, copyright interest or other right, claim or interest in the computer programs, systems, forms, formats, schedules, manuals or other proprietary items utilized by the Service or provided by VitalChek.
9. Notices provided in association with this Agreement shall be provided in writing to the address of the Parties first set forth above, and in the case of notices to VitalChek, with a copy to: Legal Department, 1000 Alderman Drive, Alpharetta, Georgia 30005.
10. This Agreement shall be effective as of the date first set forth above and shall continue in effect for a period of one year. Thereafter, this Agreement shall automatically renew for successive one year periods, unless either party provides the other with written notice of termination not less than sixty (60) days prior to the expiration of the then existing term.
11. The terms of this Agreement represent the full and complete agreement between the parties with respect to the Services herein. They may not be altered or amended except by written instrument, duly executed by the parties.
12. This Agreement shall be construed and enforced in accordance with the laws of the State where Agency is located.

IN WITNESS WHEREOF, the parties do hereby execute this Agreement, intending to be bound by its terms and conditions.

Fort Bend County, County Clerk

AGENCY

By:

Laura Richard
Laura Richard

Title:

Fort Bend County Clerk

Date:

11/22/2020

LEXISNEXIS VITALCHEK NETWORK INC.

By:

Jeff Plefke
Jeff Plefke

Title:

Vice President, General Manager
LexisNexis VitalChek Network Inc.

Date:

2-10-2020

APPENDIX I- SERVICE DESCRIPTION AND EQUIPMENT

On-Line Ordering

- Secure on-line & remote ordering
- Hosted order support services
- Payment processing
- Advanced technology services
- Seamless integration into issuance work flow
- Same-day settlement processing

Professional Call Center Support

- Agency-specific toll-free telephone numbers
- Full-service bi-lingual customer support 24/7/365
- New and previously-placed order assistance
- Automated outbound order status messaging
- Parallel security measures as on-line ordering
- Support via phone, e-mail, and on-line social media
- Seamless integration into issuance work flow

Point of Sale (Front Counter Credit Card Processing)

- PCI Level 1 security
- New VeriFone VX series terminal and PIN pad
- Professional installation services and 24/7 support available
- Integration into your processing system
- Leading-edge technology for faster, secure processing
- Traditional card-swipe technology (Signature and/or PIN)
- EMV card capabilities (Signature and/or PIN)
- NFC payments like Google Wallet and ApplePay
- Providing dedicated, toll-free, live 24/7/365 technical support

Same-Day Settlement Processing

No matter how you accept payment for your vital records, you can benefit from VitalChek's same-day settlement processing via ACH or check. We also provide daily transaction reports for easy accounting and reconciliation. Our newest settlement application, VitalChek Product Suite, even includes a searchable payment database for easy reference.

Simple. Fast. Secure.

With VitalChek's Vital Record Solutions, your consumers can order their vital records quickly and securely 24 hours a day, 7 days a week, all without your staff having to handle any additional work. Your agency can be available 24/7 and "open" to receive orders, even when it's "closed".

All of the services are provided to the Fort Bend County, County Clerk at NO COST to the agency. All VitalChek fees are paid by the consumer.

VitalChek On-Line Fee \$12.95

VitalChek Call Center Fee \$12.95

VitalChek POS Credit/Debit (counter) \$2.50 or 3% which ever is greater Per Transaction

Expedited Shipping Fee \$19.50



Automatic Clearing House Authorization

Authorization Agreement

I hereby authorize LexisNexis VitalChek Network, Inc. to initiate automatic transfers to the named account at the financial institution below. I also agree that in the event of a posting error, VitalChek Network, Inc. will adjust the next payment to offset the error.

Further, I agree that VitalChek Network, Inc. shall not be responsible for any delay or loss of funds due to incorrect or incomplete information supplied by me or by my financial institution, due to an error on the part of my financial institution in depositing funds to my account, or otherwise resulting from an event not caused by the gross negligence or intentional misconduct of VitalChek Network, Inc.

This agreement will remain in effect until either party provides the other party with at least ten (10) days prior written notice of termination.

Customer Information

Name of Customer: Fort Bend County Clerk

Customer Address: 301 Jackson St, Richmond TX 77469-3108

Customer Contact: Alicia Losoya phone # 281-341-8653

Email address for transfer communications: alicia.losoya@fortbendcountytexas.gov

Additional Emails: nichollette.ross@fortbendcountytexas.gov

michelle.hernandez@fortbendcountytexas.gov, diane.shepard@fortbendcountytexas.gov

Checking Account Information

Name of Financial Institution: _____

Routing Number: _____

Acct Number: _____

Signature

Agency Representative (Print): Laura Richard Date: 1/22/20

Agency Representative (Signature): *Laura Richard* Date: 1/22/20

Please Fax Completed Form to: 866-347-1909 – Attn: Nicole Korelba