

MASTER SERVICES AGREEMENT

This Master Services Agreement (this "Agreement") is entered into as of this 18 day of May, 2021, by and between **Ellipsis Information Security LLC, a Kentucky limited liability company ("EIS") located at 845 Early Wyne Dr., Taylorsville KY, 40071** and the **Lexington-Fayette Urban County Government (LFUCG) located at 200 E. Main St., Lexington, KY 40507 ("Company")**. The parties, intending to be legally bound, agree as follows:

1. Definitions

- 1.1 "Deliverables" shall be ascribed that meaning expressly set forth in the Statement of Work, together with the Documentation delivered by EIS to Company under this Agreement.
- 1.2 "Documentation" shall mean functional specifications, design specifications, operating manuals, drawings, sketches, work product, diagrams, illustrations, schedules and other related materials, data and information, as applicable, together with all documentation expressly set forth in the Statement of Work, provided by EIS to Company under this Agreement.
- 1.3 "Services" shall be ascribed that meaning expressly set forth in the Statement of Work.
- 1.4 "Statement of Work" shall mean one or more statements of work incorporating a description of the specific services, deliverables and documentation requested by Company and attached hereto (each, and as modified by the parties from time to time, a "Statement of Work" or "SOW").

2. Statement of Services

- 2.1 Services. EIS shall provide Company with the Services in accordance with the Statement of Work.
- 2.2 Period of Performance. EIS understands that prompt performance of all services hereunder is required by Company in order to meet its schedules and commitments. EIS shall use reasonable efforts to complete each Deliverable in accordance with the applicable schedule(s) contained in the Statement of Work. Without limiting the generality of the foregoing, EIS shall not be liable to Company or any third part for any failure or delay caused by events beyond EIS's control including, without limitation: acts of God, medical epidemic or pandemic, fire, terrorism, explosion, vandalism, cable cut, storm or other similar occurrences; any law, order, regulation, direction, action or request of the United States government or of any other government (including state and local governmental agency, department, commission, court, bureau, corporation or other instrumentality of any one or more of said governments) or of any civil or military authority; national emergencies, insurrections, riots, wars; strikes, lockouts, or work stoppages or other labor difficulties; EIS's failures, shortages, breaches, and delays due to server or provider delays, malfunctions, or otherwise non-operation; failure or delays in

transportation or communication; failures or substitutions of equipment or access to facilities; technical failures; failure by Company or a third party to furnish necessary information; or failure by Company or a third party in completing tasks required of Company or a third party or in otherwise performing Company's or a third party's obligations hereunder or under any Statement of Work. Any delay resulting from an assumption contained in a Statement of Work which is untrue or incorrect will be considered an excusable delay hereunder and may impede or delay completion of the Services.

- 2.3 Changes to Statement(s) of Work. Any request by Company to EIS for a modification to the Services and/or Deliverables shall be specific and in writing (a "Change Request"). Within a reasonable time after receiving a Change Request, EIS shall respond to Company in writing on whether the Change Request can be implemented and the effect the Change Request will have on EIS's performance under this Agreement. If EIS accepts a Change Request, both parties shall amend the Statement of Work to reflect the Change Request before EIS implements the Change Request. In no event shall EIS be penalized for delays caused by a Change Request. In no event shall EIS be obligated to accept work proposed pursuant to a Change Request.

3. Representations and Warranties of EIS

- 3.1 EIS Representations. EIS represents and warrants that:

- (a) EIS shall not knowingly use or incorporate any tangible or intangible materials that may infringe the proprietary rights of any third party in providing the Services; and
- (b) For a period of sixty (60) days from the date of delivery to Company (the "Warranty Period"), the Deliverables shall conform in all material respects to the terms and conditions set forth in the SOW.

- 3.2 Remedies. In the event of a breach of any of the conditions listed in this Section, EIS shall, at its option, and as Company's sole and exclusive remedy hereunder, correct such non-conformity or refund Company the identifiable portion of Company's payment under any applicable Statement of Work with respect to the non-conforming Deliverable, but shall not incur work outside of the original SOW. This remedy is lieu of any other remedy available hereunder or at law or equity.

- 3.3 Notification. The foregoing warranty is expressly conditioned on (i) Company providing EIS with prompt written notice of any claim within the Warranty Period, which notice must identify with particularity the non-conformity; (ii) Company's full cooperation with EIS in all reasonable respects relating thereto, including assisting EIS to locate and reproduce the non-conformity; (iii) with respect to any Deliverable, the absence of any alteration or other modification of such Deliverable by any person or entity other than EIS or use of any Deliverable with other software or hardware not specified in writing by EIS as compatible; (iv) all third party materials, including Company-provided materials, materially conforming to their published specifications, and (v) the absence of any

accident, neglect, disaster, or misuse which directly or indirectly causes the failure of a Deliverable to satisfy the warranty above.

4. Representations and Warranties of Company

4.1 Company Representations. Company represents and warrants the following:

- (a) It shall provide to EIS all required access to its facilities and to all necessary technical documentation, software, hardware, and personnel in a timely manner in order for EIS to fulfill its obligations under this Agreement;
- (b) It shall provide to EIS all necessary third-party software, databases, and operating systems as defined in the Statement of Work in order for EIS to perform the Services; and
- (c) It has all the appropriate rights, title, and authority necessary to provide to EIS the access and third-party materials required under this Agreement.

4.2 Failure of Company. Failure of Company to provide the above shall relieve EIS of its obligations under this Agreement.

5. Compensation

5.1 Fees and Expenses. Company shall pay all Fees for the Services as set forth in the Statement of Work and all reasonable and actual out-of-pocket expenses pre-approved by Company, including, without limitation, travel, living, and ancillary expenses, paid or incurred by EIS in connection with the Services.

5.2 Taxes. Company agrees to pay amounts equal to any federal, state or local sales, use, excise, privilege or other taxes or assessments, however designated or levied, relating to any amounts payable by Company to EIS hereunder, and to this Agreement or any Services provided by EIS to Company pursuant hereto, and any taxes or amounts in lieu thereof paid or payable by EIS, exclusive of taxes based on EIS's net income or net worth. EIS will invoice Company for any taxes payable by Company that are required to be collected by EIS pursuant to any applicable law, rule, regulation or other requirement of law. All taxes will be disclosed before execution of any Statement of Work to Company for Company approval.

5.3 Billing.

- (a) Each EIS invoice for the Services shall identify the Services and charges for which payment is required.

- (b) Company shall pay all invoices within twenty (20) business days of Company's receipt of such invoice from EIS.
- (c) To the extent an invoice is not paid within the aforementioned twenty (20) business days, EIS may add a monthly service charge equal to the lesser of (i) one and one-half percent (1.5%) or (ii) the highest lawful rate allowed. EIS shall be entitled to reasonable attorneys' fees and other costs associated with collecting on the unpaid balance of an invoice.
- (d) In the event of a good faith dispute with respect to amounts invoiced by EIS, Company shall notify EIS in writing of such good faith dispute by no later than ten (10) business days after Company's receipt of that invoice. Company shall specify in writing included on such notification the reason(s) for such dispute. If such dispute is not resolved by the parties within twenty (20) business days of EIS's receipt of notification of such dispute, Company shall place the disputed amount into an escrow account, pending resolution of such dispute. In the event any such disputed amount is not placed in escrow, EIS, in its sole discretion, may suspend performance under this Agreement or any SOW until the resolution of such dispute.

6. Ownership Rights

- 6.1 Ownership. Company shall own all right, title and interest to the specific Deliverables and Documentation created by EIS for Company, as expressly set forth in the applicable Statement of Work. Such Deliverables shall be deemed work made for hire under the copyright laws of the United States. Notwithstanding the above, nothing herein shall convey, transfer, assign, or otherwise deliver, by implication, estoppel, or otherwise, any rights, title, or ownership interest, including without limitation any intellectual property rights, in or to any EIS proprietary materials (including EIS Materials, as defined below) or any third-party materials.
- 6.2 EIS Deliverables. In the event that, and to the extent the Deliverables or Documentation include any EIS proprietary product which is generally distributed by EIS to its end-users, representatives, distributors, or agents pursuant to a separate license agreement, Company shall be granted a limited license to use such product solely for its internal purposes in accordance with EIS's applicable standard license agreement then in effect.
- 6.3 EIS Materials. Company acknowledges that the Deliverables and Documentation may contain certain processes, methodologies, or modules of software developed by EIS, which have been and/or will be reused by EIS for other clients, including modifications, upgrades, and enhancements to such materials ("EIS Materials"). EIS shall retain title to EIS Materials and grant Company a perpetual, fully paid, and nonexclusive limited license to use such EIS Materials for its internal purposes, including the right to reproduce, modify, and prepare derivative works of EIS Materials, provided that EIS retains all right, title, and interest to EIS Materials and all modifications and derivative works of EIS Materials.

- 6.4 Residuals. EIS and its employees, agents, or associates shall be free to use and employ their general skills, know-how, and expertise, and to use, disclose, and employ any generalized ideas, concepts, know-how, methods, techniques, or skills gained or learned during their performance of this Agreement, so long as they do not disclose Confidential Information of Company as defined in, and in breach of, this Agreement.
- 6.5 Third Party Materials. Company's interest in and obligations with respect to any third party vendor software or other materials incorporated in the Deliverables or the Documentation shall be determined in accordance with the agreements and policies of such vendors.

7. Confidentiality

- 7.1 Confidential Information. Both parties acknowledge that either may receive Confidential Information from the other during the term of this Agreement, including information designated as confidential at the time of disclosure, or summarized in writing as Confidential Information within a reasonable time after disclosure. Each receiving party agrees that it shall limit the dissemination of and access to the Confidential Information only to its "authorized representatives." An "authorized representative" is an individual or entity who has a need to receive the Confidential Information in order for the receiving party to perform the Services (with regard to EIS) or use the Deliverables and/or the Documentation solely for its internal purposes (with regard to Company), and who has agreed in writing to be bound by the terms of this confidentiality provision. Further, each receiving party shall ensure that any and all such "authorized representatives" are informed of and observe all the obligations of confidentiality contained in this Agreement. The receiving party shall treat Confidential Information as it does its own valuable and sensitive information of a similar nature, and, in any event, with not less than reasonable care. Upon the disclosing party's written request, the receiving party shall undertake commercially reasonable efforts to return or certify the destruction of all Confidential Information, and the obligation of confidentiality shall continue for three (3) years from the date of return or destruction of such information.
- 7.2 Definition. The term "Confidential Information" shall mean any and all information or proprietary materials (in every form and media) not generally known in the relevant trade or industry and which has been or is hereafter disclosed or made available by either party (the "disclosing party") to the other (the "receiving party") in connection with the efforts contemplated hereunder, including (i) all trade secrets, (ii) existing or contemplated products, software, documentation, services, designs, technology, processes, technical data, engineering, techniques, methodologies and concepts and any information related thereto, and (iii) information relating to business plans, sales or marketing methods and customer lists or requirements.
- 7.3 Exceptions. The obligations of either party under Section 7.1 will not apply to information that the receiving party can demonstrate (i) was in its possession at the time of disclosure and without restriction as to confidentiality, (ii) at the time of disclosure is generally available to the public or after disclosure becomes generally available to the public through no breach of agreement or other wrongful act by the receiving party, (iii) has been received from a third party without restriction on disclosure and without breach

of agreement or other wrongful act by the receiving party, (iv) is independently developed by the receiving party without regard to the Confidential Information of the other party, or (v) is required to be disclosed by law or order of a court of competent jurisdiction or regulatory authority, provided that the receiving party shall furnish prompt written notice of such required disclosure and reasonably cooperate with the disclosing party, at the disclosing party's cost and expense, in any effort made by the disclosing party to seek a protective order or other appropriate protection of its Confidential Information.

7.4 Injunctive Relief. Failure on the part of Company or EIS to abide by this Section shall cause either party irreparable harm for which damages, although available, will not be an adequate remedy at law. Accordingly, either party has the right to obtain an injunction to prevent any further violations of this Section and recover court costs and reasonable attorneys' fees incurred by EIS in the enforcement of this Section.

8. Indemnification

8.1 Intellectual Property Rights Indemnity. To the extent permitted by state law, and without waiving the defense of sovereign immunity, EIS and Company (as applicable, the "indemnifying party") each agree to indemnify and hold harmless the other (as applicable, the "indemnified party") from and against any costs and damages awarded against the indemnified party by a court of competent jurisdiction pursuant to a final judgment in favor of the owner of any US patent, copyright, or trade secret, as a result of, and defend the indemnified party against, any claim of infringement of any such patent or copyright or misappropriation of any trade secret related to a Deliverable (in the case of indemnification by EIS) or EIS's possession, use or modification of any software, documentation, data or other property provided by Company (in the case of indemnification by Company).

8.2 Intellectual Property Rights Exclusions. EIS shall have no obligation under Section 8.1 or other liability for any infringement or misappropriation claim resulting or alleged to result from: (1) use of the Deliverables or any part thereof in combination with any equipment, software or data not approved for use by EIS, or use in any manner for which the Deliverable was not designed, or if the Deliverable has been modified or altered by a person or entity other than EIS; (2) any aspect of Company's software, documentation or data which existed prior to EIS's performance of Services; (3) any claim arising from any instruction, information, design or other materials furnished by any third party including Company to EIS hereunder; or (4) Company's continuing the allegedly infringing activity after being notified thereof or after being informed and provided with modifications that would have avoided the alleged infringement. This Section 8 sets forth the exclusive remedy and entire liability and obligation of each party with respect to intellectual property infringement or misappropriation claims, including patent or copyright infringement claims and trade secret misappropriation.

8.3 Infringement Remedies. In the event that an infringement or misappropriation claim as described in Section 8.1 above arises, or if EIS reasonably believes that a claim is likely to be made, EIS, at its option and in lieu of indemnification, may: (i) modify the applicable Deliverables provided under the Services so that they become non-infringing but functionally equivalent; or (ii) replace the applicable Deliverables with material that is

non-infringing but functionally equivalent; (iii) obtain for Company the right to use such Deliverables upon commercially reasonable terms; or (iv) remove the infringing or violative Deliverables and refund to Company the fees received for such Deliverables that are the subject of such a claim, based on a five (5) year straight-line amortization.

- 8.4 Personal Injury and Property Damage Indemnity. To the extent permitted by state law, and without waiving the defense of sovereign immunity, EIS and Company each agree to indemnify, defend and hold harmless the other from and against any and all claims, actions, damages, liabilities, costs and expenses, including reasonable attorneys' fees and expenses, arising out of third party claims for bodily injury or damage to real or tangible personal property, not including software, data, and documentation, to the extent caused directly and proximately by the gross negligence or willful misconduct of the indemnifying party, its employees or agents.
- 8.5 General Indemnity. Any mistakes, accidents, omissions, interruptions, delays errors or defects which are caused or contributed to, directly or indirectly, or by an act or omission of Company or a third party or by the use of Company-provided facilities or equipment, shall not result in the imposition of any liability upon EIS and Company or the third party so acting shall pay to EIS any and all costs, expenses, damages, fees, and penalties incurred by EIS as a result thereof to the extent permitted by state law, and without waiving the defense of sovereign immunity.
- 8.6 Indemnification Procedures. The obligations to indemnify, defend and hold harmless set forth above in this Section 8 will not apply to the extent the indemnified party was responsible for giving rise to the matter upon which the claim for indemnification is based and will not apply unless the indemnified party: (i) promptly notifies the indemnifying party of any matters in respect of which the indemnity may apply and of which the indemnified party has knowledge; (ii) gives the indemnifying party full opportunity to control the response thereto and the defense thereof, including any agreement relating to the settlement thereof, provided that the indemnifying party shall not settle any such claim or action without the prior written consent of the indemnified party (which shall not be unreasonably withheld or delayed); and (iii) cooperates with the indemnifying party, at the indemnifying party's cost and expense in the defense or settlement thereof. The indemnified party may participate, at its own expense, in such defense and in any settlement discussions directly or through counsel of its choice on a monitoring, non-controlling basis.

9. Limitation of Liability

- 9.1 **LIABILITY. WITH REGARD TO EACH SOW, EIS'S AGGREGATE LIABILITY FOR ANY CLAIMS ARISING FROM THIS AGREEMENT PERTAINING TO SUCH SOW SHALL NOT EXCEED THE TOTAL FEES RECEIVED BY EIS FROM COMPANY IN PAYMENT FOR PERFORMANCE FOR SUCH SOW UNDER THIS AGREEMENT FOR THE TWELVE (12) MONTHS IMMEDIATELY PRECEDING THE DATE OF THE CLAIM.**
- 9.2 **EXCLUSION OF DAMAGES. NEITHER PARTY SHALL BE LIABLE TO THE OTHER FOR ANY INDIRECT, INCIDENTAL, SPECIAL, PUNITIVE OR CONSEQUENTIAL DAMAGES IN CONNECTION WITH THIS AGREEMENT, HOWEVER CAUSED, WHETHER BASED ON**

CONTRACT, TORT, WARRANTY, OR OTHER LEGAL THEORY, AND EVEN IF SUCH PARTY HAS BEEN INFORMED IN ADVANCE OF THE POSSIBILITY OF SUCH DAMAGES OR SUCH DAMAGES COULD HAVE BEEN REASONABLY FORESEEN BY SUCH PARTY. THE AFOREMENTIONED EXCLUSION INCLUDES, BUT IS NOT LIMITED TO: (I) SYSTEM DOWN TIME; (II) LOSS OF BUSINESS; (III) RELATED CONNECTIVITY LOSS; (IV) DEGRADATION OF NETWORK BANDWIDTH; (V) PERSONAL INJURIES; (VI) SYSTEM LOSS AND/OR CRASHES; AND (VII) INFORMATION LOSS AND/OR ACCESS LOSS OR INTERRUPTION.

- 9.3 Conditions. EIS's entire liability under this Agreement shall be as set out in this Section 9. The parties have agreed that the limitations specified in this Section 9 will survive and apply even if any limited remedy specified in this Agreement is found to have failed of its essential purpose. No action arising out of or in connection with this Agreement or any of the Services provided hereunder may be brought by either party more than two (2) years after the cause of action has accrued, except that an action for nonpayment of any monies due EIS hereunder may be brought within two (2) years of the date of the last payment made. Company acknowledges that EIS has set its prices and entered into this Agreement in reliance on the disclaimers of warranty and the limitations of liability set forth in this Agreement and that the same forms an essential basis of the bargain between the parties.
- 9.4 No Guarantee. EIS cannot and does not guarantee the results or effectiveness of any of the Services rendered. Rather, EIS shall conduct its operations and provide its Services in a professional manner and in accordance with good industry practice. Consultant will use its best efforts and does not guarantee results.
10. Insurance. Company shall secure and maintain commercial general liability insurance coverage with limits of liability of not less than \$1,000,000.00, combined single limit or with such other limits as requested by EIS. Company shall further be responsible for all other insurances and protections necessary for the operation of its business and the protection of its clients, employees, contractors and suppliers. Company hereby agrees to cover all of its own employees with Company's own workers' compensation insurance.
11. Term and Termination
- 11.1 Term. This Agreement shall be effective until all Services provided under the Statement of Work are completed, unless terminated earlier as provided for in this Section.
- 11.2 Breach. If either party commits a material breach under this Agreement, and fails to reach an agreement with the other party regarding cure within thirty (30) days after receipt of written notice of such breach, or becomes insolvent, admits in writing its inability to pay its debts as they mature, makes an assignment for the benefit of creditors, or becomes subject to direct control of a trustee, receiver or similar authority, the other party may, in addition to other available remedies, terminate this Agreement in whole or in part. This provision shall act separately from, and not in contradiction to the sixty (60) day warranty provision of Section 3.
12. Non-Solicitation

- 12.1 Neither party shall hire or directly or indirectly solicit for employment, or induce, or actively attempt to influence any employee, contractor, or agent of the other party to terminate employment or discontinue a consultancy, contractor or other business association with the other party during the term of this Agreement and for six (6) months after the termination or expiration of this Agreement.
- 12.2 This Section shall not apply to or restrict the right of EIS to solicit or recruit generally in the media, and shall not prohibit EIS from hiring an employee of Company who answers any advertisement or who otherwise voluntarily applies for hire without first having been personally solicited or recruited by EIS.

13. General Provisions

- 13.1 Conflicts. In the event of a conflict between this Agreement and any SOW, Change Request, exhibit, schedule, addendum, or attachment, the conflicting terms of this Agreement shall prevail, and all other non-conflicting terms of the SOW, Change Request, exhibit, schedule, addendum, or attachment, shall remain in effect; provided, however, that a conflicting term of an SOW, Change Request, exhibit, schedule, addendum or attachment may prevail over a conflicting term in this Agreement only if the SOW, Change Request, exhibit, schedule, addendum or attachment containing the conflicting term specifically references this Section 13.1 and is executed by both parties.
- 13.2 Assignment. Subject to the provisions of Section 13.11, neither party shall delegate, subcontract, assign, or transfer any interest in or duties under this Agreement without the other's prior written consent, not to be unreasonably withheld. This Section does not preclude either party from assigning this Agreement to an entity that acquires all or substantially all of the assigning party's assets, or acquires fifty percent (50%) or more of the assigning party's issued or outstanding stock, or is acquired by the assigning party, or merges with the assigning party. The assigning party will provide written notice of such assignment to the other party.
- 13.3 Governing Law and Venue; Attorneys' Fees. This Agreement shall be construed and enforced in accordance with, and governed by the substantive laws of the State of Kentucky. Neither the United Nations Convention on Contracts for the International Sale of Goods ("CISG") nor the Uniform Computer Information Transactions Act ("UCITA") shall apply. Any dispute arising with regard to this Agreement which is not contemplated by the Arbitration clause in Section 14 shall be exclusively determined by the courts of the State of Kentucky and all parties hereby agree to submit themselves to the jurisdiction of such courts. The parties hereby agree to make best efforts at resolving any disputes. In any action or suit to enforce any right or remedy under this Agreement or to interpret any provision of this Agreement, the prevailing party shall be entitled to recover its costs, including reasonable attorneys' fees.
- 13.4 Notice
- (a) All notices required under this Agreement shall be specific, in writing, and effective upon receipt. Any required notice to either party under this Agreement

shall be posted by certified mail or overnight courier with delivery verification capability to the party and address specified in this Agreement.

- (b) Telephone, facsimile, and electronic-mail notices do not constitute notice hereunder and shall be confirmed in writing and posted by certified mail or overnight courier with delivery verification capability to be regarded as notice under this Agreement.

- 13.5 Third Parties. This Agreement shall bind and inure to the benefit of the parties to this Agreement and their respective successors, permitted transferees, and permitted assigns. No provision of this Agreement shall be deemed to confer upon any other person or entity any remedy, claim, liability, reimbursement, cause of action, or other right whatsoever.
- 13.6 Entire Agreement. This Agreement and all attached Statements of Work constitute the complete and exclusive statement of the agreement between the parties, and supersedes all proposals, oral or written, and all other prior or contemporaneous communications between the parties relating to the subject matter of this Agreement. This Agreement may be modified only by a written amendment that expressly refers to this Agreement and is executed by duly authorized officers or representatives of the parties to this Agreement.
- 13.7 Arm's-Length Agreement, Attorney Review, Construction. The parties mutually acknowledge that the provisions of this Agreement are the product of arm's-length negotiations, with both parties having essentially equal bargaining strength, access to legal representation of its choice, and opportunity to determine the language used herein. The provisions of the Agreement shall not be construed for or against either party. The captions and headings of the Agreement are for ease of reference and shall not be deemed to define or limit the scope of any terms, covenants, conditions or agreements contained herein or in any exhibit or attachment attached hereto. As used herein, all words in any gender shall be deemed to include the masculine, feminine or neuter gender, all singular words shall include the plural, and all plural words shall include the singular, as the context may require.
- 13.8 Waiver. The waiver of any right in this Agreement shall be in writing and signed by the party against whom enforcement is sought. The waiver of any right in this Agreement shall not be a waiver of any other right in this Agreement.
- 13.9 Severability. In the event that any provision of the Agreement is declared void, invalid or unenforceable by a regulatory agency, tribunal or court of competent jurisdiction, the remainder of the Agreement shall continue in full force and effect as if the offending provision were not contained herein, and the offending provision shall be replaced by a mutually acceptable and valid provision. If the parties cannot reasonably agree on a replacement provision and the offending provision is material to the Agreement, either party may terminate the Agreement upon written notice to the other party, provided that all obligations of a party which shall have accrued prior to the date of termination shall be fulfilled by the party.

- 13.10 Counterparts. This Agreement may be executed in separate counterparts, and any party hereto may execute any such counterpart, each of which shall be deemed to be an original and all of which counterparts taken together shall constitute but one and the same instrument. This Agreement shall become binding when one or more counterparts taken together shall have been executed and delivered (which deliveries may be by telefax) by the parties.
- 13.11 Independent Contractors. EIS and Company are independent contractors; neither party is the agent, representative or employee of the other party; and nothing in this Agreement will be construed to create any relationship between them other than an independent contractor relationship. Neither party shall have any responsibility or liability for the actions of the other party, except as expressly provided herein. Neither party will have any right or authority to bind or obligate the other party in any manner or make any representation or warranty on behalf of the other party. EIS will have sole responsibility for the assignment of personnel to perform any Services. Such personnel will not be restricted or prevented from performing similar services for others. EIS's employees are not and shall not be deemed to be employees of Company. EIS shall be solely responsible for the payment of all compensation to its employees, including provisions for employment taxes, workmen's compensation and any similar taxes associated with employment of EIS's personnel. EIS's employees shall not be entitled to any benefits paid or made available by Company to its employees. Notwithstanding the provisions of Section 13.2, EIS may engage third parties to furnish services in connection with the Services or Deliverables, provided that such third parties have executed appropriate confidentiality agreements with EIS. In addition, Services may be performed by affiliates of EIS. No such engagement will relieve EIS from any of its obligations under this Agreement.
- 13.12 No Federal Contractor. As a material condition of this Agreement, Company represents and warrants that: (1) Company is not an agency or instrumentality of the United States government; (2) this Agreement does not constitute, and is not entered to support, a federal government contract, subcontract or third party contract, and (3) EIS does not hereby become a subrecipient, subgrantee, project participant, or third party contractor or subcontractor. In the event that (1) this Agreement is considered or alleged to be a federal government contract, subcontract or third party contract, or (2) by virtue of this Agreement, EIS is alleged to become subject to any laws or regulations imposing any obligation to comply with an affirmative action, equal opportunity, or similar program required of federal or state government contractors or subcontractors, including without limitation Title VI and VII of the Civil Rights Act; Executive Order 11246; 29 U.S.C. §793, *et seq.*, 38 U.S.C. § 4212, *et. seq.*; 41 U.S.C. § 601, *et. seq.*; or the regulations promulgated in 41 C.F.R. 60-1 or 41 C.F.R. 60-2; all as amended, this Agreement shall, in EIS's sole discretion, automatically terminate. Nothing herein shall prevent EIS from pursuing any other rights or remedies to which EIS may be entitled under this Agreement.
- 13.13 Compliance. EIS may at any time insist upon strict compliance with the terms and conditions of this Agreement, notwithstanding previous custom, practice, or course of dealing to the contrary.

14. Arbitration. In the event the Parties are not able to resolve any dispute between them arising out of or concerning this Agreement, or any provisions hereof, whether in contract, tort, or otherwise at law or in equity for damages or any other relief, then such dispute shall be resolved only by final and binding arbitration pursuant to the Federal Arbitration Act and in accordance with the American Arbitration Association Commercial Arbitration Rules then in effect, conducted by a single neutral arbitrator and administered by the American Arbitration Association in a location in Jefferson County, Kentucky and governed by the laws of the Commonwealth of Kentucky. Each Party consents to and waives any objection to personal jurisdiction and venue therein and further waives any right to have a jury participate in the resolution of any dispute. The arbitrator's award shall be final, and judgment may be entered upon it in any court having jurisdiction. In the event that any legal or equitable action, proceeding or arbitration arises out of or concerns this Agreement, the prevailing party shall be entitled to recover its costs and reasonable attorneys' fees at the arbitration and any appellate levels. The Parties agree to arbitrate all disputes and claims in regard to this Agreement or any disputes arising as a result of this Agreement, including the arbitrability of any disputed matter. The Parties shall share equally in the cost of the arbitrator and any arbitration administrative costs, subject to the award of such costs and fees by the arbitrator against either Party. The Parties agree that the Federal Arbitration Act governs the interpretation and enforcement of this provision. The entire dispute, including the scope and enforceability of this arbitration provision shall be determined by the Arbitrator. This arbitration provision shall survive the termination of this Agreement. *This provision shall exclude EIS's right to seek any and all available remedies, whether in state court, federal court, or otherwise, for any alleged breach of Sections 6 (Ownership), 7 (Confidentiality), 12 (Non-Solicitation), or other trade secret violations including, but not limited to, actions pursuant to the Kentucky Uniform Trade Secrets Act (KRS §§ 365.880 through 365.900) or the federal Defend Trade Secrets Act of 2016 (DTSA) (18 U.S.C § 1836, et seq.), including attorneys' fees and costs.*

IN WITNESS WHEREOF, the parties hereto, agreeing to be legally bound, have caused this Master Services Agreement to be executed as of the date first written above by their respective officers thereunto duly authorized.

ELLIPSIS INFORMATION SECURITY LLC

Lexington-Fayette Urban County Government (LFUCG)

Signed: _____

Signed: _____

Name: _____

Name: _____

Title: _____

Title: _____

Date: _____

Date: _____