

PURCHASE AGREEMENT

This Purchase Agreement (“Agreement”) is made as of this May, ___ day of 2012 (“Effective Date”) between Lexington Fayette Urban County Government, an urban county government pursuant to KRS 67A, with offices at 200 East Main Street, Lexington, Kentucky (“LFUCG”), and Lexington-Fayette Urban County Airport Corporation, a public, non profit organization and agency of LFUCG with offices at 4000 Terminal Drive, Ste 206, Lexington, Kentucky (the “Airport”) and Cassidian Communications, Inc., with offices at 42505 Rio Nedo, Temecula, CA 92590 (“Cassidian Communications”). LFUCG and the Airport may be individually or collectively referred to herein as the “Customer.” Further, all references to LFUCG shall also refer to the Airport in those sections of the Proposal which relate to equipment to be installed and services to be rendered to the Airport.

RECITALS

A. WHEREAS, LFUCG requested bids for a Division of Police Radio System RFB No. 13-2012 and Cassidian Communications has been selected as the most responsive vendor to such bid which is recited in full in Cassidian Communication’s proposal;

B. WHEREAS, Cassidian Communications is the manufacturer, developer, distributor and/or integrator of certain equipment, software, and services used in the provision of mission critical communication systems;

C. WHEREAS, Cassidian Communications and Customer desire to enter into an agreement related to the bid and Cassidian Communication’s response whereby Cassidian Communications will provide to Customer a new 800 MHz digital simulcast trunked radio network compliant with the Association of Public Safety Communications Officials (APCO) Project-25 standards, including hardware (“Hardware”), Software (as defined below) (the Hardware and Software are collectively referred to as “System”), implementation services (“Services”) and post-implementation services (Limited Maintenance Services and/or Extended Warranty Services), as more fully described in the Proposal, attached hereto and incorporated herein as **Exhibit B** (the “Proposal”);

D. WHEREAS, the Parties entered into negotiations which resulted in certain modifications to the Proposal and those modifications are memorialized in the Proposal Modifications, a copy of which is attached hereto and incorporated herein by reference as Exhibit A (“Proposal Modifications”); and

E. WHEREAS, Cassidian Communications and Customer further desire to define and establish their respective rights, responsibilities, duties, and obligations as provided herein.

AGREEMENT

NOW THEREFORE, in consideration of the foregoing premises and mutual covenants contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby mutually acknowledged, the parties hereto agree as follows:

1. Scope of Agreement. LFUCG and the Airport shall purchase their respective portions, as hereinafter described, of the System, Limited Maintenance Services and Extended Warranty Services from Cassidian Communications and Cassidian Communications shall furnish, deliver and implement the System, the Limited Maintenance Services and the Extended Warranty

Services for the System in accordance with this Agreement (hereinafter referred to as the “Project”).

2. Price and Payment.

A. Price. The total price for the System shall be in an amount not to exceed \$4,981,766 (“System Price”). LFUCG shall pay \$4,584,290 of the System Price and the Airport shall pay \$397,476 of the System Price. LFUCG and the Airport shall only be liable for their respective portion of the System Price. The total price for the Limited Maintenance Services shall be in an amount not to exceed the amount as provided in Section 2(B)(2) (“Limited Maintenance Services Price”). The total price for the Extended Warranty Services shall be in an amount not to exceed the amount as provided in Section 2(B)(3) (“Extended Warranty Services Price”). LFUCG shall pay Limited Maintenance Services Price and Extended Warranty Services Price, if ordered, as stated in Section 2(B) herein.

B. Payment Terms.

(1)(a) System Price – Payment by LFUCG. Cassidian Communications shall invoice LFUCG for its portion of the System Price upon the occurrence of the following events:

Milestones for Infrastructure

- 20% Design Review Completed
- 10% Completion of System Factory Staging
- 15% Infrastructure Delivered & Fully Operational
- 20% Infrastructure Acceptance Testing Completed
- 5% Infrastructure Test Document Submitted & approved
- 10% 60-Day Burn- In Successfully completed
- 10% Warranty Begins Upon Final System Acceptance
- 10% Voice Quality Coverage Acceptance Test (post-Final System Acceptance)

Upon completion of each Milestones for Infrastructure in accordance with the Project Schedule, payment shall be made within thirty (30) days after LFUCG’s receipt of a corresponding invoice. Payments are due no later than the date indicated in the Project Schedule.

(1)(b) System Price – Payment by the Airport. Cassidian Communications shall invoice the Airport for its portion of the System Price and payment shall be due from the Airport as follows:

\$126,806 upon all signatures to this Agreement; Payment due 30 days after receipt of invoice;

\$136,645 upon Final System Acceptance; Payment due 90 days after receipt of invoice;

\$134,025 one year after Final System Acceptance; Payment due 90 days after receipt of invoice.

Further details of the line items comprising the payment amounts are set forth in **Exhibit A** attached hereto.

(2) Limited Maintenance Services Price. Customer shall pay to Cassidian Communications the Limited Maintenance Services Price as follows:

(a) Limited Maintenance Services Years 1 through 3. During the first year following commencement of the Warranty period through the third year following commencement of the Warranty period, there shall be no payment due for Limited Maintenance Services. Such Limited Maintenance Services are otherwise included in the price of the System.

(b) Limited Maintenance Services Annual Payment for Years 4 through 10. In the event Customer chooses to have Cassidian Communications continue to provide limited maintenance services beyond the original Limited Maintenance Service period provided above, it shall have the option of doing so on an annual basis as further provided herein. Customer shall pay to Cassidian Communications the amount of \$120,900 as adjusted each year thereafter by three percent (3%). Notwithstanding anything herein to the contrary, in the event the Consumer Price Index increases by more than three percent (3%) for two (2) consecutive year periods between the fourth (4th) year and tenth (10th) year from the date of commencement of the Warranty period, then Customer shall pay to Cassidian Communications, for that year, the applicable Limited Maintenance Services Annual Payment as adjusted by taking the average of each such Consumer Price Index increase.

In the event that Customer fails to appropriate and authorize sufficient funds for the Limited Maintenance Services, Customer may terminate the Limited Maintenance Services by providing at least sixty (60) days advance written notice and shall receive a pro-rated refund calculated from the sixty first (61st) day following receipt of a termination notice through the end of the annual term.

(c) Services and/or materials provided to rectify issues not covered under Limited Maintenance Services will be charged to Customer at the then current Cassidian Communications applicable time and materials rates.

Cassidian Communications shall invoice Customer thirty (30) days prior to each anniversary of the date of the commencement of the Warranty period and the Limited Maintenance Services Annual Payment shall be due from Customer thirty (30) days from the invoice date. If Customer chooses not to renew such services it will notify Cassidian Communications in writing prior to the due date for such invoice payment. As indicated in paragraph 3, below, the Extended Warranty Services is inclusive of the Limited Maintenance Service

(3) Extended Warranty Services Price (optional). If Customer chooses to obtain Extended Warranty Services it shall pay to Cassidian Communications the Extended Warranty Services Price as follows:

(a) Extended Warranty Services Annual Payment for Years 2 and 3. Customer shall pay to Cassidian Communications the amount \$95,500 for each year. Customer shall notify Cassidian Communications in writing at least thirty (30) days in advance of the due date in the event it chooses not to obtain the Extended Warranty Services.

(b) Extended Warranty Services Annual Payment for Years 4 through 10. In the event Customer chooses to have Cassidian Communications continue to provide the Extended Warranty Services beyond the original Limited Maintenance Service period provided above, it shall have the option of doing so on an annual basis as further provided herein. For each subsequent year thereafter up and through the tenth (10th) year from the date of commencement of the Warranty period, Customer shall pay to Cassidian Communications the amount of \$228,400 for Year 4 as adjusted each year thereafter by three percent (3%). Notwithstanding anything herein to the contrary, in the event the Consumer Price Index increases by more than three percent (3%) for two (2) consecutive year periods between the fourth (4th)

year and tenth (10th) year from the date of commencement of the Warranty period, then Customer shall pay to Cassidian Communications, for that year, the applicable Extended Warranty Services Annual Payment as adjusted by taking the average of each such Consumer Price Index increase.

In the event that Customer fails to appropriate and authorize sufficient funds for the Limited Maintenance Services, Customer may terminate the Limited Maintenance Services by providing at least sixty (60) days advance written notice and shall receive a pro-rated refund calculated from the sixty first (61st) day following receipt of a termination notice through the end of the annual term.

Cassidian Communications shall invoice Customer thirty (30) days prior to each anniversary of the date of commencement of the Warranty period and the Extended Warranty Services Annual Payment shall be due from Customer thirty (30) days from the invoice date. Extended Warranty Services payment shall commence on the first anniversary date of the date of System Acceptance and receipt of all System Price payments. If customer chooses not to renew such services it will notify Cassidian Communications in writing prior to the due date for such invoice payment.

The Extended Warranty Services option includes the Limited Maintenance Services and as such the annual payment of the Extended Warranty Services includes the annual payment of the Limited Maintenance Services.

3. Method of Billing, Payment and Invoicing.

a. Billing Procedures. Cassidian Communications agrees that billings and payments under this Agreement shall be processed in accordance with established budgeting, purchasing and accounting procedures of Customer. Payment shall be made after receipt of billing, and the amount of payment shall not exceed the maximum amount allowed by this Agreement. Customer shall pay invoices net thirty (30) days. Any amounts past due shall be charged with interest and shall accrue at the maximum rate permitted by applicable law.

b. Support Documentation. Billing shall be supported with documentation required by Customer including, but not necessarily limited to, that documentation described in this Agreement.

c. Pre-disbursement Requirements. Cassidian Communications must provide to Customer the documentation required pursuant to this Agreement prior to any disbursements being made by Customer to Cassidian Communications.

e. Mailing Address. Payments shall be mailed to Cassidian Communications address as set forth herein.

f. Performance/Payment Bond. Cassidian Communications shall conform with the requirements of the RFB as to bonding requirements.

4. Term of Agreement. This Agreement shall commence on the Effective Date and shall be for an initial term of three (3) years from the date of System Acceptance (the "Term") with annual options to renew as further provided herein for up to an additional seven (7) one year terms, unless earlier terminated in accordance with the provisions of this Agreement.

5. Termination of Agreement; Breach.

A. This Agreement may be terminated by either party, effective upon dispatch of notice as provided in **Section 20** hereof to the other party, upon the occurrence of any of the following events:

(1) The filing of any voluntary petition in bankruptcy or for any similar relief by the other party;

(2) The filing of any involuntary petition in bankruptcy or its equivalent against the other party, which is not dismissed within sixty (60) days from the filing thereof; or

(3) The appointment of a receiver or the equivalent for the other party or for the property of the other party by any court of competent jurisdiction, which receiver shall not have been dismissed within sixty (60) days from the date of such appointment.

B. Cassidian Communications may terminate this Agreement in whole or in part, for default or breach by Customer. If the default is reasonably capable of cure, Cassidian Communications shall give Customer written notice in accordance with **Section 20** herein and sixty (60) calendar days from the date of the notice to cure. If Customer fails to cure the breach within the 60-day cure period, automatic termination of the Agreement shall be effective on the 61st calendar day. Cassidian Communications shall not have any other liability arising out of the incident of termination of this Agreement and it shall be entitled to pursue any and all rights or remedies provided by law or equity. In the event of termination by Cassidian Communications, Cassidian Communications shall be entitled to, in Cassidian Communications' sole discretion: (i) pro-rata payment of the applicable payment milestone for the System and the Maintenance Services, as the case may be; or (ii) actual costs incurred for the System and Maintenance Services. Cassidian Communications' remedies are cumulative and shall be in addition to all other rights and remedies provided by law.

C. Notwithstanding anything herein to the contrary, if, prior to System Acceptance (as defined below), either party fails to meet the agreed upon project schedule as described in the Proposal Modifications for a period of thirty (30) days beyond the scheduled performance date, for reasons other than Force Majeure (as provided in Section 18), or delays caused by the other party, then that party shall be considered in breach of contract and shall be provided with a thirty (30) day notice to cure. The failure to cure a default or present a reasonable means of modifying the Agreement to address the issues within thirty (30) days of its receipt of the notice to cure shall result in the non breaching party's right to terminate this Agreement. . In no event shall any warranty provided herein be extended as a result of Customer's failure to meet the agreed upon project schedule.

D. Customer may terminate this Agreement in whole or in part, for default or breach by Cassidian Communications. If the default is reasonably capable of cure, Customer shall give Cassidian Communications written notice in accordance with **Section 20** herein and sixty (60) calendar days from the date of the notice to cure. If Cassidian Communications fails to cure the breach within the 60-day cure period, automatic termination of the Agreement shall be effective on the 61st calendar day. Customer shall not have any other liability arising out of the incident of termination of this Agreement and shall be entitled to pursue any and all rights or remedies provided by law or equity.

E. In the event that the Urban County Council fails to appropriate and authorize sufficient funds for this Agreement, Customer may terminate the Agreement by providing at least

sixty (60) days advance written notice. In the event of such termination, Cassidian shall be paid for work performed and services provided up to that point.

6. **Customer Obligations.**

A. Each party's respective obligations as set forth in the Agreement and all Exhibits hereto shall be performed by them in a timely and proper manner in order to permit the other party to perform its obligations timely under this Agreement and all Exhibits hereto.

B. In addition to the obligations specifically identified in the Proposal, Customer shall also have the following additional obligations upon System Acceptance, which shall survive the expiration or termination of this Agreement:

1. Customer shall allow Cassidian Communications to use the System as a reference and showcase system.

2. Customer will reasonably cooperate with Cassidian Communications and permit access to the System and Customer's facilities and personnel in order for Cassidian Communications to allow the System to be featured in Cassidian Communications advertisements.

3. Customer will reasonably cooperate with Cassidian Communications and permit access to the System and Customer's facilities and personnel in order for Cassidian Communications to photograph Customer's personnel using the System. All photographs of the Customer's personnel must be approved by LFUCG and/or the Airport respectively, and the personnel in the photographs prior to use by Cassidian Communications. Such approval shall not be unreasonably withheld.

4. Customer will reasonably cooperate with Cassidian Communications and permit access to the System and Customer's facilities and personnel in order for Cassidian Communications to bring potential customers for site visits and tours of the System.

5. Customer will allow Cassidian Communications to monitor System performance.

7. Delivery, Title and Risk of Loss. Title to the Hardware shall pass upon acceptance of the System or relevant Milestone by Customer. Title to any System components licensed to Customer, including but not limited to Software, shall remain with Cassidian Communications or Cassidian Communications' licensor as applicable.

Customer and Cassidian Communications shall bear and insure against the risk of loss of or damage to the System based upon their respective responsibilities as provided herein.

If Customer fails to accept delivery of mutually agreed upon shipment, Cassidian Communications may place the shipment in storage at the place of manufacture or elsewhere. In such event (a) Cassidian Communications shall notify Customer of the placement of System in storage; and (b) Customer shall reimburse Cassidian Communications for all expenses incurred by Cassidian Communications, including expenses related to preparation for and placement into storage, handling, demurrage, inspection, preservation and insurance upon Cassidian Communications' submission of the invoices therefor.

8. **Changes**

Any changes in the Project, System, Services, Limited Maintenance Services and/or Extended Warranty Services to be performed or provided by Cassidian Communications hereunder shall be mutually agreed upon between Customer and Cassidian Communications. All change orders shall be in writing and describe in reasonable detail the desired changes ("Change Request"). Any Change Request for additional equipment or services outside of the Proposal including Modifications to Proposal shall be considered upscope and shall result in additional costs to Customer. Upon Cassidian Communications' receipt of the Change Request, Cassidian Communications shall provide a written proposal to include changes related to price, schedule and availability of resources as soon as reasonably feasible ("Change Proposal"). A Change Proposal shall not become effective unless and until (a) the price adjustments, the schedule of payments, the extension of time and all other terms as may be affected have been mutually agreed upon by the Customer and Cassidian Communications (acting reasonably and in good faith in negotiating all such terms); and (b) such terms are reduced to writing and signed by an authorized representative of Customer and Cassidian Communications (a "Change Order"). Any Change Order shall be automatically incorporated as an amendment to this Agreement.

9. Acceptance. In addition to the provision relating to Acceptance set forth in Section 10 of the RFP, the following provisions regarding Acceptance shall apply. In the event of a conflict between the provision of Section 10 of the RFP and this Section 9, the provision of Section 10 of the RFP shall prevail.

Cassidian Communications shall deliver the complete system acceptance tests (the outline of which was provided to the Customer in the Proposal including the Modifications to Proposal) for Customer's review and approval, which approval shall not be unreasonably withheld, not more than thirty (30) days after the completion of the Customer Design Review ("Acceptance Tests").

Cassidian Communications shall notify Customer in writing that the System is ready for system acceptance at least ten (10) days before commencement of the Acceptance Tests. Customer and Cassidian Communications shall jointly commence the Acceptance Tests on the date specified in Cassidian Communications' notice (or other mutually agreeable date) and a Customer's representative and Cassidian Communications' representative shall sign off on the form provided as part of the test procedure whether each item of the test was passed or failed. Customer shall reasonably cooperate in conducting the Acceptance Tests, and shall make its representative available to conduct such Acceptance Tests in a timely manner. Cassidian Communications shall not proceed with testing unless accompanied by the Customer's representative; provided, however, if Customer does not make its representative available to conduct the Acceptance Tests in a timely manner, Cassidian Communications may proceed with conducting the Acceptance Tests and immediately forward the test results to Customer. If a portion of the System being tested does not pass the Acceptance Tests, Cassidian Communications shall correct the portion of the System at no additional cost to Customer as soon as practicable. Upon correction, the Acceptance Tests for the applicable part of the System shall be repeated in accordance with the procedures set forth in this Section. Successful completion of the Acceptance Tests is the sole criterion for the system acceptance ("System Acceptance").

The parties intend that beneficial use of the System will start after the Final System Acceptance which is intended to be at the end of January 2013. The equipment to be in use on the System during the 60 day burn-in period (scheduled for December 2012 and January 2013) will be defined and agreed to between the parties by the Critical Design Review.

Customer and Cassidian Communications agree that in the process of successfully completing the Acceptance Tests, most, if not all, of the acceptance criteria can be successfully completed with no service-affecting punch-list items remaining to be completed. In such event, Customer and Cassidian Communications shall mutually and reasonably agree upon the punch-list items to be completed, the value of those items and that conditional acceptance of the System has occurred. For the purposes of satisfying any schedule requirements and the release of payment of any funds to Cassidian Communications (other than the value of the punch-items), conditional acceptance shall constitute "Acceptance" of the specific portion or phase of the System. The conditional acceptance shall not release Cassidian Communications from its obligations to complete the remaining punch-list items by the dates set forth on the punch-list schedule. Failing written notification by Customer, within ten (10) business days following successful testing of the System, Conditional Acceptance shall be deemed to have occurred.

11. Sale and Grant of License. Cassidian Communications agrees to provide the System in accordance with the Agreement and concurrently herewith grants to Customer, at no additional cost, a license to use the computer software identified therein (the "Software") in accordance with the terms and conditions of this Agreement and Cassidian Communications' End User License Agreement attached hereto and incorporated herein as **Exhibit C**.

12. Warranties and Disclaimer.

A. Warranty Services. Services provided by Cassidian Communications during a warranty period of one year after system acceptance are described in the Support Service Plan (included in Exhibit B as appendix B). Cassidian Communications software is covered by the warranty as described in Cassidian Communications' End User License Agreement.

B. Remedies. Cassidian Communications' entire liability for breach of warranty, shall be limited to replacement or repair of the nonconforming hardware and/or software at Cassidian Communications' election. Any replacement shall be warranted for the remainder of the original warranty period or thirty (30) days, whichever is longer.

C. Disclaimer of Warranties. **THE WARRANTIES IN THIS AGREEMENT AND IN THE EXHIBITS HERETO, IF ANY, ARE GIVEN IN LIEU OF AND EXPRESSLY EXCLUDE ALL OTHER WARRANTIES, EXPRESS, IMPLIED OR STATUTORY, INCLUDING WITHOUT LIMITATION: (A) ANY WARRANTY THAT THE SYSTEM IS ERROR-FREE, WILL OPERATE WITHOUT INTERRUPTION, OR IS COMPATIBLE WITH ALL EQUIPMENT, FIRMWARE AND SOFTWARE CONFIGURATIONS; (B) ANY AND ALL WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, QUALITY, ACCURACY OF INFORMATIONAL CONTENT OR INFRINGEMENT. EXCEPT FOR EXPRESS WARRANTIES STATED IN THIS AGREEMENT, IF ANY, THE SYSTEM IS PROVIDED "AS IS" AND WITH ALL FAULTS AND THE ENTIRE RISK AS TO SATISFACTORY QUALITY, PERFORMANCE, ACCURACY, AND EFFORT ARE WITH THE CUSTOMER.**

13. Limitation of Liability. **NOTWITHSTANDING ANYTHING HEREIN TO THE CONTRARY, CASSIDIAN COMMUNICATIONS ITS AFFILIATES', AGENTS', SUPPLIERS' OR SUBCONTRACTORS' SHALL NOT BE LIABLE FOR ANY SPECIAL, INDIRECT, CONSEQUENTIAL, INCIDENTAL OR PUNITIVE DAMAGES OR PENALTIES WHATSOEVER, INCLUDING BUT NOT LIMITED TO DAMAGES, FOR LOSS OF PROFITS, SERVICE LEVEL, RESPONSE TIME, MAINTENANCE, OR**

INTERRUPTION OF BUSINESS, EXCEPT FOR IN CONNECTION WITH A CASSIDIAN COMMUNICATIONS INDEMNIFICATION OBLIGATION. IN NO EVENT SHALL CASSIDIAN COMMUNICATIONS', ITS AFFILIATES', AGENTS', SUPPLIERS' OR SUBCONTRACTORS' COLLECTIVE TOTAL LIABILITY EXCEED THE SYSTEM PRICE FOR A CLAIM ARISING FROM THE SYSTEM OR SERVICES, OR THE RESPECTIVE SOFTWARE MAINTENANCE SERVICES OR EXTENDED WARRANTY SERVICES ANNUAL PAYMENT FOR A CLAIM ARISING FROM THE MAINTENANCE SERVICES, AS THE CASE MAY BE. CUSTOMER ACKNOWLEDGES THAT WITHOUT ITS AGREEMENT TO THE LIMITATIONS CONTAINED HEREIN, THE PRICE CHARGED FOR THE SYSTEM, SERVICES, LIMITED MAINTENANCE SERVICES AND/OR EXTENDED WARRANTY SERVICES WOULD BE HIGHER. THIS PROVISION SHALL NOT APPLY IN THE EVENT THAT THE CUSTOMER IS ASSESSED PENALTIES BY THE FCC FOR FAILURE TO TIMELY COMPLY WITH APPLICABLE NARROWBANDING REQUIREMENTS.

14. Interference. Radio system coverage and performance are subject to degradation due to anomalous propagation and interference beyond the reasonable control of Cassidian Communications. Cassidian Communications shall not be responsible for degradation or disruption of service caused by operation of other radio systems or by natural phenomena or other interference over which Cassidian Communications has not reasonable control. In the event of a case of degradation due to interference by an outside party, Cassidian Communications shall provide engineering support to Customer, at Customer's expense to support Customer's effort in resolving the interference issue with the outside party.

15. Injunctive Relief. Customer acknowledges and agrees that the System is the trade secret property of Cassidian Communications and that unauthorized use or disclosure of the information and material contained therein or obtained from the use of the System could cause irreparable harm and significant injury to Cassidian Communications for which Cassidian Communications would have no adequate remedy at law. Therefore, Cassidian Communications shall have the right, in addition to any other rights Cassidian Communications may have at law or in equity, to seek immediate injunctive relief enjoining any breach or potential breach of this Agreement by Customer related to such use or disclosure.

16. Confidentiality and Nondisclosure.

A. Confidential Information. By virtue of this Agreement, the parties may have access to information that is confidential to one another ("Confidential Information"). Such Confidential Information may include, but shall not be limited to the following types of information (whether or not reduced to writing): Proprietary system protocols, trade secrets, inventions, drawings, file data, documentation, diagrams, specifications, know-how, processes, formulas, models, flow charts, software in various stages of development, source codes, object codes, research and development procedures, test results, product features and functionality (current and pending development), marketing techniques and materials, marketing and development plans, price lists, pricing policies, business plans, information relating to customers and/or suppliers' identities, characteristics and agreements, financial information and projections, and employee files and other related or similar information. Confidential Information shall also include all reports, summaries, compilations, analyses, notes or other information prepared by the recipient that are based on or reflect any Confidential Information. It is the express intent of this section that neither party disclose to any third party any Confidential Information, however, a party may disclose such information to contractors of a party who, by virtue of the duties assumed by such contractors, have a need to know such information, provided that prior to such

disclosure the party has obtained from the contractor a written agreement to abide by confidentiality obligations substantially equivalent to those stated herein.

B. Nondisclosure. A party's Confidential Information shall not include information that (a) is or becomes a part of the public domain through no act or omission of the receiving party in breach of this Agreement; or (b) was in the receiving party's lawful possession prior to the disclosure and had not been obtained by the receiving party either directly or indirectly from the disclosing party; or (c) is lawfully disclosed to the receiving party by a third party without restriction on disclosure; or (d) is independently developed by the other party; (e) is required by the applicable open records law to be disclosed. The parties agree, both during the term of this Agreement and for a period of three (3) years after termination of this Agreement, to hold each other's Confidential Information in confidence. The parties agree to use reasonable efforts to avoid making the other's Confidential Information available in any form to any third party and to avoid using the other's Confidential Information for any purpose other than the implementation of this Agreement or in the exercise of rights conferred by this Agreement. Each party agrees to use the same degree of care that it uses to protect its own confidential information of a similar nature and value, but in no event less than a reasonable standard of care, to ensure that Confidential Information is not disclosed or distributed by its employees or agents in violation of the provisions of this Agreement. Each party agrees that it shall not reverse-engineer, decompile or disassemble any portion of the System disclosed to it and shall not remove, overprint or deface any notice of copyright, trademark, logo, legend, or other notices of ownership from any originals or copies of Confidential Information it obtains from the other party. Each party represents that it has an appropriate agreement with each of its employees who may have access to any Confidential Information that is sufficient to enable it to comply with all of the terms of this Section.

17. Compliance with Laws. The parties acknowledge, agree and warrant that they shall maintain compliance with all applicable laws, rules and regulations, in connection with this Agreement and their relationship.

18. Export Controls. Certain Cassidian Communications products are subject to export controls by the U.S. Department of Commerce ("DOC"), under the Export Administration Regulations ("EAR"). Violation of U.S. law is strictly prohibited. Customer shall comply with the requirements of the EAR and all applicable international, national, state, regional and local laws and regulations, including any applicable import and use restrictions. Customer shall not export or re-export, directly or indirectly, any Cassidian Communications products to any country outlined in the EAR nor to any person or entity on the DOC Denied Persons, Entities and Unverified Lists, the U.S. Department of State's Debarred List or on the U.S. Department of Treasury's lists of Specially Designated Nationals, Specially Designated Narcotics Traffickers or Specially Designated Terrorists. Furthermore, Customer shall not export or re-export any Cassidian Communications products to any military entity not approved under the EAR or to any other entity for any military purpose.

19. Force Majeure. Neither party shall be liable for the delay or failure to perform its obligations (excluding payment obligations) caused by circumstances beyond their reasonable control.

20. Notices. All notices given under this Agreement shall be in writing and shall be delivered to the addresses specified below. Notices shall be effective upon receipt, and shall be deemed to have been received as follows: (i) if personally delivered, when delivered; (ii) if by certified mail return receipt requested, on the date it is officially recorded as delivered to or

refused by the intended recipient by return receipt or equivalent; or, (iii) if by expedited messenger service (e.g. FedEx), when delivered as confirmed by delivery receipt.

For LFUCG:

Name:
Address:

Attn:
Tel:
Fax:

Copy to:
Address:

Tel:
Fax:

For Cassidian Communications:

Name: Cassidian Communications, Inc.
Address: 42505 Rio Nedo Street
Temecula, CA 92590

Attn: President
Tel: (951) 719-2100
Fax: (951) 296-2727

Copy to: Legal Department
Address: 42505 Rio Nedo Street
Temecula, CA 92590

Tel: (951) 719-2100
Fax: (951) 296-2727

For Airport:

Name:
Address:

Attn:
Tel:
Fax:

Copy to:
Address:

Tel:
Fax:

21. Amendment or Waiver. No provision of this Agreement shall be deemed waived, amended, or modified by either party unless such waiver, amendment or modification is in writing and contains the signature of an authorized representative of the party against whom it is sought to be enforced. For purposes of this section, an electronic mail shall not constitute a writing.

22. Severability. If any part, term or provision of this Agreement is held to be void, illegal or unenforceable, the validity of the remaining portions or provisions shall not be affected thereby.

23. Governing Law, Attorneys' Fees. The validity, performance, and all matters relating to this Agreement, its Exhibits, and any amendment hereto shall be governed by the laws of the Commonwealth of Kentucky without reference to conflicts of law principles. The parties hereby consent to jurisdiction and venue in the federal and state courts of the Commonwealth of Kentucky. If any legal action or other proceeding is brought to enforce the provisions of this Agreement, the prevailing party shall be entitled to recover reasonable attorney's fees and other

costs incurred in the action or proceeding, both at trial and on appeal, in addition to any other relief to which the prevailing party may be entitled.

24. Assignment and Subcontracting. Cassidian Communications may assign any of its rights and duties or obligations under this Agreement to third parties upon written consent of Customer, which shall not be unreasonably withheld, and Cassidian Communications shall have the right to subcontract the Services provided hereunder as indicated in its Response. This Agreement and all of the rights, duties and obligations under it may not be sublicensed, assigned or otherwise transferred by Customer without the prior written consent of Cassidian Communications which shall not be unreasonably withheld.

25. Authority. Each party hereto represents and warrants that (i) it has obtained all necessary approvals, consents and authorizations of third parties and governmental authorities to enter into this Agreement and to perform and carry out its obligations hereunder; (ii) the persons executing this Agreement on its behalf have express authority to do so, and, in so doing, to bind the party thereto; (iii) the execution, delivery, and performance of this Agreement does not violate any provision of any bylaw, charter, regulation, or any other governing authority of the party; and (iv) the execution, delivery and performance of this Agreement has been duly authorized by all necessary governmental or corporate action and this Agreement is a valid and binding obligation of such party, enforceable in accordance with its terms.

26. Survival of Provisions. The parties agree that where the context of any provision indicates an intent that it shall survive the term of this Agreement then it shall survive.

27. Entire Agreement. This Agreement, the Exhibits hereto, and any Statements of Work entered into pursuant to this Agreement shall constitute the entire understanding between the parties concerning the subject matter hereof and supersede all prior discussions, agreements and representations, whether oral or written and whether or not executed by Customer and Cassidian Communications. For clarification, this Agreement does not supersede the terms set forth in the RFP. RFP terms are included in the Proposal, with any exceptions stated in the Proposal. Accordingly, provisions such as the Risk Management Provisions are deemed incorporated herein.

28. Captions. Article and section headings used herein are for convenience only and are not a part of this Agreement and shall not be used in construing it.

29. Conflicts. Customer and Cassidian Communications acknowledge and agree that, in the event of a conflict between any provisions of this Agreement, the Exhibits attached hereto, the Proposal or Statement of Work related to this Agreement, or any other ancillary document or agreement related to this Agreement, the order of precedence shall be:

1. This Agreement, and any amendments hereto
2. Exhibit A - Proposal Modifications
3. Exhibit B- The Proposal (includes full text of RFB No. 13-2012).
4. Exhibit C – End User License Agreement

30. Counterparts. This Agreement may be executed in one or more counterparts, all of which taken together shall constitute one instrument. Once fully executed, it shall become effective as of the Effective Date stated above. Delivery of an executed signature page of this Agreement by facsimile transmission or electronic photocopy (i.e.,

“pdf”) shall be equally effective as manual delivery of an original signed counterpart hereof.

IN WITNESS THEREOF, this Agreement has been duly executed by the parties and effective on the date first written above.

Lexington-Fayette Urban County Government

Cassidian Communications, Inc.

By: _____
(Signature)

By: _____
(Signature)

Name: _____

Name: _____

Title: _____

Title: _____

Lexington-Fayette Urban County Government

By: _____
(Signature)

Name: _____

Title: _____

List of Exhibits

- Exhibit A Proposal Modifications
- Exhibit B Proposal to Lexington Fayette Urban County Government dated March ____,
2012 in Response to RFB No. 13-2012
- Exhibit C End User License Agreement

EXHIBIT A

Proposal Modifications

EXHIBIT B

**Proposal to Lexington Fayette Urban County Government dated March __, 2012 in
Response to RFB No. 13-2012**

[To Be Attached Upon Definitization of the Agreement]

EXHIBIT C

End User License Agreement