

SERVICE AGREEMENT

This Service Agreement (“**Agreement**”) is entered into by and between Cassidian Communications, Inc., a California corporation (“**Cassidian Communications**”), located at 42505 Rio Nedo, Temecula, California 92590, or its authorized reseller, and El Dorado County (“**Customer**”), located at 300 Fair Lane, Placerville, CA 95667. Both Cassidian Communications and Customer may alternatively be referred to as a “**Party**” and collectively as the “**Parties**”.

1. Definitions.

1.1 “**Content**” means the audio and visual information, Documentation, Software, products and services contained or made available to Customer in the course of using the Service.

1.2 “**Customer Data**” means any data, information or material that Customer submits to the Service in the course of using the Service.

1.3 “**Documentation**” means on-line material provided by Cassidian Communications or its authorized reseller to assist Customer in the use of the Service.

1.4 “**Initial Service Term**” means the period of time commencing on the online date for Services (“**Effective Date**”) and ending three (3) years after such date.

1.5 “**Cassidian Communications Technology**” means the Cassidian Communications provided technology (including but not limited to Documentation, Software, hardware, equipment, products, processes, algorithms, user interfaces, know-how, techniques, designs, and other tangible or intangible technical material or information) made available to you by Cassidian Communications in providing the Service.

1.6 “**Software**” means the application software programs and any updates, modifications and corrections thereto to which Cassidian Communications has granted access to Customer as part of the Service hereunder.

1.7 “**Service**” means the emergency notification system accessible via the Internet and all associated applications and modules identified in the Customer Proposal and purchased by Customer and all ancillary online or offline products and services provided to Customer by Cassidian Communications hereafter.

1.8 “**User**” shall refer to Customer’s employees, representatives, consultants, contractors or agents who are authorized to use the Service and have been supplied with user identifications and passwords by Customer.

2. Payment and Taxes.

2.1 **Customer’s Purchase.** In consideration of the fees described herein, Cassidian Communications or its authorized reseller shall provide Customer with access to the Service as described herein and as governed by the terms and conditions of this Agreement, accepted proposal, and incorporated documents. Additional services may be added by the parties throughout the term of this Agreement through subsequent proposal issued by Cassidian Communications, which may be accepted through Licensee purchase order and shall be governed by the terms and conditions set forth under this Agreement.

2.2 **Fees of Service.** For the Initial Service Term, Customer will pay Cassidian Communications or its authorized reseller the amount set forth in the issued proposal. Payment shall be made within thirty (30) days of the Effective Date. License rights granted hereunder and Services shall automatically renew annually unless terminated by Customer’s written notice to Cassidian Communications or its authorized reseller not less than ninety (90) days prior to the expiration of the then in effect term. Cassidian Communications or its authorized reseller shall invoice Customer for the renewal term sixty (60) calendar days prior to the then in effect term. Payment on the renewal invoice shall be due on or before the expiration of the then in effect term.

2.3 **Calling Minutes / SMS Messages.** See Proposal DIR40956A, which is incorporated herein by this reference.

2.4 **Taxes.** Customer will pay all taxes based on this Agreement or any product or services related thereto, unless Customer can furnish a certificate as evidence of tax exempt status. All shipping and insurance charges for products shipped between Cassidian Communications and Customer will be paid by Customer.

3. License, Access and Use of the Service.

3.1 **License:** Cassidian Communications hereby grants Customer a non-exclusive, non-transferable, worldwide right to use the Service, solely for Customer’s internal business purposes, subject to the terms and conditions of this Agreement. All rights not expressly granted to Customer are reserved by Cassidian Communications and its licensors.

3.2 **Access:** Customer and Cassidian Communications shall agree upon, prior to Customer’s use of the Service, the offices and Users authorized to access the Service and such Users shall be identified in writing in advance by Customer. Customer may modify the Users of the Service by providing advance written notice to Cassidian Communications. Customer may authorize access for the number of simultaneous, concurrent Users of the Service at

any given time. Passwords provided for Service access may be used only by authorized personnel. Neither Customer nor its authorized personnel shall divulge, sublicense, assign or transfer to any third party passwords established for access to the Service. Customer shall be responsible for the confidentiality and security of its User identifications and passwords.

3.3 Customer Responsibilities: Customer is responsible for all activity occurring in its User accounts and shall abide by all applicable local, state, national and foreign law, treaties and regulations in connection with Customer's use of the Service, including but not limited to data privacy, security, international communications and the transmission of technical or personal data. Customer shall: (i) Prevent unauthorized access to the Service and notify Cassidian Communications immediately of any unauthorized use of any password or account or any other known or suspected breach of security; (ii) report to Cassidian Communications immediately and use reasonable efforts to stop immediately any copying or distribution of Content that is known or suspected by Customer; and (iii) ensure that use of the Service by all of Customer's Users is in compliance with this Agreement.

3.4 Restrictions: Customer shall not (i) license, sublicense, sell, resell, transfer, assign, distribute or otherwise commercially exploit or make available to any third party the Service or the Content in any way; (ii) modify or make derivative works based upon the Service or the Content; (iii) create Internet "links" to the Service or "frame" or "mirror" any Content on any other server or wireless or Internet-based device; (iv) send spam or otherwise duplicative or unsolicited messages in violation of applicable law; (v) send or store infringing, obscene, threatening, libelous, or otherwise unlawful or tortuous material, including material harmful to children or violative of third party privacy rights; (vi) send or store material containing software viruses, worms, Trojan horses or other harmful computer code, files, scripts, agents or programs; (vii) interfere with or disrupt the integrity or performance of the Service or the data contained therein, including but not limited to Customer Data; (viii) attempt to gain unauthorized access to the Service or its related systems or networks; (ix) reverse engineer or access the Service in order to (a) build a competitive product or service, (b) build a product using similar ideas, features, functions or graphics of the Service, or (c) copy any ideas, features, functions or graphics of the Service.

4. Customer Data. Cassidian Communications does not own any data, information or material that Customer submits to the Service in the course of using the Service ("Customer Data"). Customer shall have sole responsibility for the accuracy, quality, integrity, legality, reliability, appropriateness and intellectual property ownership or right to use of all Customer Data. Cassidian Communications shall not be responsible or liable for the deletion, correction, destruction, damage loss or failure to store any Customer Data. Customer shall maintain a copy of all Customer Data. Customer is solely responsible for adherence to any privacy act or regulation regarding such Customer Data and Cassidian Communications will have no responsibility with respect to the same. Regarding any self registration portal tool purchased or licensed by Customer through or with Cassidian Communications, Customer shall assume all duties, obligations and compliance with any applicable law regarding its use, including but not limited to the gathering, storage and dissemination of such Customer Data. Customer shall also be solely responsible for communicating any applicable notices or terms of use to its registrants. These duties and obligations are non-delegable by Customer to Cassidian Communications.

5. Privacy and Security; Disclosure. Cassidian Communications' Data Security and Encryption Policy and Hosting Center Policy are available upon Customer request. Cassidian Communications reserves the right to modify these policies in its reasonable discretion from time to time. Note that because the Service is a hosted, online application, Cassidian Communications may need to notify all Users of the Service of important announcements regarding the operation of the Service and will use Customer information for that purpose.

6. Training and Support Services

6.1 Training. Training, if purchased by Customer, will be reflected on the corresponding invoice.

6.2 Subject to the terms and conditions of this Agreement and provided that Customer pays all applicable fees related to the Service, Cassidian Communications shall provide Customer with support described in this Agreement and as more particularly described in Cassidian Communications' Technical Service Center Support Plan ("TSC Support Plan") a copy of which may be viewed at <http://support.cassidiancommunications.com> and is incorporated herein by reference. Cassidian Communications reserves the right to modify the terms and conditions of the Technical Service Center Support Plan at any time, effective upon posting of an updated version. Customer is responsible for regularly reviewing the TSC Support Plan. Continued use of the Service after any such changes shall constitute Customer's consent to such changes.

7. Warranty.

7.1 Warranty. Each Party represents and warrants that it has the legal power and authority to enter into this Agreement. Cassidian Communications represents and warrants that it will provide the Service in a manner consistent with general industry standard reasonably applicable to the provision thereof and that the Services will perform substantially in accordance with the online Cassidian Communications Documentation under normal use and

circumstances. The Customer represents and warrants that it has not falsely identified itself or provided any false information to gain access to the Service.

7.1.1 During the Initial Service Term, Cassidian Communications will provide such assistance as it deems reasonably necessary to cause the Cassidian Communications Service to perform materially in accordance with the then current Documentation provided that Customer's use is in accordance with this Agreement and the Documentation.

7.1.2 **Customer's Remedy:** CUSTOMER'S EXCLUSIVE REMEDY, AND CASSIDIAN COMMUNICATIONS'S ENTIRE LIABILITY IN CONTRACT, TORT OR OTHERWISE FOR BREACH OF ANY OF THE ABOVE WARRANTIES WILL BE TO USE ITS COMMERCIALY REASONABLE EFFORTS TO PROVIDE A CORRECTION OR WORK AROUND FOR ANY MATERIAL NONCONFORMITY WHICH IS (i) REPORTED TO CASSIDIAN COMMUNICATIONS BY CUSTOMER WHILE CASSIDIAN COMMUNICATIONS IS OBLIGATED TO PERFORM SUPPORT SERVICES AND (ii) REPRODUCIBLE BY CASSIDIAN COMMUNICATIONS IN THE EXECUTION ENVIRONMENT.

7.2 **Disclaimer of Warranties.** THE EXPRESS WARRANTIES CONTAINED IN THIS AGREEMENT ARE EXCLUSIVE AND IN LIEU OF ALL OTHER REPRESENTATIONS AND WARRANTIES. CASSIDIAN COMMUNICATIONS DISCLAIMS ALL OTHER WARRANTIES, EXPRESS, IMPLIED OR STATUTORY, INCLUDING WITHOUT LIMITATION ANY WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE OR NONINFRINGEMENT. CASSIDIAN COMMUNICATIONS DOES NOT WARRANT THAT THE SOFTWARE OR SERVICE IS ERROR-FREE OR WILL OPERATE WITHOUT INTERRUPTION.

IF THE CASSIDIAN COMMUNICATIONS SERVICE IS USED IN EMERGENCY SITUATIONS, THEN THE SERVICE IS INTENDED TO ONLY INCREASE THE NOTICE WHICH WILL BE GIVEN. THERE IS AND CAN NOT BE ANY GUARANTEE THAT ALL PERSONS INTENDED TO BE CONTACTED WILL BE CONTACTED. CASSIDIAN COMMUNICATIONS ACCEPTS NO RESPONSIBILITY FOR ANY FAILURE OF THE CASSIDIAN COMMUNICATIONS SERVICE TO CONTACT ANY PERSON OR PERSONS AND IS NOT RESPONSIBLE FOR ANY DAMAGE OR INJURY WHICH RESULTS FROM ANY FAILURE TO CONTACT ANYONE.

7.3 The warranties in this Section 7 will not apply to any defects or problems caused in whole or part by (i) defects in any equipment, (ii) failure of any portion of equipment to function in accordance with manufacturer's specifications, (iii) modifications or enhancements made to the Service by anyone other than Cassidian Communications, (iv) any software, hardware, firmware, peripheral or communication devices used with the Service not provided by or approved of in writing by Cassidian Communications, (v) failure of Customer or any third party to follow Cassidian Communications' most current instructions for proper use of the Service, (vi) negligence of Customer or any third party, or (vii) failure to install and use the updates, modifications and corrections provided by Cassidian Communications. If Customer falls within any of the foregoing exceptions and requests Cassidian Communications to provide support services for such defect or problem, Customer will pay Cassidian Communications for such services at Cassidian Communications' then current hourly rate.

7.4 **Intellectual Property, Trademark and Copyright.** Cassidian Communications retains ownership of the Software and Service, any portions or copies thereof, and all rights therein. Cassidian Communications reserves all rights not expressly granted to Customer. This Agreement does not grant Customer any rights in connection with any trademarks or service marks of Cassidian Communications, its suppliers or licensors. All right, title, interest and copyrights in and to the Software, Service and Documentation and any copies thereof are owned by Cassidian Communications, its suppliers or licensors. All title and intellectual property rights in and to the Content which may be accessed through use of the Service is the property of the respective Content owner and may be protected by applicable copyright or other intellectual property laws and treaties. This Agreement grants Customer no rights to use such Content.

8. **Limitation of Liability.** IN NO EVENT WILL CASSIDIAN COMMUNICATIONS BE LIABLE TO CUSTOMER FOR ANY INDIRECT, INCIDENTAL, SPECIAL, CONSEQUENTIAL OR PUNITIVE DAMAGES, INCLUDING WITHOUT LIMITATION, LOSS OF DATA, LOSS OF PROFITS, LOSS OF BUSINESS INFORMATION, BUSINESS INTERRUPTION OR ANY OTHER PECUNIARY LOSS ARISING OUT OF THE USE OF OR INABILITY TO USE THE SERVICE OR SOFTWARE OR THE PROVISION OF OR FAILURE TO PROVIDE SUPPORT SERVICES, ARISING OUT OF OR RELATED TO THIS AGREEMENT, EVEN IF CASSIDIAN COMMUNICATIONS HAS BEEN ADVISED OF, KNEW OF, OR SHOULD HAVE KNOWN OF THE POSSIBILITY OF SUCH DAMAGES. CASSIDIAN COMMUNICATIONS'S TOTAL LIABILITY TO CUSTOMER HEREUNDER, IF ANY, WILL IN NO EVENT EXCEED THE TOTAL AMOUNT PAID TO CASSIDIAN COMMUNICATIONS HEREUNDER IN THE TWELVE (12) MONTHS IMMEDIATELY PRECEDING THE EVENT GIVING RISE TO THE CLAIM.

9. Confidentiality. A party receiving Information (defined below) of the other will not disclose such Information other than to persons in its organization who have a need to know and who will be required to comply with this Section 9. The party receiving Information will not use such Information for a purpose inconsistent with the terms of this Agreement. "Information" means the Software, Documentation and all information and intellectual property related thereto (including, but not limited to all databases provided to Customer by Cassidian Communications whether created by Cassidian Communications or its third party licensors such as, without limitation, the mapping product databases) as well as information related to the business of Cassidian Communications or Customer. Information will not include: (i) information publicly known prior to disclosure; (ii) information coming into the lawful possession of the recipient without any confidentiality obligation; and (iii) information required to be disclosed pursuant to regulatory action or court order, provided adequate prior written notice of any request to disclose is given to the party whose information is to be disclosed. Each party will exercise at least the same degree of care to safeguard the confidentiality of the other's Information as it does to safeguard its own proprietary confidential information, but not less than a reasonable degree of care.

10. Indemnification.

10.1 Infringement Indemnification. With the exception of any third party software, hardware or equipment that may be provided under this Agreement, Cassidian Communications agrees to hold Customer harmless from liability to third parties resulting from infringement of any United States patent or copyright or trade secret by the Cassidian Communications software purchased hereunder and Cassidian Communications further agrees to pay all damages and costs, including reasonable legal fees, which may be assessed against Customer under any such claim or action. Cassidian Communications shall be released from the foregoing obligation unless Customer provides Cassidian Communications with (i) written notice within fifteen (15) days of the date Customer first becomes aware of such a claim or action, or possibility thereof; (ii) sole control and authority over the defense or settlement thereof; and (iii) proper and full information and assistance to settle and/or defend any such claim or action. Without limiting the foregoing, if a final injunction is, or Cassidian Communications believes, in its sole discretion, is likely to be, entered prohibiting the use of the software by Customer as contemplated herein, Cassidian Communications will, at its sole option and expense, either (a) procure for Customer the right to use the infringing software as provided herein or (b) replace the infringing software with noninfringing, functionally equivalent products, or (c) suitably modify the infringing software so that it is not infringing; or (d) in the event (a), (b) and (c) are not commercially reasonable, terminate the license, accept return of the infringing software and refund to Customer an equitable portion of the license fee paid therefor. Except as specified above, Cassidian Communications will not be liable for any costs or expenses incurred without its prior written authorization. Notwithstanding the foregoing, Cassidian Communications assumes no liability for infringement claims with respect to software (i) not supplied by Cassidian Communications, (ii) made in whole or in part in accordance with Customer's specifications, (iii) that is modified after delivery by Cassidian Communications, (iv) combined with other products, processes or materials where the alleged infringement relates to such combination, (v) where Customer continues allegedly infringing activity after being notified thereof or after being informed of modifications that would have avoided the alleged infringement, or (vi) where Customer's use of the software is not strictly in accordance with this Agreement. THE FOREGOING PROVISIONS OF THIS SECTION STATE THE ENTIRE LIABILITY AND OBLIGATIONS OF CASSIDIAN COMMUNICATIONS AND THE EXCLUSIVE REMEDY OF CUSTOMER WITH RESPECT TO ANY ACTUAL OR ALLEGED INFRINGEMENT OF ANY PATENT, COPYRIGHT, TRADE SECRET, TRADEMARK OR OTHER INTELLECTUAL PROPERTY RIGHT BY THE SOFTWARE.

10.2 General Indemnification. Cassidian Communications agrees to indemnify, save, hold harmless and at Licensee's request, defend Licensee, its officers, agents, and employees from any and all costs and expenses, damages, liabilities, claims and losses occurring or resulting to Licensee in connection with any bodily injuries or damages incurred as a result of the negligence of Cassidian Communications, its employees, agents or contractors, while traveling to or from Licensee's premises or while performing services on Licensee's premises.

11. Injunctive Relief. Each party acknowledges that a violation or threatened violation by it of Section 9 hereof would result in damage that is largely intangible but nonetheless real and that is incapable of complete remedy by award of damages. Thus, such violation or threatened violation will give the injured party the right to a court-ordered injunction to specifically enforce such covenant or obligation. The party in violation of any such section shall pay as damages reasonable expenses, including but not limited to attorney fees, incurred in obtaining specific enforcement.

13. Term. This Agreement will commence upon the Effective Date and shall end 3 year(s) after such date. Immediately following the Initial Service Term, this Agreement shall automatically renew for additional one (1) year terms ("Renewal Term") in accordance with Paragraph 2.2, above.

14. Termination.

14.1 Cassidian Communications may terminate this Agreement:

14.1.1 If Customer fails to timely pay any amounts due under this Agreement and fails to make such payments within ten (10) days of written notice from Cassidian Communications;

14.1.2 If Customer commits any material breach of this Agreement and fails to remedy such breach within thirty (30) days of written notice from Cassidian Communications;

14.1.3 If Customer becomes the subject of a petition in bankruptcy; is or becomes insolvent; or admits a general inability to pay its debts as they become due; or

14.1.4 Without cause, upon the provision of seven (7) days written notice.

14.2 Customer may terminate this Agreement:

14.2.1 If Cassidian Communications commits any material breach of this Agreement and fails to remedy such breach within thirty (30) days of written notice from Customer;

14.2.2 If Cassidian Communications becomes the subject of a petition in bankruptcy; is or becomes insolvent; or admits a general inability to pay its debts as they become due;

14.2.3 Without cause, upon the provision of seven (7) days written notice.

14.2.4 If sufficient funds to receive the products and services represented by this Agreement are not appropriated by the governing body that makes such purchases on behalf of Customer for any calendar year during the term of this Agreement. In the event of non-appropriation, Customer shall give Cassidian Communications not less than thirty (30) days written notice and shall pay Cassidian Communications all amounts due on a pro-rated basis through the date of termination.

14.3 Upon termination or expiration of this Agreement, Customer shall be prohibited from further use of the Service and shall promptly return copies of any Documentation in its possession, if any, to Cassidian Communications. All amounts owed to Cassidian Communications, including but not limited to amounts due for setup services provided by Cassidian Communications, shall be immediately due and payable, and Cassidian Communications will cease performance of all obligations hereunder without liability to Customer. In no event shall Customer be obligated to pay more than the total amount of the contract price. Sections 8, 9, 10, 11, 12, 14.3, 16 and 21 will survive termination or expiration. Upon termination, Customer shall have sixty (60) days to notify Cassidian Communications if it opts to have Customer Data returned by Cassidian Communications at the expense of Customer. In the event termination is due to Customer's failure to pay all fees due hereunder, Cassidian Communications reserves the right to withhold return of Customer Data until paid in full. If Customer does not contact Cassidian Communications during such 60 day timeframe and/or all fees are not paid current during that timeframe, Cassidian Communications may destroy the Customer Data. Cassidian Communications has no obligation to provide transition services in connection with Customer's election of utilize an alternative vendor.

15. Local Laws and Export Control. The Service utilizes Software and Technology that may be subject to United States export controls administered by the U.S. Department of Commerce, U.S. Department of State, U.S. Department of Treasury Office of Foreign Assets Control, and other U.S. agencies. The Customer acknowledges and agrees that the Service shall not be used, and none of the underlying information, Customer Data, Software, Documentation or Cassidian Communications Technology may be transferred or otherwise exported or re-exported to countries as to which the United States maintains an embargo (collectively "Embargoed Countries"), or to or by a national or resident thereof, or any person or entity on the U.S. Department of Treasury's List of Specially Designated Nationals or the U.S. Department of Commerce's Table of Denial Orders (collectively, "Designated Nationals"). The lists of Embargoed Countries and Designated Nationals are subject to change without notice. By using the Service Customer represents and warrants that is not located in, under the control of, or a national or resident of an Embargoed Country or Designated National. Customer agrees to strictly comply with all U.S export laws and assumes sole responsibility for obtaining licenses to export or re-export as may be required.

The Service may use encryption technology that is subject o licensing requirements under the U.S. Export Administration Regulations, 15. C.F.R. Parts 730-774 and Council Regulation (EC) No. 1334/2000. Cassidian Communications and its licensors make no representation that the Service is appropriate or available for use in other locations. If Customer uses this Service from outside the United States, Customer is solely responsible for compliance with all applicable laws, including without limitation, export and import regulations of other countries. Any diversion of the Customer Data, Cassidian Communications Technology and/or Content contrary to United States law is strictly prohibited.

16. Other Remedies. Cassidian Communications' rights and remedies under this Agreement will be cumulative and in addition to all other rights and remedies available to Cassidian Communications in law and in equity.

17. Assignment. Neither this Agreement nor any rights or duties hereunder may be transferred, assigned, sublicensed or otherwise disposed of by Customer to a third party, by operation of law or otherwise, without Cassidian Communications' prior written consent. Notwithstanding the foregoing, Cassidian Communications may assign its

interests to a parent or affiliate company in the event of sale or merger of its assets so long as the acquiring entity agrees to assume all of Cassidian Communications' duties and obligations hereunder.

18. Partial Invalidity. If any provision of this Agreement is ruled wholly or partly invalid or unenforceable by a court or other government body of competent jurisdiction, the validity and enforceability of all provisions of this Agreement not ruled to be invalid or unenforceable will be unaffected.

19. Modification; Waiver. Cassidian Communications reserves the right to modify the terms and conditions of this Agreement or its policies relating to the Service at any time, effective upon posting of an updated version of this Agreement online. You are responsible for regularly reviewing this Agreement. Continued use of the Service after any such change shall constitute your consent to such change. No term or condition of this Agreement may be waived except in writing signed by the party charged with waiver. A waiver will operate only as to the specific term or condition waived and will not constitute a waiver for the future.

20. Notice. All notices to be given by the parties hereto shall be in writing and served by depositing same in the United States Post Office, postage prepaid and return receipt requested.

Notices to the Customer shall be addressed as follows:

County of El Dorado
Sheriff's Department
300 Fair Lane
Placerville, CA 95667
Attn: Tim Becker, Lt.

Or to such other location as the Customer directs in writing.

Notices to Cassidian Communications shall be addressed as follows:

Cassidian Communications, Inc.
42505 Rio Nedo
Temecula, CA 92590
Attn: Legal Department

Or to such other location as Cassidian Communications directs in writing.

21. Governing Law. This Agreement will be governed exclusively by the laws of the State of California, without regard to its conflict of laws provisions. All parties agree that venue regarding any action arising hereunder will be exclusively in El Dorado County, California.

22. Third Party Beneficiaries. None of the provisions of this Agreement is intended by the parties, nor shall they be deemed, to confer any benefit on any person not a party to this Agreement.

23. Independent Contractors. The relationship of the parties hereunder will be one of independent contractors and not that of a franchise, joint venture or employer. Neither party will have, and neither of them will represent to any other person that it has, any power, right or authority to bind the other, or to assume or create any obligation or responsibility, express or implied, on behalf of the other, except as expressly provided by this Agreement or as otherwise permitted in writing signed by both parties.

24. Entire Agreement. This Agreement and its schedules constitute the entire agreement of the parties with respect to the subject matter hereof, and supersede and cancel all prior agreements between the parties, written, oral or implied with respect to the subject matter hereof. The terms of any customer-provided purchase order or invoice concerning any product or service provided hereunder will not serve to replace, modify or supersede the terms of this Agreement. The terms of this Agreement shall prevail for any and all purposes.

25. Headings. Headings are included in this Agreement for convenience only and are not to be deemed to be part of this Agreement. The interpretation of this Agreement will not be affected by any heading herein.

26. Force Majeure. In the event an act of government, war, fire, flood, act of God, power shortages or blackouts, breakdown of telephone lines and services, failure of the Internet, or other causes beyond the reasonable control of Cassidian Communications prevents Cassidian Communications from performing in accordance with the terms of this Agreement, such nonperformance shall be excused and shall not be considered a breach or default for so long as such conditions prevail. CASSIDIAN COMMUNICATIONS' SERVICES MAY BE SUBJECT TO LIMITATIONS, DELAYS, AND OTHER PROBLEMS INHERENT IN THE USE OF THE INTERNET AND ELECTRONIC COMMUNICATIONS. CASSIDIAN COMMUNICATIONS IS NOT RESPONSIBLE FOR AND SHALL HAVE

NO LIABILITY FOR SUCH DELAY, DELIVERY FAILURES OR OTHER DAMAGE RESULTING FROM SUCH PROBLEMS.

27. Insurance. Cassidian Communications shall provide proof of a policy of insurance satisfactory to Customer's Risk Manager and documentation evidencing that Cassidian Communications maintains insurance that meets the following requirements:

- A. Full Workers' Compensation and Employers' Liability Insurance covering all employees of Cassidian Communications as required by law in the State of California.
- B. Commercial General Liability Insurance of not less than \$1,000,000.00 combined single limit per occurrence for bodily injury and property damage.
- C. Automobile Liability Insurance of not less than \$1,000,000.00 is required in the event motor vehicles are used by Cassidian Communications in the performance of the Agreement.
- D. In the event Cassidian Communications is a licensed professional, and is performing professional services under this Agreement, professional liability (for example, malpractice insurance) is required with a limit of liability of not less than \$1,000,000.00 per occurrence.
- E. Cassidian Communications shall furnish a certificate of insurance satisfactory to the El Dorado County Risk Manager as evidence that the insurance required above is being maintained.
- F. The insurance will be issued by an insurance company acceptable to Risk Management, or be provided through partial or total self-insurance likewise acceptable to Risk Management.
- G. Cassidian Communications agrees that the insurance required above shall be in effect at all times during the term of this Agreement. In the event said insurance coverage expires at any time or times during the term of this Agreement, Cassidian Communications agrees to provide at least thirty (30) days prior to said expiration date, a new certificate of insurance evidencing insurance coverage as provided for herein for not less than the remainder of the term of the Agreement, or for a period of not less than one (1) year. New certificates of insurance are subject to the approval of Risk Management and Contractor agrees that no work or services shall be performed prior to the giving of such approval. In the event Cassidian Communications fails to keep in effect at all times insurance coverage as herein provided, Customer may, in addition to any other remedies it may have, terminate this Agreement upon the occurrence of such event.
- H. The certificate of insurance must include the following provisions stating that:
 - 1. The insurer will not cancel the insured's coverage without thirty (30) days prior written notice to County, and;
 - 2. The County of El Dorado, its officers, officials, employees, and volunteers are included as additional insured, but only insofar as the operations under this Agreement are concerned. This provision shall apply to the general liability policy.
- I. Cassidian Communications' insurance coverage shall be primary insurance as respects Customer, its officers, officials, employees and volunteers. Any insurance or self-insurance maintained by Customer, its officers, officials, employees or volunteers shall be excess of Cassidian Communications' insurance and shall not contribute with it.
- J. Any deductibles or self-insured retentions must be declared to and approved by Customer, either: the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects Customer, its officers, officials, employees, and volunteers; or Cassidian Communications shall procure a bond guaranteeing payment of losses and related investigations, claim administration and defense expenses.
- K. Any failure to comply with the reporting provisions of the policies shall not affect coverage provided to the Customer, its officers, officials, employees or volunteers.
- L. The insurance companies shall have no recourse against Customer, its officers and employees or any of them for payment of any premiums or assessments under any policy issued by any insurance company.
- M. Cassidian Communications' obligations shall not be limited by the foregoing insurance requirements and shall survive expiration of this Agreement.

- N. In the event Cassidian Communications cannot provide an occurrence policy, Contractor shall provide insurance covering claims made as a result of performance of this Agreement for not less than three (3) years following completion of performance of this Agreement.
- O. Certificate of insurance shall meet such additional standards as may be determined by the contracting Customer Department either independently or in consultation with Risk Management, as essential for the protection of the County.
28. **Interest of Public Official.** No official or employee of Customer who exercises any functions or responsibilities in review or approval of services to be provided by Cassidian Communications under this Agreement shall participate in or attempt to influence any decision relating to this Agreement which affects personal interest or interest of any corporation, partnership, or association in which he/she is directly or indirectly interested; nor shall any such official or employee of Customer have any interest, direct or indirect, in this Agreement or the proceeds thereof.
29. **Interest of Cassidian Communications.** Cassidian Communications presently has no personal interest or financial interest, and shall not acquire same in any manner or degree in either: 1) any other contract connected with or directly affected by the services to be performed by this Agreement; or, 2) any other entities connected with or directly affected by the services to be performed by this Agreement. Contractor further covenants that in the performance of this Agreement no person having any such interest shall be employed by Contractor.
30. **Conflict of Interest.** The parties to this Agreement have read and are aware of the provisions of California Government Code Section 1090 et seq. and Section 87100 relating to conflict of interest of public officers and employees. Cassidian Communications has no current business or financial relationship with any Customer employee(s) that would constitute a conflict of interest with provision of services under this contract and will not enter into any such business or financial relationship with any such employee(s) during the term of this Agreement. Customer represents that it is unaware of any financial or economic interest of any public officer or employee of Cassidian Communications relating to this Agreement. It is further understood and agreed that if such a financial interest does exist at the inception of this Agreement either party may immediately terminate this Agreement by giving written notice as detailed in the Article in the Agreement titled, "Default, Termination and Cancellation".
31. **California Residency (Form 590).** All independent Contractors providing services to Customer must file a State of California Form 590, certifying their California residency or, in the case of a corporation, certifying that they have a permanent place of business in California. Cassidian Communications will be required to submit a Form 590 prior to execution of an Agreement or Customer shall withhold seven (7) percent of each payment made to Cassidian Communications during term of the Agreement. This requirement applies to any agreement/contract exceeding \$1,500.00.
32. **Taxpayer Identification Number (Form W-9).** All independent Contractors or corporations providing services to Customer must file a Department of the Treasury Internal Revenue Service Form W-9, certifying their Taxpayer Identification Number.
33. **County Business License.** It is unlawful for any person to furnish supplies or services, or transact any kind of business in the unincorporated territory of El Dorado County without possessing a County business license unless exempt under County Code Section 5.08.070.
34. **Administrator.** The County Officer or employee with responsibility for administering this Agreement is John D'Agostini, Sheriff, or successor.
35. **Authorized Signatures.** The parties to this Agreement represent that the undersigned individuals executing this Agreement on their respective behalf are fully authorized to do so by law or other appropriate instrument and to bind said parties to the obligations set forth herein.

Cassidian Communications, Inc., a California corporation

By: Emma L Forest

Title: Legal Counsel

Date: 7.11.12

Attest By: R. Denberg
CEO

Date: 7.11.12

Customer
El Dorado County

By: _____

Title: Chairman, Board of Supervisors

Date: _____

Attest By: _____
Deputy Clerk

Date: _____