ORDINANCE NO. O-24-15

AN ORDINANCE RATIFYING THE PAYMENT OF COSTS AND APPROVAL OF A MASTER SERVICES AGREEMENT WITH LEXIPOL LLC FOR LAW ENFORCEMENT POLICY MANUAL SUBSCRIPTION SERVICES

WHEREAS, the Village of Campton Hills ("Village"), is a non-home rule unit of local government as provided by Article VII, Section 7 of the Illinois Constitution of 1970; and

WHEREAS, on May 4, 2022, the Village entered into a Master Services Agreement with Lexipol LLC, attached hereto as **Exhibit A**, to provide law enforcement policy manual subscription services for the Village, for a yearly term, with the first year at a cost of $12,502.75, which includes a one-time set up fee of $4,670.00, based upon the consensus of Village staff at the time to obtain these services from Lexipol LLC to support the Village's police department; and

WHEREAS, the Village has received the benefit of the services provided by Lexipol LLC since the agreement was entered into in 2022, and desires to continue to utilize the services provided by Lexipol LLC for the remainder of the term of the Master Agreement; and

WHEREAS, to date, the Village has paid a total of $29,929.05, which includes 2024 costs, to Lexipol LLC, as required under the Master Services Agreement (the "Costs"); and

WHEREAS, the Village President and Board of Trustees have determined that it would best serve the public's health, safety and welfare to ratify and approve the payment of the costs and the remaining term of the Master Services Agreement.

NOW, THEREFORE, BE IT ORDAINED by the President and Board of Trustees of the Village of Campton Hills, Kane County, Illinois, as follows:

SECTION 1: Incorporation. That the recitals above shall be and are hereby incorporated in this Section 1 as if restated herein.

SECTION 2: Ratification. That the payment of the Costs and the Master Services Agreement that is attached hereto as **Exhibit A**, are hereby ratified, confirmed and approved.

SECTION 3: Severability. That if any Section, paragraph or provision of this Ordinance shall be held to be invalid or unenforceable for any reason, the invalidity or unenforceability of such Section, paragraph or provision shall not affect any of the remaining provisions of this Ordinance.

SECTION 4: Effectiveness. That this Ordinance shall be in full force and effect upon its passage and approval according to law.

	AYES	NAYES	ABSENT	ABSTAIN
Trustee Nicolas Boatner	X	_____	_____	_____
Trustee Janet Burson	X	_____	_____	_____
Trustee Jim McKelvie	X	_____	_____	_____
Trustee Mike Millette	X	_____	_____	_____
Trustee Ed Muncie	X	_____	_____	_____
Trustee Tom Williams	X	_____	_____	_____
President Barbara Wojnicki	_____	_____	_____	_____

Barbara Wojnicki
_____
Barbara Wojnicki, Village President

ATTEST:

Tracy Johnston
_____
Tracy Johnson, Village Clerk

STATE OF ILLINOIS)
) SS
COUNTY OF KANE)

CLERK'S CERTIFICATE

I, Tracy Johnson, Clerk of the Village of Campton Hills, in the County of Kane and State of Illinois, certify that the attached document is a true and correct copy of that certain Ordinance now on file in my office, entitled:

ORDINANCE NO. O-24-15

AN ORDINANCE RATIFYING THE PAYMENT OF COSTS AND APPROVAL OF A MASTER SERVICES AGREEMENT WITH LEXIPOL LLC FOR LAW ENFORCEMENT POLICY MANUAL SUBSCRIPTION SERVICES

which Ordinance was passed by a roll call vote of the Board of Trustees of the Village of Campton Hills at a Regular Village Board Meeting on the 20th day of August, 2024, at which meeting a quorum was present, and approved by the President of the Village of Campton Hills on the 20th day of August, 2024.

I further certify that the vote on the question of the passage of said Ordinance by the Board of Trustees of the Village of Campton Hills was taken by Ayes and Nays and recorded in the minutes of the Board of Trustees of the Village of Campton Hills, and that the result of said vote was as follows, to-wit:

	AYES	NAYES	ABSENT	ABSTAIN
Trustee Nicolas Boatner	X	_____	_____	_____
Trustee Janet Burson	X	_____	_____	_____
Trustee Jim McKelvie	X	_____	_____	_____
Trustee Mike Millette	X	_____	_____	_____
Trustee Ed Muncie	X	_____	_____	_____
Trustee Tom Williams	X	_____	_____	_____
President Barbara Wojnicki	_____	_____	_____	_____

I do further certify that the original Ordinance, of which the foregoing is a true copy, is entrusted to my care for safekeeping, and that I am the lawful keeper of the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the Village of Campton Hills, this 20th day of August, 2024.

Tracy Johnson
_____
Tracy Johnson, Village Clerk

[SEAL]

LEXIPOL

MASTER SERVICE AGREEMENT

Agency's Name: Agency's Address:	Campton Hills Police Department 40w270 Lafox Rd Saint Charles, Illinois 60175
Attention:	Chief Steven Millar
Lexipol's Address:	2611 Internet Boulevard, Suite 100 Frisco, Texas 75034
Effective Date:	_____ (to be completed by Lexipol upon receipt of signed Agreement)

This Master Service Agreement (the "Agreement") is entered into by and between Lexipol, LLC, a Delaware limited liability company ("Lexipol"), which may include one or more Lexipol subsidiary entities, and the Agency identified above.
This Agreement consists of:

(a) this **Cover Sheet**
(b) **Exhibit A** - Selected Services and Associated Fees
(c) **Exhibit B** - Terms and Conditions Specific to this Agreement

Each individual signing below represents and warrants that they have full and complete authority to bind the party on whose behalf they are signing to all terms and conditions contained in this Agreement.

Campton Hills Police Department		**Lexipol, LLC**	
Signature:	Michael A Z	Signature:	
Print Name:	Michael Zeigler	Print Name:	
Title:	Commander	Title:	
Date Signed:	05-04-2022	Date Signed:	

Exhibit A

SELECTED SERVICES AND ASSOCIATED FEES

Agency is purchasing the following:

QTY	DESCRIPTION	UNIT PRICE	DISC	DISC AMT	EXTENDED
1	Annual Law Enforcement Policy Manual & Daily Training Bulletins (12 Months)	USD 8,245.00	5%	USD 412.25	USD 7,832.75
	Subscription Line Items Total			**USD 412.25**	**USD 7,832.75**
1	Law Enforcement Standard Policy Cross-Reference	USD 4,670.00		USD 0.00	USD 4,670.00
	One-Time Line Items Total			**USD 0.00**	**USD 4,670.00**
				USD 412.25	**USD 12,502.75**
				Discount:	USD 412.25
				TOTAL:	USD 12,502.75

*Law Enforcement pricing is based on 11 Law Enforcement Sworn Officers. Cross Reference Professional Services pricing is based on 450 pages.

*The above subscription services, and when applicable, implementation services, shall be invoiced by Lexipol (or one of its subsidiaries, where applicable) upon the execution of this Agreement.

Notes

Subscription pricing based on 9 FT + up to 13 PT sworn (11 FTE)

Discount Notes

5% annual subscription discount if agency starts with Lexipol on or before 5/3/2022.

Exhibit B
Terms and Conditions of Service

1. **Definitions**. For purposes of Lexipol's Terms and Conditions of Service (the "Terms"), each of the following capitalized terms will have the meaning included in this Section. Other capitalized terms are defined within their respective sections below. Depending on the selected Service(s), Agency may receive support from, and be invoiced by, a Lexipol subsidiary, including The Praetorian Group and/or Cordico Inc.

1.1 **"Agency"** means the department, agency, office, company, or other entity purchasing and/or otherwise subscribing to Lexipol products or services.

1.2 **"Agreement"** means the combination of (a) the cover sheet to which these Terms are attached; (b) Lexipol's subscription and pricing information sheets, which are typically included as an Exhibit A ("Services Being Purchased and Related Fees") or as set forth in any similar pricing sheet (including by way of addendum); and (c) these Terms.

1.3 **"Derivative Work(s)"** means work(s) based on Lexipol's Subscription Materials, or any substantive portion thereof. Derivative Works include revision, modification, abridgement, condensation, expansion, or any other form in which the Subscription Materials or any portion thereof are recast, transformed, or adapted. For purposes of the Agreement, a Derivative Work also includes any compilation that incorporates any portion of the Subscription Materials. Further, "Derivative Work" includes any work considered a "derivative work" under United States copyright law.

1.4 **"Effective Date"** means the date specified on the cover sheet to which these Terms are attached, or as otherwise expressly set forth and agreed upon by Lexipol and Agency in a writing and defined as the "Effective Date."

1.5 **"Initial Term"** means the period commencing on the Effective Date and continuing for the length of time indicated on the cover sheet or subscription and pricing sheet provided by Lexipol. If the Initial Term is not so indicated, the default Initial Term is one (1) year from the Effective Date.

1.6 **"Service(s)"** means all Lexipol product(s) or service(s), including one-time and recurring (subscription) services, as may be offered by Lexipol and/or its subsidiaries and affiliates from time to time.

1.7 **"Subscription Materials"** means all policy manuals, supplemental publications, daily training bulletins, written content, images, videos, and all other data and multimedia provided by Lexipol and/or its licensors through the Services.

2. **Term**. The Agreement becomes enforceable upon signature by Agency's authorized representative. Following the Initial Term, the Agreement shall renew in successive one-year periods thereafter (each a "Renewal Term") unless one party provides written notice of non-renewal to the other party at least thirty (30) days prior to expiration of the then-current term. The Initial Term and all Renewal Terms collectively comprise the "Term" of the Agreement.

3. **Termination**.

3.1 **For Cause**. The Agreement may be terminated by either party, effective immediately, (a) in the event that the other party fails to discharge any obligation or remedy any default under the Agreement for a period of more than thirty (30) calendar days after it has been given written notice of such failure or default; or (b) in the event that the other party makes an assignment for the benefit of creditors or commences or has commenced against it any proceeding in bankruptcy, insolvency or reorganization pursuant to the bankruptcy laws of any applicable jurisdiction.

3.2 **For Convenience**. The Agreement may be terminated for convenience (including lack of appropriation of funds by Agency) upon sixty (60) days written notice. Note: fees already paid for Services are not eligible for refund, proration or offset in the event of Agency's termination for convenience.

4. Effect of Expiration or Termination. Upon the expiration or termination of the Agreement for any reason, Agency's access to Lexipol's Services shall cease. Termination or expiration of the Agreement shall not, however, relieve either party from any obligation or liability that has accrued under the Agreement prior to the date of such termination or expiration, including payment obligations. The right to terminate the Agreement shall be in addition to, and not in lieu of, any other remedy, legal or equitable, to which the parties are entitled at law or in equity. The provisions of Sections 1 (Definitions), 6 (Service-Specific Terms), 8 (Privacy Policy), 8 (Warranty Disclaimer), 9 (Confidentiality), 10 (Warranty Disclaimer), 11 (Limitation of Liability), 12 (General Terms), and this Section 4 shall survive the expiration or termination of the Agreement for any reason.

5. Fees and Invoicing. Unless otherwise agreed upon in writing, Lexipol (or, if applicable, The Praetorian Group or Cordico Inc.) will invoice Agency at the commencement of the Initial Term and thirty (30) days prior to each Renewal Term. Agency will pay to Lexipol the fee(s) specified on each invoice within thirty (30) days following receipt of the invoice. All invoices will be sent to Agency at the address specified on the cover sheet to which these Terms are attached or as otherwise designated by Agency in writing. All payments will be made by electronic transfer of immediately available funds or by mailing a check to Lexipol at 2611 Internet Blvd, Ste 100, Frisco, TX 75034 (Attn: Accounts Receivable). Lexipol reserves the right to increase fees for Renewal Terms. All amounts required to be paid under the Agreement are exclusive of taxes and similar fees now in force or enacted in the future. Unless otherwise exempt, Agency is responsible for and will pay in full all taxes properly imposed related to its receipt of Lexipol's Services, except for taxes based on Lexipol's net income. In the event any amount owed by Agency is not paid when due, and such failure is not cured within ten (10) days after written notice thereof, then in addition to any other amount due, Agency shall pay a late payment charge on the overdue amount at a rate equal to the lower of (a) one percent (1%) per month, or (b) the highest rate permitted by applicable law.

6. Service-Specific Terms. The following sections apply to specific Lexipol Services:

6.1 Policy. Lexipol's policy Subscription Materials and Knowledge Management System ("KMS") are proprietary, protected under U.S. copyright, trademark, patent, and/or other applicable laws, and Lexipol reserves all rights not expressly granted in these Terms. Agency may prepare Derivative Works using Lexipol's Subscription Materials, but Lexipol shall remain the sole owner of all right, title and interest in and to them, including all copyrights, intellectual property rights, and other proprietary rights therein or pertaining thereto. Agency shall retain a perpetual, personal, non-sublicensable and non-assignable right to use the Subscription Materials for Agency's internal purposes but will not remove any copyright notice or other proprietary notice of Lexipol appearing thereon. Agency acknowledges and agrees that Lexipol shall have no responsibility to update such Subscription Materials beyond the Term of the Agreement and shall have no liability whatsoever for Agency's creation or use of Derivative Works. Lexipol's Subscription Materials are to be treated as Confidential Information (per Section 9 herein), but Agency may disclose Subscription Materials pursuant to a valid court order, lawful government agency request, Freedom of Information Act (FOIA) request, or Public Records Act (PRA) request. Agency acknowledges and agrees that all policies and procedures it implements have been individually reviewed and adopted by Agency, that neither Lexipol nor any of its agents, employees, or representatives shall be considered "policy makers" in any legal or other sense, and that Agency's highest-ranking official shall, for all purposes, be considered the "policy maker" with regard to same. Lexipol's KMS Service is subject to the Service Level Agreement attached to these Terms.

6.2 Learning. Lexipol's Learning Management System ("LMS"), offered by Praetorian Digital, is a proprietary Service protected under U.S. copyright, trademark, patent, and other laws. Lexipol and its licensors retain all rights, title, and interest in and to the LMS (including, without limitation, all intellectual property rights), including all copies, modifications, extensions, and Derivative Works thereof. Agency's right to use the LMS is limited to the rights expressly granted in the Agreement. Agency Data, defined as data owned by Agency prior to the Effective Date or which Agency provides during the Term for purposes of identifying authorized users, confirming agency or department information, or other purposes that are ancillary to receipt of the Service, remains Agency's property. Lexipol retains no right or interest in Agency Data and shall return or destroy Agency Data following termination of the Agreement. Lexipol's LMS Service is subject to the Service Level Agreement attached to these Terms.

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6.3 Wellness. This Section applies when Agency subscribes to Lexipol's Wellness Application ("Wellness App") offered by Cordico®. All Subscription Materials delivered by the Wellness App, including but not limited to all object and source code, all information created, developed, or reduced to practice, and all written, image-based, or video-based content underlying the Wellness App that is not specifically provided by Agency is the proprietary intellectual property of Lexipol and/or its suppliers or licensors, protected to the maximum extent permitted by trademark, copyright, and patent laws. Agency is granted a nonexclusive limited right to access the Wellness App during the Term. If the Agreement is terminated or expires for any reason, Agency shall lose access to the Wellness App and to all associated Subscription Materials and shall discontinue all use of the same for any purpose. Nothing in this section or these Terms shall be construed as conferring any right of ownership or use to the Wellness App, whether by estoppel, implication or otherwise.

6.4 Grants. This Section applies when Agency selects Lexipol's Grant Writing, Consulting, and/or GrantFinder services. For Grant Writing services, Agency takes full responsibility for submitting information reasonably required by Lexipol's grant writing team in a timely manner (at least five (5) days prior to the applicable grant application close date). Agency is responsible for all submissions of final grant applications by grant deadlines, but Lexipol shall be considered Agency's duly authorized representative for submissions where applicable. Failure to submit requested materials to write grant applications on time will result in rollover of project services and fees to next grant application cycle; not a refund of the fees. Requests for cancellation of Grant Writing services will result in a 50% fee of the total value of the service. Invoices for Grant Writing services will be sent as soon as work begins for the applicable target grant. Complete payment must be received no later than thirty (30) days after receipt of invoice. In the event Agency has not made timely payment on an invoice, Lexipol reserves the right to suspend all grant Services to Agency until past-due payments are received in full, and may terminate Agency's access to GrantFinder, if applicable. Invoices over thirty (30) days past due may be charged a twenty-five dollar ($25) late fee.

6.5 Generally; Injunctive Relief. Nothing in the Agreement shall be construed as conferring any rights or license to Lexipol's trade secrets, intellectual property, Confidential Information, Subscription Materials, KMS, LMS, Wellness App, or the software underlying such products and services, whether by estoppel, implication or otherwise. Agency may not, and may not assist others to, decompile, disassemble, reverse engineer, or otherwise attempt to discover any object code, source code, or proprietary data underlying the Services. Agency grants all rights and permissions in or relating to Agency Data as are necessary to Lexipol to enforce the Agreement, exercise Lexipol's rights, and perform Lexipol's obligations hereunder. Agency acknowledges that a breach or threatened breach of any portion of this Section may cause irreparable harm and shall entitle Lexipol to injunctive relief in addition to any other available remedy.

7. Account Security. The rights to access and use the Services under the Agreement are personal and unique to Agency and Agency shall not assign or otherwise transfer any such rights to any other person or entity. Except as set forth herein, Agency remains solely responsible for maintaining the confidentiality of Agency's username(s) and password(s) and the security of Agency's account(s), meaning the account by which Agency accesses the Services. Agency will not permit access to Agency's account(s) or use of Agency's username(s) and/or password(s) by any person or entity other than authorized Agency personnel. Agency will immediately notify Lexipol if Agency becomes aware that any person or entity other than authorized Agency personnel has used Agency's Account or Agency's username(s) and/or password(s).

8. Privacy Policy. Lexipol will hold Agency Data in confidence unless required to provide access in accordance with a court order, government agency request, or other legal process such as a Freedom of Information Act (FOIA) request, or Public Records Act (PRA) request. Lexipol will use commercially reasonable efforts to ensure the security of all Agency Data. Lexipol's systems use the Secure Socket Layer (SSL) Protocol for Lexipol Services, which encrypts information as it travels between Lexipol and each Agency. However, Agency acknowledges and agrees that data transmission on the internet is not always 100% secure and Lexipol cannot and does not warrant that information Agency transmits to or through the Services is 100% secure. Agency acknowledges that Lexipol may provide view-only access and summary information (which may include number of policies developed or in development, percentage of staff reviews of developed policies and DTBs) to Agency's affiliated Risk Management Authority, Insurance Pool or Group, or Sponsoring Association if they are actively funding member Agency Subscription Fees.

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9. Confidentiality. During the term of the Agreement, either party may be required to disclose information to the other party that is marked "confidential" or is of such a type that the confidentiality thereof is reasonably apparent (collectively, "Confidential Information"). The receiving party will: (a) limit disclosure of any Confidential Information of the other party to the receiving party's directors, officers, employees, agents and other representatives (collectively "Representatives") who have a need to know such Confidential Information in connection with the Services; (b) advise its personnel and agents of the confidential nature of the Confidential Information and of the obligations set forth in the Agreement; (c) keep all Confidential Information confidential by using a reasonable degree of care, but not less than the degree of care used by it in safeguarding its own confidential information; and (d) not disclose any Confidential Information to any third party unless expressly authorized by the disclosing party. Notwithstanding the foregoing, a party may disclose Confidential Information pursuant to a valid governmental, judicial, or administrative order, subpoena, discovery request, regulatory request, Freedom of Information Act (FOIA) request, or Public Records Act (PRA) request, or similar method, provided that the party proposing to make any such disclosure will promptly notify, to the extent practicable, the other party in writing of such demand for disclosure so that the other party may, at its sole expense, seek to make such disclosure subject to a protective order or other appropriate remedy to preserve the confidentiality of the Confidential Information. Each party shall be responsible for any breach of this section by any of such party's personnel or agents.

10. Warranty Disclaimer. ALL SERVICES AND SUBSCRIPTION MATERIALS ARE PROVIDED "AS-IS" AND LEXIPOL DISCLAIMS ALL WARRANTIES, WHETHER EXPRESS, IMPLIED, STATUTORY, OR OTHERWISE, INCLUDING ALL IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, AND NON-INFRINGEMENT, AS WELL AS ALL WARRANTIES ARISING FROM COURSE OF DEALING, USAGE, OR TRADE PRACTICE.

11. Limitation of Liability. Lexipol's cumulative liability resulting from any claims, demands, or actions arising out of or relating to the Agreement, the Services, or the use of any Subscription Materials shall not exceed the aggregate amount of subscription fees actually paid to Lexipol by Agency for the associated Services during the twelve-month period immediately prior to the assertion of such claim, demand, or action. In no event shall Lexipol be liable for any indirect, incidental, consequential, special, exemplary damages, or lost profits, even if Lexipol has been advised of the possibility of such damages. The limitations set forth in this Section shall apply whether the subject claim is based on breach of contract, tort, strict liability, product liability or any other theory or cause of action.

12. General Terms.

12.1 General Interpretation. The language used in the Agreement and these Terms shall be deemed to express the mutual intent of Lexipol and Agency. The Agreement shall be construed without regard to any presumption or rule requiring construction against the party causing such instrument or any portion thereof to be drafted, or in favor of the party receiving a particular benefit under the Agreement.

12.2 Invalidity of Provisions. Each of the provisions contained in the Agreement and these Terms is distinct and severable. A declaration of invalidity or unenforceability of any such provision or part thereof by a court of competent jurisdiction shall not affect the validity or enforceability of any other provision hereof. Further, if a court of competent jurisdiction finds any provision of the Agreement to be invalid or unenforceable, the parties agree that the court should endeavor to give effect to the parties' intention as reflected in such provision to the maximum extent possible.

12.3 Waiver. Lexipol's failure to exercise, or delay in exercising, any right or remedy under any provision of the Agreement shall not constitute a waiver of such right or remedy.

12.4 Governing Law. The Agreement shall be construed in accordance with, and governed by, the laws of the State in which Agency is located, without giving effect to any choice of law doctrine that would cause the law of any other jurisdiction to apply.

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12.5 Compliance with Laws. Each party shall maintain compliance with all applicable laws, rules, regulations, and orders promulgated by any federal, state, or local government body or agency relating to its obligations pursuant to the Agreement and these Terms.

12.6 Attorney's Fees. If any action is brought by either party to the Agreement against the other party regarding the subject matter hereof, the prevailing party shall be entitled to recover, in addition to any other relief granted, reasonable attorneys' fees and expenses of litigation.

12.7 Notices. Any notice required by the Agreement or given in connection with it shall be in writing and shall be made by certified mail (postage prepaid), recognized overnight delivery service, or (if mutually agreed upon) by email to authorized recipients at such address as each party may indicate from time to time. Alternatively, electronic mail or facsimile notice to established and authorized recipients is acceptable when acknowledged by the receiving party.

12.8 Entire Agreement. The Agreement, including these Terms, embodies the entire agreement and understanding of the parties hereto and expressly supersedes all prior written and oral agreements and understandings with respect to the subject matter hereof. No representation, promise, or statement of intention has been made by any party hereto that is not embodied in the Agreement. Terms and conditions set forth in any purchase order or any other form or document that are inconsistent with or in addition to the terms and conditions set forth in the Agreement are hereby objected to and rejected in their entirety, regardless of when received, without further action or notification, and shall not be considered binding unless specifically agreed to in writing by both parties. No amendment, modification, or supplement to the Agreement shall be binding unless it is in writing and signed by the party sought to be bound thereby.

12.9 Counterparts. The Agreement may be executed in any number of counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same document for purposes of the Agreement.

Lexipol Service Level Agreement for Cloud-Based Services

1. **Response Times**. For issues relating to Lexipol's online, cloud-based Services (e.g. KMS, LMS, Wellness), Lexipol will make an industry standard and commercially reasonable effort to respond promptly (via Lexipol's Normal Support Channels) within two (2) Business Days after receipt.

2. **Uptime Commitment**. The Uptime Percentage for the Service will be ninety-nine and five-tenths percent (99.5%) (the "Uptime Commitment"). Subject to the exclusions described in below, "Uptime Percentage" is calculated by subtracting from 100% the percentage of 1-minute periods during any annual billing cycle in which Agency's selected Service(s) are unavailable out of the total number of minutes in that billing cycle. "Unavailable" and "Unavailability" mean that, in any 1-minute period, all connection requests received by Agency failed to process (each a "Failed Connection"); provided, however, that no Failed Connection will be counted as a part of more than one such 1-minute period (i.e. a Failed Connection will not be counted for the period 12:00:00-12:00:59 and the period 12:00:30-12:01:29). The Yearly Uptime Percentage will be measured based on the industry standard monitoring tools.

3. **Exclusions from Uptime Percentage**. All Service Unavailability resulting from the following will be excluded from calculation of Uptime Percentage: (a) Regularly-scheduled maintenance of the Service that does not exceed six (6) hours per 3-month period and is communicated by Lexipol at least twenty-four (24) hours in advance via Lexipol's support channels (Lexipol typically schedules such regularly scheduled maintenance once per month); (b) Any failures of the Lexipol Standard and Custom Reporting Services that does not exceed six (6) hours per 3-month period and is communicated by Lexipol at least twenty-four (24) hours in advance via Lexipol's Normal Support Channels; (c) Any issues with a third-party service to which Agency subscribes but does not control; (d) Any problems not caused by Lexipol that result from, computing or networking hardware, other equipment or software under Agency's control, the Internet, or other issues with electronic communications; (e) Lexipol's suspension or termination of the Service in accordance with the Terms; (f) Exceeding Lexipol's published Concurrent Request Limits; (g) Software that has been subject to unauthorized modification by Agency; (h) Negligent or intentional misuse of the Service by Agency.

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