



Agenda Item Executive Summary

Item Name	A RESOLUTION APPROVING OF THE LAW ENFORCEMENT AGREEMENT AND ORDER NO. 1 BETWEEN THE VILLAGE OF BARTLETT AND LEXISNEXIS COPLOGIC SOLUTIONS, INC.	Committee or Board	Board
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BUDGET IMPACT

Amount:	N/A	Budgeted	N/A
List what fund	N/A		

EXECUTIVE SUMMARY

Attached is a Resolution Approving of the Law Enforcement Agreement and Order No. 1 Between the Village of Bartlett and LexisNexis Coplogic Solutions, Inc. to allow the Village of Bartlett to utilize its eCrash - electronic crash report management system software. The updated Law Enforcement Agreement and Order No. 1 LexisNexis eCrash were needed because the entity in which the Village of Bartlett was previously contracted with was LexisNexis Claims Solutions, Inc. and it is now LexisNexis Coplogic Solutions, Inc. The existing services agreement also contained language that may be unclear with respect to automobile crash reports sold by LexisNexis Coplogic Solutions, Inc. The updated Law Enforcement Agreement and Order No. 1 LexisNexis eCrash clarifies how and when a crash report is purchased by LexisNexis. It also clarifies when law enforcement agencies will be reimbursed for the sale of the automobile crash reports by LexisNexis.

ATTACHMENTS (PLEASE LIST)

- Police Department Memorandum
- Resolution
- Lexis Nexis Law Enforcement Agreement

ACTION REQUESTED

- ☐ For Discussion Only
- ☒ Resolution
- ☐ Ordinance
- ☐ Motion
- ☐

MOTION: I move the passage of Resolution 2020- _____, A Resolution Approving of the Law Enforcement Agreement and Order No. 1 Between the Village of Bartlett and LexisNexis Coplogic Solutions, Inc.

Staff: Geoffrey T. Pretkelis, Deputy Chief of Police Date: 8/24/20

POLICE DEPARTMENT MEMORANDUM
20-52

DATE: August 21, 2020

TO: Paula Schumacher, Village Administrator

FROM: Geoffrey T. Pretkelis, Deputy Chief of Police 

RE: A RESOLUTION APPROVING OF THE LAW ENFORCEMENT AGREEMENT
AND ORDER NO. 1 BETWEEN THE VILLAGE OF BARTLETT
AND LEXISNEXIS COPLOGIC SOLUTIONS, INC.

Back in 2018, the Village of Bartlett entered into an agreement with LexisNexis Claims Solutions, Inc. to utilize its eCrash – electronic crash report management system and its powerful administrative portal to review and monitor important motor vehicle crash trend analytics and statistics at no cost. LexisNexis accommodates the electronic storage of all submitted motor vehicle crash reports and then transmits them electronically to the Illinois Department of Transportation (IDOT). Additionally, LexisNexis collects an agency report fee and an additional convenience fee, which the Village receives \$5.00 each time LexisNexis provides a copy of a motor vehicle crash report to insurance companies or other individuals.

The attached proposed Resolution Approving of the Law Enforcement Agreement and Order No.1 Between the Village of Bartlett and LexisNexis Coplogic Solutions, Inc. was requested because the entity in which the Village of Bartlett was previously contracted with was LexisNexis Claims Solutions, Inc. and it is now LexisNexis Coplogic Solutions, Inc. The existing services agreement also contained language that may be unclear with respect to automobile crash reports sold by LexisNexis Coplogic Solutions, Inc. The updated Law Enforcement Agreement and Order No. 1 LexisNexis eCrash clarifies how and when a crash report is purchased by LexisNexis Coplogic Solutions, Inc. It also clarifies when law enforcement agencies will be reimbursed for the sale of the automobile crash reports by LexisNexis Coplogic Solutions, Inc.

Village Attorney Bryan Mraz reviewed the Law Enforcement Agreement and Order No. 1 LexisNexis eCrash and did not have any concerns about LexisNexis Coplogic Solutions, Inc.'s proposed language changes.

MOTION: I move to approve Resolution 2020-____, A RESOLUTION APPROVING OF THE
LAW ENFORCEMENT AGREEMENT AND ORDER NO. 1 BETWEEN THE VILLAGE OF
BARTLETT AND LEXISNEXIS COPLOGIC SOLUTIONS, INC.

RESOLUTION 2020 - _____

**A RESOLUTION APPROVING OF THE LAW ENFORCEMENT
AGREEMENT AND ORDER NO. 1 BETWEEN THE VILLAGE OF BARTLETT
AND LEXISNEXIS COPLOGIC SOLUTIONS, INC.**

BE IT RESOLVED by the President and Board of Trustees of the Village of Bartlett, Cook, DuPage and Kane Counties, Illinois, as follows:

SECTION ONE: The Law Enforcement Agreement For LexisNexis® eCrash, including the Security and Notification Requirements, and the LexisNexis® eCrash Order No. 1 dated as of September 1, 2020, between the Village of Bartlett, by and through the Bartlett Police Department, and LexisNexis Coplogic Solutions, Inc. (collectively, the "Agreement"), copies of which are appended hereto and expressly incorporated herein by this reference, is hereby approved.

SECTION TWO: The Agreement approved in Section One of this Resolution amends and restates the Law Enforcement Agreement for LexisNexis® eCrash Security and Notification Requirements and LexisNexis® Order No. 1 dated May 1, 2018 by and between the Village of Bartlett and LexisNexis Claims Solutions, Inc. (collectively, the "Prior LexisNexis Agreement").

SECTION THREE: That the Chief of Police is hereby authorized and directed to sign the Agreement approved in Section One of this Resolution on behalf of the Village of Bartlett.

SECTION FOUR: **SEVERABILITY.** The various provisions of this Resolution are to be considered as severable, and of any part or portion of this Resolution

shall be held invalid by any Court of competent jurisdiction, such decision shall not affect the validity of the remaining provisions of this Resolution.

SECTION FIVE: REPEAL OF PRIOR RESOLUTIONS. All prior Ordinances and Resolutions in conflict or inconsistent herewith are hereby expressly repealed only to the extent of such conflict or inconsistency.

SECTION SIX: EFFECTIVE DATE. This Resolution shall be in full force and effect upon passage and approval.

ROLL CALL VOTE:

AYES:

NAYS:

ABSENT:

PASSED: September 1, 2020

APPROVED: September 1, 2020

Kevin Wallace, Village President

ATTEST:

Lorna Giless, Village Clerk

C E R T I F I C A T I O N

I, the undersigned, do hereby certify that I am the Village Clerk of the Village of Bartlett, Cook, DuPage and Kane Counties, Illinois, and that the foregoing is a true, complete and exact copy of Resolution 2020 - _____ enacted on September 1, 2020, and approved on September 1, 2020, as the same appears from the official records of the Village of Bartlett.

Lorna Giless, Village Clerk

LAW ENFORCEMENT AGREEMENT

This Law Enforcement Agreement ("Agreement") is dated as of September 1, 2020 ("Effective Date") by and between LexisNexis Coplogic Solutions Inc., with its principal place of business at 1000 Alderman Drive, Alpharetta, Georgia 30005 ("Provider"), and the Village of Bartlett, an Illinois municipal corporation of Cook, DuPage, Kane Counties, Illinois, by and through the Bartlett Police Department, with its principal place of operations at 228 S. Main Street, Bartlett, Illinois 60103 ("Agency"). Provider and Agency may be referred to herein individually as a "Party" and collectively referred to as "Parties".

1. **SCOPE.** Provider as part of its business has developed several comprehensive products and services for law enforcement. Subject to the terms and conditions of this Agreement, Agency desires to order and Provider agrees to provide the various products and services contained herein (collectively referred to as the "Services") as described in an applicable order to this Agreement ("Order"). The parties acknowledge Agency is a law enforcement entity with responsibility for the documentation, retention, and management of information and reporting related to vehicle accidents, citations, and incidents occurring within its jurisdiction (as used within this Agreement, each documented event is a "Report"). "Report" shall also include any associated or supplemental information provided with the Report including Agency name, images and upload date, as applicable.

2. **LICENSE AND RESTRICTIONS.**

- 2.1 **License Grant and License Restrictions.** Upon execution of an applicable Order, Provider hereby grants to Agency a restricted, limited, revocable license to use the Services only as set forth in this Agreement and any applicable Order, and for no other purposes, subject to the restrictions and limitations set forth below:
 - a. Agency shall not use the Services for marketing or commercial solicitation purposes, resell, or broker the Services to any third-party or otherwise use the Services for any personal (non-law enforcement) purposes; and
 - b. Agency shall not access or use Services from outside the United States without Provider's prior written approval; and
 - c. Agency shall not use the Services to create a competing product or provide data processing services to third parties; and
 - d. Agency's use of the Services hereunder will not knowingly violate any agreements to which Agency is bound; and
 - e. Agency shall not harvest, post, transmit, copy, modify, create derivative works from, tamper, distribute the Services, or in any way circumvent the navigational structure of the Services, including to upload or transmit any computer viruses, Trojan Horses, worms or anything else designed to interfere with, interrupt or disrupt the normal operating procedures of Services; and
 - f. Agency may not use the Services to store or transmit infringing, libelous, or otherwise unlawful or tortious material, or to store or transmit material in violation of third-party privacy rights or otherwise infringe on the rights of others; and
 - g. Agency shall not reveal any user accounts or passwords for the Services to any third parties (third parties shall not include Agency's employees who have a need to know such information); and
 - h. Agency shall not permit any third party (third parties shall not include Agency's employees who have a need to know such information) to view or use the Services, even if such third party is under contract to provide services to Agency; and
 - i. Agency shall comply with all laws, regulations, and rules which govern the use of the Services.
- 2.2 **Other Restrictions.** In addition Provider may, at any time, impose restrictions and/or prohibitions on the Agency's use of the Services, or certain data or no longer offer certain functionalities or features that may be the result of a modification in Provider policy, a modification of third-party agreements, a modification in industry standards, a Security Event (defined below), a change in law or regulation, or the interpretation thereof. Upon written notification by Provider of such restrictions, Agency agrees to comply with such restrictions or, in the event that Agency is unable to comply, it shall notify Provider in writing of its inability to comply within ten (10) days after receipt of Provider's written notification. In that event, either Party may immediately terminate this Agreement by providing written notice thereof to the other Party without such termination constituting a breach of this Agreement. Provider shall be Agency's designated preferred provider of such Services as are mutually agreed to and defined hereunder, related to the handling of Agency's Reports.
- 2.3 **Violation of License Terms and / or Restrictions.** Agency agrees that, if Provider determines or reasonably suspects that: (i) Agency is violating any license terms, restrictions, or other material provision of the Agreement; or (ii) Agency has experienced

a Security Event (as herein defined), Provider may, at its sole option, take immediate action up to and including, without further obligation or liability of any kind, terminating Agency's account and the license to use the Services.

3. SUPPORT AND MAINTENANCE.

- 3.1 Ongoing Maintenance. Provider will, from time-to-time issue and/or provide maintenance including bug fixes, enhancements, new features, or new functionality that are generally made available to customers along with any corresponding changes to documentation ("Maintenance"). Maintenance does not include work to custom code, customized configurations, or to unauthorized modifications of the Services. Any Provider assistance beyond standard Maintenance will be billed at Provider's then current pricing schedule, as agreed upon in advance by the Parties. Additionally, upon Agency's written notice of new or revised legislation, statutes, or ordinances requiring any Services to be updated, Provider shall update or modify the Services or particular form consistent with such new regulation within a reasonable time.
- 3.2 Support Services. Provider will provide ongoing support services for problems, queries or requests for assistance ("Support") provided that all requests for Support must be made to Provider Monday through Friday from 8:00 AM ET to 8:00 PM ET at 1-888-949-3835. Provider will also provide limited after hours Support including the ability to leave a message and receive a call back the following business day or sooner, if critical. In order to provide Support, Agency will provide all information reasonably required by Provider to identify the issue, including: an Agency point of contact (familiar with the Services and issue), description of issue, screenshots, the impact, and assist in Provider's efforts to reproduce the problem (as applicable). Provider will work to resolve problem with reasonable promptness for issues that are application or Services related (Provider is not responsible for resolving issues caused by Agency hardware). The Agency agrees to provide Provider with data transfers, as requested, remote access to the Services system, and with sufficient test time on the Agency's computer system to duplicate the problem, to certify that the problem is with the Services, and to certify that the problem has been corrected. If the problem cannot readily be resolved, Provider will attempt to identify a work around. Upon resolution of any issue, Provider shall notify the Agency of such resolution via email. The Parties agree that Provider is not obligated to ensure that its Services are compatible with outdated (exceeding 4 years from date of initial release) hardware, computer operating services or database engines.
- 3.3 On Site Support. In response to written Agency requests for Provider to provide on-site routine non-emergency support, Provider shall produce a written estimate of the time required to provide the requested support and state any requirements, such as the presence of Agency staff or other resources or materials. Any on-site support provided by Provider shall only be invoiced by Provider or paid by Agency if the problem arose due to something other than a defect in the Services. The Agency shall reimburse Provider at the rate of two thousand five hundred (\$2,500.00) dollars per day for each Provider employee who provides any on-site support, and such fees will not include any reimbursement for Provider travel time or travel expenses.

4. FEES.

- 4.1 Fees due to Provider. Any fees due to Provider for Services hereunder shall be specified in an Order ("Fees"). For any Order where Fees are specified, Provider will issue an invoice to Agency pursuant to the terms in the Order. Invoices shall be paid in full by Agency within thirty (30) days from invoice date. Provider may increase or decrease the Fee following the Initial Term (as defined in an applicable Order) by providing Agency no less than sixty (60) days written notice prior to the effective date of such pricing change. In the event Agency has a good faith dispute on all or a portion of an unpaid invoice ("Dispute"), Agency shall notify Provider in writing and follow the procedures set forth below. To the extent an interface or other technological development is required to enable an Agency designated third party (i.e., RMS Vendor) to receive Reports from Provider at Agency's request or to enable Provider to intake Agency Data, such cost shall not be borne by Provider. If any invoice (or undisputed portion thereof) remains unpaid and not subject to a Dispute after sixty (60) days from the invoice date, Provider shall have the right to terminate this Agreement (including all Services) or the right to discontinue the applicable Service immediately, without such action constituting a breach or incurring any liability herein. All Fees not properly disputed or paid shall accrue interest at the rate of eighteen percent (18%) per annum. All Fees are calculated for payment made via ACH, Wire, or Agency check. Agency agrees that Fees exclude taxes (if applicable) or other cost incurred by Agency's RMS Vendor or other third parties and agrees such costs shall be passed on to Agency. Provider shall not be required to enter into a third-party relationship to obtain payment for the Service provided to Agency; however, should Provider elect to do so, Provider reserves the right to charge Agency additional fees for such accommodation.
- 4.2 Fees due to Agency. Using the process as herein defined, on behalf of Agency, Provider will collect and remit to Agency a fee for all Reports ("Agency Fee") purchased from the eCommerce portal set forth on the applicable Order, including but not

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limited to fees for purchases of Reports from that eCommerce portal by an Affiliate. On a monthly basis, Provider will electronically transfer to Agency's designated account, the total amount of applicable Agency Fee collected by Provider during the previous month. Provider will make available a monthly report to Agency identifying the number of Reports provided on its behalf via the LexisNexis® Command Center administration portal and/or its successor.

4.2.1. No Agency Fee will be paid with respect to the following:

- 4.2.1.1. When an Affiliate of Provider has paid an Agency Fee to acquire a Report for an Authorized Requestor (including Reports purchased before the applicable Order Effective Date) and such Affiliate later resells that Report from its inventory of previously purchased Reports to another Authorized Requestor; or
- 4.2.1.2. When one or more components of a Report (e.g., VIN number), rather than the Report in its entirety, is provided by Provider to an Authorized Requestor or an Affiliate of Provider ; or
- 4.2.1.3. When a Report is acquired by an Affiliate of Provider from a source other than the eCommerce portal set forth on the applicable Order; or
- 4.2.1.4. When a fee is not charged to an Authorized Requestor for the Report.

Nothing in this Agreement shall require Provider or its Affiliate to pay an Agency Fee to the Agency when an Authorized Requestor provides a Report and/or specific data extracted from the Report to a third party after the Authorized Requestor has purchased such Report from the Affiliate's inventory of previously purchased Reports. Agency acknowledges that all reports requested by Agency Requestors shall be provided free of charge.

- 4.3 Fees retained by Provider. Where permitted by law, Provider will charge a convenience fee for each Report provided to an Authorized Requestor ("Convenience Fee") which shall be retained by Provider. The Convenience Fee shall be established by Provider at its discretion, but in no event shall it exceed the amount a Provider may legally charge an Authorized Requestor.

5. **RETENTION / DISTRIBUTION.**

- 5.1 For all Services provided hereunder that involve Reports, Provider will maintain a copy of each Report for a period of no less than seven (7) years from the date of the Report. For Services that contemplate the sale of Reports, as more specifically described in an Order, Provider shall distribute Reports and/or specific data extracted from the Report to individuals or legal entities ("Authorized Requestors") and other authorized law enforcement entities ("Agency Requestors") in accordance with applicable laws and regulations. Nothing in this Agreement shall prohibit Provider's Affiliates (defined in Section 16.1, "Affiliates" below) from purchasing Reports from the ecommerce portal set forth in the Order, or from distributing previously purchased Reports and/or specific data extracted from the Report to Authorized Requestors or Agency Requestors in accordance with the terms of the Order and applicable laws and regulations. Nothing in this Agreement shall prohibit Affiliates from acquiring Reports from a source other than the ecommerce portal set forth in the Order.
- 5.2 **Data Sharing, Access and Security.** Provider acknowledges that the information available through the Services (as that term is defined within the Agreement) may include personally identifiable information, including but not limited to, driver's license numbers or dates of birth, and Provider will keep all such information confidential and secure in compliance with its obligations under the Agreement. Accordingly, Provider shall (a) require that any individual or entity acting under the authority of Provider and who has access to personal data does not process such data except as required to do so by Agency or as provided under this Agreement, unless required to do so by applicable law. Such individuals or entities are committed to maintaining confidentiality of such personal data as required by law; and (b) have access control and management including the identification, authentication and control of access to, and use of, information, facilities, networks, computers and software including deactivation of credentials when no longer needed. Additionally, Provider shall have in place documented policies and procedures, which shall be reviewed, and if appropriate, tested and updated, as appropriate, covering the administrative, physical and technical safeguards in place and relevant to the access, use, loss, alteration, disclosure, storage, destruction and control of information and which are measured against objective standards and controls. Such program shall comply with all applicable laws.

- 5.3 **Storage and Daily Backup.** Provider shall maintain appropriate backup, disaster recovery and business continuity plans including, for example, the ability to restore the availability and access to personal data in a timely manner in the event of a physical or technical incident
- 5.4 **Loss of Data, Irregularities and Recover.** The loss of data, as well as other issues that impact data integrity, such as, unauthorized data access by personnel are addressed in the Agreement, as well as appropriate responsibility and liability in regard to such an event. Processes have been implemented to ensure the protection of the data through various measures, such as, firewalls, etc. The electronic data shall be backed up in compliance with Provider's internal policies and procedures to enable its restoration to the extent possible, in the event the data needs to be recovered or is lost.
- 5.5 **Data Retention and Redundancy.** The Agency-provided Reports will be maintained by Provider using its scalable storage capabilities at no cost to the Agency. The parties do not anticipate that the storage requirements in regard to the Agency-provided Reports will exceed Provider's capacity or entail any additional charges in connection with the Services provided by Provider under the Agreement. The electronic crash Reports will be stored, minimally, for the time period required by law and as provided in Section 5.1 above. Provisions for the destruction of crash Reports will be in accordance with applicable records retention laws and Provider's corporate records retention policies.
- 5.6 **Data Usage:** All crash Reports must be electronically transmitted by Provider to the Illinois Department of Transportation upon Agency Report approval. The Agency retains the right to extract copies of Agency's crash Reports and associated data therefrom LexisNexis Command Center to publish statistics as required for annual reporting to the public and other authorized entities.

6. **TERMS AND TERMINATION.**

- 6.1 **Term.** This Agreement shall commence upon the Effective Date and shall continue until terminated in accordance with this Agreement. Each Order shall set forth the specified term for the particular Service.
- 6.2 **Termination.**
- 6.2.1. Either Party may terminate this Agreement or any Order for cause if the other Party breaches a material obligation under the terms of this Agreement and fails to cure such breach within thirty (30) days of receiving written notice thereof from the non-breaching Party, provided, however, that if such material breach is of a nature that it cannot be cured, immediate termination shall be allowed. Failure to pay by either Party shall be considered a material default.
- 6.2.2. Either Party may elect to terminate this Agreement or any Order by providing written notice to the other of such intent, at least ninety (90) days prior to the end of the applicable Order term.
- 6.2.3. Provider may, upon six (6) months written notice to Agency, terminate any Service that will no longer be supported or offered by Provider. Provider will make reasonable efforts to transition Agency to a similar Service, if available. Further, Provider may at any time cease to provide Agency access to any portions of features of the Services thereof which Provider is no longer legally or contractually permitted to provide.
- 6.3 **Effect of Termination.** Upon termination of this Agreement, each Party shall be liable for payment to the other Party of all amounts due and payable for Services provided through the effective date of such termination. Upon receipt of Agency's written request after termination, Provider shall provide Agency with access to Reports provided by Agency under this Agreement and/or data provided through provision of the Services by Agency under an applicable Order so Agency may download and/or copy such information. Provider shall not be obligated to delete from its databases (or from other storage media) and/or return to Agency, Reports already provided to Provider by Agency, and shall be permitted to continue to maintain and distribute the Reports already in its possession to Authorized Requestors in compliance with applicable laws and regulations.
7. **RELEVANT LAWS.** Each party shall comply with all applicable federal, state, and local laws and regulations related to its performance hereunder, including:
- 7.1 **Fair Credit Reporting Act.** The Services provided pursuant to this Agreement are not provided by "consumer reporting agencies" as that term is defined in the Fair Credit Reporting Act (15 U.S.C. § 1681, et seq.) ("FCRA") and do not constitute "consumer reports" as that term is defined in the FCRA. Agency certifies that it will not use any of the information it receives

through the Services in whole or in part as a factor in determining eligibility for credit, insurance, or employment or for any other eligibility purpose that would qualify the information in as a consumer report.

- 7.2 Protected Health Information. Unless otherwise contemplated by an applicable Business Associate Agreement executed by the Parties, Agency will not provide Provider with any Protected Health Information (as that term is defined in 45 C.F.R. Sec. 160.103) or with Electronic Health Records or Patient Health Records (as those terms are defined in 42 U.S.C. Sec. 17921(5), and 42 U.S.C. Sec. 17921(11), respectively) or with information from such records without the execution of a separate agreement between the Parties.
- 7.3 Social Security Numbers. Social Security Numbers may be available hereunder as part of Reports and/or related data provided from certain states. However, Agency shall not provide Social Security Numbers to Provider under any circumstances under this Agreement. Should Agency require more information on Social Security Numbers or its obligations in relation thereto, Agency should contact Provider Agency Service at 1-866-215-2771 for assistance.
- 7.4 Privacy Principles. Agency shall comply with the "Provider Data Privacy Principles" available at <http://www.lexisnexis.com/privacy/data-privacy-principles.aspx>, as updated from time to time. Provider shall notify Agency in writing in the event that material changes are made to the Provider Data Privacy Principles.
- 7.5 Security. Agency agrees to protect against the misuse and/or unauthorized access of the Services provided to Agency in accordance with this Agreement and as set forth in Exhibit A, attached hereto.
- 7.6 Additional Requested Terms and Conditions. Provider acts on behalf of Agency in carrying out Agency's obligations to provide public access to vehicle accident reports under applicable public record laws. Provider will accordingly follow the instruction and direction of Agency in fulfilling requests for Agency's Reports. Should Agency require any specific terms and conditions for the disclosure or use of Reports on Provider's eCommerce web portal beyond the terms and conditions otherwise defined herein, including any conditions relating to compliance with any laws restricting the disclosure, obtainment or use of Agency's Reports, Agency will notify Provider within four (4) business days of Agency's decision. Otherwise, Provider will rely on Agency to determine that all legal conditions relating to the disclosure, obtainment, and use of Agency's Reports have been met when Agency authorizes Provider to disclose Agency's Reports to Authorized Requestors on Provider's eCommerce web portal pursuant to this Agreement.

8. CONFIDENTIAL INFORMATION AND INTELLECTUAL PROPERTY OWNERSHIP.

- 8.1 Definition. "Confidential Information" means all non-public information provided by the disclosing Party to the receiving Party hereunder, including, without limitation, the terms of this Agreement, all information related to technical, financial, strategies and related information, business information, computer programs, algorithms, know-how, processes, databases, systems, ideas, inventions (whether patentable or not), schematics, Trade Secrets (as defined by applicable law) and other information (whether written or oral). Notwithstanding the foregoing, Provider acknowledges that Agency requires board approval for this Agreement, which includes advance distribution and discussion among Agency staff, and the meeting itself is conducted in accordance with public records and open meetings laws, and is posted online on Agency's website in connection with the agenda for said meeting. Any disclosure required to obtain board approval shall be in accordance with Section 8 of this Agreement. Confidential Information does not include Reports and information related thereto. Confidential Information does not include information that was, at the time of the disclosure: (a) or becomes (through no improper action or inaction by the recipient) generally known to the public; (b) lawfully disclosed to recipient by a third-party and received in good faith and without any duty of confidentiality by the recipient or the third-party; (c) in recipient's possession or known to it prior to receipt from discloser; or (d) independently developed by recipient; provided in each case that such forgoing information was not delivered to or obtained by recipient as a result of any breach of this Agreement.
- 8.2 Treatment of Confidential Information. Each Party agrees to protect the Confidential Information with the same degree of care it uses to protect its own confidential information of a similar nature, but not less than a reasonable standard of care and not to use the other Party's Confidential Information other than as necessary to perform its obligations or as permitted under this Agreement. A Party shall not remove or destroy any proprietary or confidential legends or markings placed upon or contained within any Confidential Information.
- 8.3 Exception for Subpoenas and Court Orders and Freedom of Information Laws Requests. A Party may disclose Confidential Information solely to the extent required by subpoena, court order or other governmental authority, or Illinois Freedom of Information Act, 5 ILCS 140/1 et. Seq., ("IL FOIA"), provided that the receiving Party provides the disclosing Party prompt written notice of such subpoena, court order or other governmental authority or IL FOIA request ("FOIL Request") so as to allow the disclosing Party an opportunity (within the applicable time limits under the IL FOIA and FOIL Request) to obtain a protective order to prohibit or limit such disclosure at its sole cost and expense. If information is disclosed pursuant to a public

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records request, the receiving party will take reasonable steps to limit any such provision of Confidential Information to the specific information requested. Confidential Information disclosed pursuant to subpoena, court order or other governmental authority, or IL FOIA, shall otherwise remain subject to the terms applicable to Confidential Information.

- 8.4 **Duration.** Each Party's obligations with respect to Confidential Information shall continue for the term of this Agreement and for a period of five (5) years after termination of this Agreement, provided however, that with respect to Trade Secrets, each Party's obligations shall continue for so long as such Confidential Information continues to constitute a Trade Secret.
- 8.5 **Return of Confidential Information.** Upon the written request of a Party (and except as otherwise specifically set forth in an applicable Order), each Party shall return or destroy (and certify such destruction in a signed writing) any of the other Party's Confidential Information unless retention of such information is required by law, regulation, court order, or other similar mandate.
- 8.6 **Injunctive Relief.** In the event of a breach or a threatened breach of the confidentiality or privacy provisions of this Agreement, the non-breaching Party may have no adequate remedy in monetary damages and, accordingly, may seek an injunction against the breaching Party.
- 8.7 **Other.** During the term of this Agreement and subject to approval by Agency, Agency agrees to serve as a reference for the Services, which may include (i) reference calls with mutually acceptable prospects; (ii) a published "success story" describing the partnership with Provider; (iii) the use of Agency's name in Provider marketing activities; or (iv) a favorable reference of Provider to an industry analyst or at an industry conference.

9. **PROVIDER AUDIT RIGHTS AND RIGHT TO SELL CRASH REPORTS.** Agency understands and agrees that, in order to ensure Agency's compliance with the Agreement, as well as with applicable laws, regulations and rules, Provider's obligations under its contracts with its data providers, and Provider's internal policies, Provider may conduct periodic reviews of Agency's use of the services and may, upon reasonable notice, audit Agency's records, processes and procedures related to Agency's use, storage and disposal of the Services and information received therefrom. Notwithstanding the foregoing, the Provider shall not have access to the Agency's Record Management System ("RMS") or its Computer Aided Dispatch ("CAD") system or records. Agency agrees to cooperate fully with any and all audits and to respond to any such audit inquiry within ten (10) business days, unless an expedited response is required. Violations discovered in any review and/or audit by Provider will be subject to immediate action including, but not limited to, invoicing for any applicable fees (if Services are based on number of users and Agency's use exceeds licenses granted), suspension or termination of the license to use the Services, legal action, and/or referral to federal or state regulatory agencies.

Crash Report Sale Rights. In exchange for the Services provided to Agency, Agency agrees that Provider shall have the sole and exclusive right to sell the Agency's crash reports online and to distribute data extracted from the Reports, subject to the Agency's rights as stated in Section 5.6. Agency further retains the rights to fulfill requests for reports made pursuant IL FOIA and in accordance with this Agreement.

10. **REPRESENTATIONS AND WARRANTIES.** Agency represents and warrants to provider that Agency is fully authorized to disclose Reports, information, and related data or images to Provider in accordance with this Agreement and to grant Provider the rights to provide the Services as described herein. Where redaction of Reports is required prior to provision to Provider, Agency represents and warrants it will redact applicable Reports consistent with all laws and regulations. In performing their respective obligations under this Agreement, each Party agrees to use any data and provide any Services, in strict conformance with applicable laws and regulations, and further, to comply with all applicable binding orders of any court or regulatory entity and consistent with the terms of this Agreement.
11. **LIMITATION OF WARRANTY.** FOR PURPOSES OF THIS SECTION, "PROVIDER" INCLUDES PROVIDER AND ITS AFFILIATES, SUBSIDIARIES, PARENT COMPANIES, AND DATA PROVIDERS. THE SERVICES PROVIDED BY PROVIDER ARE PROVIDED "AS IS" AND WITHOUT ANY WARRANTY, EXPRESS, IMPLIED, OR OTHERWISE, REGARDING ITS ACCURACY OR PERFORMANCE INCLUDING WITHOUT LIMITATION ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, SUITABILITY, ORIGINALITY, OR OTHERWISE, OF ANY SERVICES, SYSTEMS, EQUIPMENT OR MATERIALS PROVIDED HEREUNDER.
12. **INDEMNIFICATION.** To the extent permitted under applicable law, each Party shall defend, indemnify, and hold harmless the other Party, its affiliates, and their officers, directors, employees, and agents (the "indemnified parties") against and from

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any and all losses, liabilities, damages, actions, claims, demands, settlements, judgments, and any other expenses (including reasonable attorneys' fees), which are asserted against the indemnified parties by a third party, but only to the extent caused by (i) violation of law in the performance of its obligations under this Agreement by the indemnifying Party, its affiliates, or the officers, agents or employees of such Party (the "indemnifying parties"); (ii) the gross negligence or willful misconduct of the indemnifying Parties during the term of this Agreement; (iii) violation, infringement or misappropriation of any U.S. patent, copyright, trade secret or other intellectual property right; or (iv) with respect to Agency, violation of any of the license terms or restrictions contained in this Agreement. The indemnities in this section are subject to the indemnified Parties promptly notifying the indemnifying Parties in writing of any claims or suits.

13. **LIMITATION OF LIABILITY.** To the extent permitted by applicable law, Provider's entire liability for any claims(s) resulting from its acts or omissions, including, but not limited to negligence claims under this Agreement shall not exceed the total amount of Fees actually received by provider from agency (excluding pass through or out of pocket expenses) for the specific services from which liability arises during the twelve (12) month period immediately preceding the event first giving rise to such liability, and if not yet in the twelfth (12th) month of this Agreement, for the period leading up to such event. To the extent the relevant services are made available at no cost to agency, then in no event shall Provider's liability to agency under this Agreement exceed one hundred dollars (\$100.00) in the aggregate. This limitation of liability will not apply to any claims, actions, damages, liabilities or fines relating to or arising from provider's gross negligence or willful misconduct. In no event shall Provider be liable for any indirect, special, incidental, or consequential damages in connection with this Agreement or the performance or failure to perform hereunder, even if advised of the possibility of such damages.
14. **FORCE MAJEURE.** Neither Party will be liable for any delay or failure to perform its obligations hereunder due to causes beyond its reasonable control, including but not limited to natural disaster, pandemic, casualty, act of god or public enemy, riot, terrorism, or governmental act; provided, however, that such Party will not have contributed in any way to such event. If the delay or failure continues beyond thirty (30) calendar days, either Party may terminate this Agreement or any impacted Order with no further liability, except that agency will be obligated to pay provider for the Services provided under this Agreement prior to the effective date of such termination.
15. **NOTICES.** All notices, requests, demands or other communications under this Agreement shall be in writing to the address set forth in the opening paragraph and shall be deemed to have been duly given: (i) on the date of service if served personally on the party to whom notice is to be given; (ii) on the day after delivery to a commercial or postal overnight carrier service; or (iii) on the fifth day after mailing, if mailed to the Party to whom such notice is to be given, by first class mail, registered or certified, postage prepaid and properly addressed. Any Party hereto may change its address for the purpose of this section by giving the other party timely, written notice of its new address in the manner set forth above.
16. **MISCELLANEOUS.**
 - 16.1 Affiliates. For purposes of this Agreement, "Affiliate" means any corporation, firm, partnership or other entity that directly or indirectly controls, or is controlled by, or is under common control with Provider. Affiliates shall not be bound by the terms and conditions of this Agreement with respect to the provision of their applicable Services hereunder and nothing in this Agreement shall prevent or limit Affiliates from offering previously purchased Reports or data extracted from Reports for sale.
 - 16.2 Independent Contractor/No Agency. Each Party acknowledges that it has no authority to bind or otherwise obligate the other Party.
 - 16.3 Assignment. Neither Party shall assign this Agreement in whole or in part without the prior written consent of the other Party, and any such attempted assignment contrary to the foregoing shall be void. Notwithstanding the foregoing, an assignment by operation of law, as a result of a merger or consolidation of a Party, does not require the consent of the other Party. This Agreement will be binding upon the Parties' respective successors and assigns.
 - 16.4 Headings, Interpretation, and Severability. The headings in this Agreement are inserted for reference only and are not intended to affect the meaning or interpretation of this Agreement. The language of this Agreement shall not be construed against either Party. If any provision of this Agreement shall be held to be invalid, illegal, or unenforceable, the validity, legality, or enforceability of the remaining provisions shall not in any way be affected or impaired thereby.

- 16.5 Waiver; Remedies Non-Exclusive. No failure or delay on the part of any Party in exercising any right or remedy provided in this Agreement will operate as a waiver thereof. Unless otherwise provided herein, any remedy will be cumulative to any other right or remedy available at law or in equity.
- 16.6 Survival. Sections 2-4, 7-12, and 15 shall survive the termination or rescission of this Agreement.
- 16.7 Provider Shared Facilities. Provider may utilize facilities located outside the United States to provide support or the Services under this Agreement, and if such centers are utilized they shall be under the control of Provider and subject to all Provider policies that govern data access, protection and transport in the United States.
- 16.8 Entire Agreement. This Agreement represents the entire Agreement of the Parties and supersedes all previous and contemporaneous communications or agreements regarding the subject matter hereto. Agency by its signature below hereby certifies that Agency agrees to be bound by the terms and conditions of this Agreement including those terms and conditions posted on web pages specifically set forth herein or contained with any software provided under this Agreement, as may be updated from time to time. Any additional terms or conditions contained in purchase orders or other forms are expressly rejected by Provider and shall not be binding. Acceptance or non-rejection of purchase orders or other forms containing such terms; Provider's continuation of providing Products or Services; or any other inaction by Provider shall not constitute Provider's consent to or acceptance of any additional or different terms from that stated in this Agreement. This Agreement may only be modified by a written document signed by both Parties.
- 16.9 Governing Law. The Agreement will be governed by and construed under the laws of the State of Illinois excluding its conflict of law rules.

17. INSURANCE.

- 17.1 Provider shall procure and maintain for the duration of the Agreement insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder by Provider, its agents, representatives, or employees. Provider shall procure and maintain for the duration of the Agreement and thereafter as provided herein, insurance against claims arising out of their services and including, but not limited to loss, damage, theft or other misuse of data, infringement of intellectual property, invasion of privacy and breach of data.
- 17.2 Minimum Scope and Limit of Insurance. Coverage shall be as broad as:
 - 17.2.1 Commercial General Liability (CGL): Insurance Services Office Form CG 00 01 covering CGL on an "occurrence" basis, including products and completed operations, property damage, bodily injury and personal & advertising injury with limits no less than \$10,000,000 per occurrence, and a general aggregate limit of \$10,000,000.
 - 17.2.2 Cyber Liability Insurance or Technology Professional Liability (Errors and Omissions) Insurance with limits not less than \$10,000,000 per occurrence or claim, \$10,000,000 aggregate. Coverage shall be sufficiently broad to respond to the duties and obligations as is undertaken by Provider in this Agreement and shall include, but not be limited to, claims involving infringement of intellectual property, including but not limited to infringement of copyright, trademark, trade dress, invasion of privacy violations, information theft, damage to or destruction of electronic information, third party liability arising out of cyber-related events, release of private information, alteration of electronic information, extortion and network security. The policy shall provide coverage for breach response costs as well as regulatory fines and penalties as well as credit monitoring expenses with limits sufficient to respond to these obligations.
 - 17.2.3 If Provider maintains broader coverage and/or higher limits than the minimums shown above, the Agency requires and shall be entitled to the broader coverage and/or higher limits maintained by Provider. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to the Agency.
- 17.3 Other Insurance Provisions. The insurance policies are to contain, or be endorsed to contain, the following provisions:
 - 17.3.1 Additional Insured Status. The Village of Bartlett and the Bartlett Police Department, and each of its officers, officials, employees, and volunteers are to be covered as additional insureds on the CGL policy with respect to liability arising out of work or operations performed by or on behalf of Provider including materials, parts or equipment furnished in connection with such work or operations performed or on behalf of Provider including materials, parts, or equipment

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furnished in connection with such work or operations. General liability coverage can be provided in the form of an endorsement to the Provider's insurance (at least as broad as ISO Form CG 20 10 11 85 or both CG 20 10, CG 20 26, CG 20 33, or CB 20 38; and CG 20 37 forms if later revisions used).

17.3.2 Primary Coverage. For any claims related to the Agreement, Provider's insurance coverage shall be primary insurance primary coverage at least as broad as ISO CG 20 01 04 13 as respects the Village of Bartlett, the Agency and their respective officers, officials, employees, and volunteers.

17.3.3 Notice of Cancellation. Provider shall provide 30 days' notice prior to the cancellation of the CGL policy.

17.3.4 Waiver of Subrogation. Provider hereby grants to the Agency a waiver of any right to subrogation which any insurer of Provider may acquire against the Agency by virtue of the payment of any loss under such insurance. Provider agrees to obtain any endorsement that may be necessary to affect this waiver of subrogation, but this provision applies regardless of whether or not the Agency has received a waiver of subrogation endorsement from the insurer.

17.3.5 Acceptability of Insurers. Insurance is to be placed with insurers with a current A.M. Best's rating of not less than A:VII, unless otherwise acceptable to the Agency.

17.3.6 Claims Made Policies. If any of the required policies provide coverage on a claims-made basis:

17.3.6.1 The Retroactive Date must be shown and must be before the date of the contract or the beginning of contract work.

17.3.6.2 Insurance must be maintained and evidence of insurance must be provided for at least three (3) years after completion of the contract of work.

17.3.6.3 If coverage is canceled or non-renewed, and not replaced with another claims-made policy form with a Retroactive Date prior to the contract effective date, Provider must purchase "extended reporting" coverage for a minimum of three (3) years after completion of contract work.

17.3.7 Verification of Coverage. Provider shall furnish the Agency with original certificates and amendatory endorsements or copies of the applicable policy language effecting coverage required by this clause. All certificates and endorsements are to be received and approved by the Agency before the Services commence. However, failure to obtain the required documents prior to accessing and using the Services shall not waive Provider's obligation to provide them.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed by their respective authorized representatives as of the Effective Date.

Agency: **Village of Bartlett on behalf of
Bartlett Police Department**

Provider: **LexisNexis Coplogic Solutions Inc.**

Signature: _____

Signature: _____

Printed Name: _____

Printed Name: _____

Title: _____

Title: _____

Date: _____

Date: _____

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EXHIBIT A - SECURITY AND NOTIFICATION REQUIREMENTS

1. **Data Protection.** Agency shall take appropriate measures to protect against the misuse and unauthorized access through or to Agency's (i) credentials ("Account IDs") used to access the Services; or (ii) corresponding passwords, whether by Agency or any third party; or (iii) the Services and/or information derived therefrom. Agency shall manage identification, use, and access control to all Account IDs in an appropriately secure manner and shall promptly deactivate any Account IDs when no longer needed or where access presents a security risk. Agency shall implement its own appropriate program for Account ID management and shall use commercially reasonable efforts to follow the policies and procedures for account maintenance as may be communicated to Agency by Provider from time to time in writing.
2. **Agency's Information Security Program.** Agency shall implement and document appropriate policies and procedures covering the administrative, physical and technical safeguards in place and relevant to the access, use, storage, destruction, and control of information which are measured against objective standards and controls ("Agency's Information Security Program"). Agency's Information Security Program shall: (1) account for known and reasonably anticipated threats and Agency shall monitor for new threats on an ongoing basis; and (2) meet or exceed industry best practices. Agency will promptly remediate any deficiencies identified in Agency's Information Security Program. Agency shall not allow the transfer of any personally identifiable information received from Provider across any national borders outside the United States without the prior written consent of Provider.
3. **Agency Security Event.** In the event Agency learns or has reason to believe that Account IDs, the Services, or any information related thereto have been misused, disclosed, or accessed in an unauthorized manner or by an unauthorized person (an "Agency Security Event") Agency shall:
 - (i) provide immediate written notice to:
 - a) the Information Security and Compliance Organization at 1000 Alderman Drive, Alpharetta, Georgia 30005;
 - or
 - b) via email to (security.investigations@lexisnexis.com); or
 - c) by phone at (1-888-872-5375) with a written notification to follow within twenty four (24) hours; and
 - (ii) promptly investigate the situation; and
 - (iii) obtain written consent from Provider, not to be unreasonably withheld, prior to disclosing Provider or the Services to any third party in connection with the Agency Security Event; and
 - (iv) if required by law, or in Provider's discretion, Agency shall:
 - a) notify the individuals whose information was disclosed that an Agency Security Event has occurred; and
 - b) be responsible for all legal and regulatory obligations including any associated costs which may arise in connection with the Agency Security Event; and
 - (v) remain solely liable for all costs and claims that may arise from the Agency Security Event, including, but not limited to:
litigation (including attorney's fees); reimbursement sought by individuals (including costs for credit monitoring and other losses alleged to be in connection with such Agency Security Event); and
 - (vi) provide all proposed third party notification materials to Provider for review and approval prior to distribution.

In the event of an Agency Security Event, Provider may, in its sole discretion, take immediate action, including suspension or termination of Agency's account, without further obligation or liability of any kind.

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4. Provider's Security Program

- (i) Provider maintains an Information Security Program ("Program"), which shall (a) account for known and reasonably anticipated risks and threats, and Provider shall, on an ongoing basis, monitor for new threats; (b) meet or exceed industry best practices; (c) ensure the ongoing confidentiality, integrity, availability and resilience of processing systems and services. Provider will promptly remediate any deficiencies identified.
- (ii) The Program will be in writing, and at a minimum, address the following areas: (a) Access control management including identification authentication and control of access to, and use of, information, facilities, networks, computers and software including deactivation of credentials when no longer needed; (b) Network controls to prevent and detect malicious activities and segregate physical and logical access; and (c) Virus and malicious software detection, response and eradication performed on a timely basis.
- (iii) The Program will require that any individual or entity acting under the authority of Provider and who has access to Reports does not process such Reports except as required to do so by Agency, this Agreement, or unless required to do so by applicable law, and that such individuals or entities are committed to maintaining confidentiality of such Reports as required by law.
- (iv) Provider shall implement and maintain business continuity/disaster recovery policies and procedures that address Provider's ability to provide protection to the security, integrity, and availability of information technology systems and software, and any other key information, used by Provider in the performance of its obligations under this Agreement during a business disruption. At a minimum, such policies and procedures shall include risk assessment and controls for (a) resumption of Provider business operations, including system and data access; (b) incident response; and (c) security of data and information.

Order No. 1
LexisNexis® eCrash

This Order No. 1 ("Order") is entered into this _____ as of the 1st day of September _____, 2020 ("Order Effective Date") between the Village of Bartlett, an Illinois municipal corporation of Cook, DuPage and Kane Counties, Illinois, by and through the Bartlett Police Department ("Agency") and LexisNexis Coplogic Solutions Inc. ("Provider") and subject to the terms and conditions of the Law Enforcement Agreement effective September 1 _____, 2020 ("Agreement") between the Parties.

1. **TERMS AND CONDITIONS.** All of the terms and conditions contained in the Agreement shall remain in full force and effect and shall apply to the extent applicable to this Order except as expressly modified herein. To the extent that the terms and conditions of this Order are in conflict with the terms and conditions of the Agreement, or any other incorporated item, this Order shall control. Capitalized terms used herein but not defined shall have the same meaning as set forth in the Agreement.
2. **DESCRIPTION OF SERVICES.** Provider, as part of its business has developed and makes available to law enforcement entities a solution called LexisNexis® eCrash that enables for the collection and the online distribution of Reports via Provider's eCommerce portal(s), LexisNexis® Police Reports.com, or its successor(s). In exchange for the Services provided to Agency, Agency agrees that Provider shall have the sole and exclusive right to sell the Agency's crash Reports online and to distribute data extracted from the Reports. Agency retains the rights to fulfill requests for a Report made pursuant to state freedom of information laws.
3. **SCOPE OF SERVICES.** Provider agrees to provide the following Services to Agency subject to the provisions of this Order. Any change to the Services as set forth in this Order that occur after the Order Effective Date must be made by amendment to this Order, signed by both Parties. Provider will provide the following Services subject to Agency's technology capabilities, processes, and work-flow functionality:
 - 3.1. Permit connection of Provider's application on Agency's application-compatible computing devices, with the following features:
 - a) Integrated crash scene diagramming
 - b) Ability to interface with NCIC, NLETS, and state databases to auto-populate Reports with applicable data (in participating states)
 - c) Voice response (in participating states)
 - d) Online agency administration portal to view Reports, generate analytics, and obtain information related to Agency's Reports
 - 3.2. Establish a communication protocol to electronically or manually transfer Reports in a timely manner from Agency to Provider
 - 3.3. Provide Report retention and distribution services as set forth in in Section 5 of the Agreement
 - 3.4. Other Services: Provider will electronically transmit all Crash Report data to the Illinois Department of Transportation.
4. **TERM AND TERMINATION.** This Order shall commence upon the Order Effective Date and shall continue for an initial term of thirty six (36) months ("Initial Term"), whereupon this Order shall automatically renew for additional twelve (12)

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month periods ("Renewal Term") unless either Party provides written notice to the other Party, at least sixty (60) days prior to the expiration of the Renewal Term.

5. **FEES.** Pursuant to Section 4 of the Agreement, the Agency Fee is Five Dollars and 00/100 (\$5.00). There shall be no fee to Agency for the Services.

5.1. For the avoidance of doubt, no Agency Fee will be paid with respect to the following:

- a) When an Affiliate of Provider has paid an Agency Fee to acquire a Report for an Authorized Requestor and such Affiliate later resells that Report from its inventory of previously purchased Reports to another Authorized Requestor; or
- b) When one or more components of a Report (e.g., VIN number) is provided to an Authorized Requestor or an Affiliate of Provider by Provider rather than the entirety of the Report being provided; or
- c) When a Report is acquired by an Affiliate of Provider from a source other than the eCommerce portal set forth on the applicable Order; or
- d) When a fee is not charged to an Authorized Requestor for the Report.

Nothing in this Order shall require Provider or its Affiliate to pay an Agency Fee to the Agency when an Authorized Requestor provides a Report and/or specific data extracted from the Report to a third party after the Authorized Requestor has purchased such Report from the Affiliate's inventory of previously purchased reports. Agency acknowledges that all reports requested by Agency Requestors shall be provided free of charge.

IN WITNESS WHEREOF, the Parties have caused this Order to be executed by their respective authorized representatives as of the Effective Date.

Agency: **Village of Bartlett on behalf of Bartlett
Police Department**

Signature: _____

Printed Name: _____

Title: _____

Date: _____

Provider: **LexisNexis Coplogic Solutions Inc.**

Signature: _____

Printed Name: _____

Title: _____

Date: _____

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