



TOWN OF MIDDLEBURY

Office of the Selectmen

MINUTES
MEETING OF THE BOARD OF SELECTMEN
Monday, November 21, 2016 – 6:00 p.m.
Town Hall Conference Room

Present: Edward B. St. John, First Selectman
Elaine M. Strobel, Selectman
Michael J. McCormack, Selectman

Also Present: Attorney Robert Smith
Barbara J. Whitaker, Recording Clerk
Marj Needham, Reporter – Bee Intelligencer
Linda Zukauskas, Reporter - Voices

Call to Order with Pledge of Allegiance

The meeting was called to order by the First Selectman with the Pledge of Allegiance.

Approval of November 7, 2016 Meeting Minutes

Selectman Strobel MOTIONED to approve the minutes of the November 7, 2016 meeting, SECONDED by Selectman McCormack. Unanimous approval.

Tax Rebates

Jennifer L. Noel, Middlebury, CT

\$15.75

First Selectman St. John MOTIONED that the above-mentioned rebate take its normal course, SECONDED by Selectman Strobel. Unanimous approval.

Appointments

Selectman Strobel MOTIONED that Paul Bialobrzkeski (R) be appointed to the Greenway Committee for a term from November 21, 2016 through November 21, 2020, SECONDED by Selectman McCormack. Unanimous approval.

Reappointments

Selectman Strobel MOTIONED that Nancy G. Mastroianni (R) be reappointed as a member of the Commission on Aging for a term from November 18, 2016 through November 18, 2018, SECONDED by Selectman McCormack. Unanimous approval.

Discussion and Consideration

First Selectman St. John MOTIONED to accept the NexGen Agreement (attached) SECONDED by Selectman Strobel. Unanimous approval.

First Selectman St. John added that Northwest Public Safety and the Town of Middlebury would be adapting to the NexGen product. Former Chief Jim Viadero, now Chief in Newtown speaks very highly about the reputable product and the system will also be used by the City of Waterbury.

Adjournment

Selectman Strobel MOTIONED to ADJOURN the meeting, SECONDED by Selectman McCormack. Unanimous approval.

Respectfully submitted,

Barbara J. Whitaker

Barbara J. Whitaker
Recording Clerk

RECEIVED FOR FILING
JUN 22 2016 at 11:55 AM
TOWN CLERK'S OFFICE
MIDDLEBURY, CT
[Signature]
TOWN CLERK

**NEXGEN SOLUTIONS, LLC
MASTER PURCHASE AGREEMENT**

THIS AGREEMENT is entered into between NexGen Solutions, LLC, 317 Foxon Road, East Haven, CT 06513, hereinafter referred to as NexGen, and the Town of Middlebury, CT hereinafter referred to as Purchaser.

THE PARTIES AGREE AS FOLLOWS:

STATEMENT OF WORK: NexGen agrees to sell and Purchaser desires to acquire the products described herein. This Master Purchase Agreement will cover the present sale as well as any subsequent sales of Products to Purchaser by NexGen.

PURCHASE ORDER: A purchase order or equivalent document authorizing procurement of the hardware, software and services itemized in The Quotation and indicating to whom invoices should be submitted must accompany this contract.

PAYMENT: A \$55,000.00 initial deposit is due and payable upon execution of this Agreement by the Purchaser. The remaining balances due shall be invoiced and paid according to the payment plan. NexGen may, without liability, suspend performance or cancel this Agreement if Purchaser is in default with this Agreement or any other agreement with NexGen. Where deliveries are scheduled in installments, Purchaser shall pay invoices per the above terms when due for each installment. Purchaser shall pay all applicable taxes. If Purchaser is exempt from one or more taxes, Purchaser must attach all necessary documentation of exempt status to the purchase order. Title to all hardware will remain with NexGen until payment in full is received by NexGen, at which time said title shall pass to the Purchaser. Title to all software shall remain the sole property of the software vendor(s). License to use the software will pass to the Purchaser when payment in full is received by NexGen.

DELIVERY: NexGen shall not be liable for delay in delivery or for failure to give notice of delay when delay is due to conditions beyond NexGen's reasonable control. The delivery date shall be extended for a period equal to the time lost due to such delay. In the absence of specific instructions, NexGen will arrange for shipment. The carrier selected shall not be the agent of NexGen, nor shall NexGen assume any liability regarding shipment, including risk of loss or damage to items. All transportation charges shall be paid by Purchaser.

TRAVEL EXPENSES: Travel costs incurred for installation and training are included in the contract total and will not be billed separately to customer for actual travel and lodging expenses.

HARDWARE INSTALLATION: The Purchaser will be responsible for providing a suitable site with stable electrical power and adequate air conditioning for all computer hardware, as well as running cable supplied by NexGen through walls, across ceilings, etc., as required. If included on the Quotation, NexGen or its subcontractors will install all hardware provided under this agreement. Unless additional installation services are specifically itemized in The Quotation, all user-supplied hardware will be installed by NexGen on a time and expenses basis at the rate of \$125 per hour plus actual expenses, including travel, lodging, and per diem expenses.

SOFTWARE INSTALLATION: NexGen or its subcontractors will install all software provided under this agreement. Unless additional installation services are specifically itemized in the Quotation, all user-

supplied software will be installed by NexGen on a time and expenses basis at the rate of \$125 per hour plus actual expenses, including travel, lodging and per diem expenses.

TRAINING: NexGen will provide on-site training in the use of hardware and software provided under this agreement.

SOFTWARE:

NexGen warrants that all Software will conform to its Specifications and that the Products and Software delivered hereunder shall perform in conformance with those Specifications. NexGen shall replace all Software that is defective or not performing in accordance with the Specifications, at NexGen's sole expense.

NexGen represents that all Software and elements thereof, including but not limited to, documentation and source code, shall meet and be maintained by NexGen to conform to *industry standards*.

Custom modifications requested by the Purchaser to the NexGen developed software are considered at the sole discretion of NexGen, and any such modifications will be negotiated separately from this Agreement and will be at additional cost to the Purchaser. In addition, discussion or consideration of any such modification requests will not be addressed until the total contract price is paid in full and implementation is complete, as deemed by NexGen.

Purchaser may copy each item of Software to as many hard drives as it has licenses, and may copy said software to network servers to communicate with said separate hard drives.

Purchaser will make and maintain no more than one archival copy of each item of Software, and each copy will contain all legends and notices and will be subject to the same conditions and restrictions as the original. Purchaser may also make copies of the Software in the course of routine backups of hard drive(s) for the purpose of recovery of hard drive contents. Purchaser may use backup or archival copies of the Software, without reinstallation or interruption of production copy(ies), for disaster recovery exercises at its disaster recovery site(s), without additional charge. Purchaser may make these backup or archival copies available to the disaster recovery site(s)' employees who require use of the Software in order to assist Purchaser with disaster recovery exercises. Purchaser agrees that production use of the Software at the disaster recovery site(s) shall be limited to times when Purchaser's facilities, or any portion thereof, are inoperable due to emergency situations.

Business or Support Termination Rights. In the event that NexGen shall, for any reason, cease to conduct business, or cease to support the Software licensed under this Contract, Purchaser shall have a right to convert the Software licenses into perpetual licenses, with rights of quiet enjoyment, but subject to payment obligations not to exceed the Contract Prices.

Ownership/Rights in Data: Purchaser and NexGen agree that all data and work products (collectively called "Work Product") produced pursuant to this Contract shall be considered work made for hire under the U.S. Copyright Act, 17 U.S.C. §101 *et seq*, and shall be owned by Purchaser.

SYSTEM SUPPORT: NexGen will transfer the respective vendor's Technical Support Service (TSS) for the software products provided in this agreement and are outlined on the attached Technical Support Service Terms and Conditions. Technical Support Services will be made available to purchaser after the

first 90 days at the then current purchase price and billed annually in advance. Subscription to this is optional on the part of the purchaser.

Site Security: While on Purchaser's premises, NexGen, its agents, employees, or Subcontractors shall conform in all respects with physical, fire, or other security regulations.

Protection of Purchaser's Confidential Information: NexGen acknowledges that some of the material and information that may come into its possession or knowledge in connection with this Contract or its performance may consist of information that is exempt from disclosure to the public or other unauthorized persons under state or federal statutes ("Confidential Information"). Confidential Information includes, but is not limited to, names, addresses, Social Security numbers, e-mail addresses, telephone numbers, financial profiles, credit card information, driver's license numbers, medical data, law enforcement records, agency source code or object code, agency security data, or information identifiable to an individual that relates to any of these types of information. NexGen agrees to hold Confidential Information in strictest confidence and not to make use of Confidential Information for any purpose other than the performance of this Contract, to release it only to authorized employees or Subcontractors requiring such information for the purposes of carrying out this Contract, and not to release, divulge, publish, transfer, sell, disclose, or otherwise make the information known to any other party without Purchaser's express written consent or as provided by law. NexGen agrees to release such information or material only to employees or Subcontractors who have signed a nondisclosure agreement, the terms of which have been previously approved by Purchaser. NexGen agrees to implement physical, electronic, and managerial safeguards to prevent unauthorized access to Confidential Information.

Immediately upon expiration or termination of this Contract, NexGen shall, at Purchaser's option: (i) certify to Purchaser that NexGen has destroyed all Confidential Information; or (ii) return all Confidential Information to Purchaser; or (iii) take whatever other steps Purchaser requires of NexGen to protect Purchaser's Confidential Information.

FORCE MAJURE: The parties to this Agreement shall be excused from performance thereunder during the time and to the extent that they are prevented from obtaining, delivering or performing by Act of God, fire, strike, power outages, loss or shortage of transportation facilities, lock out or commandeering of materials, products, plans or facilities by the government when satisfactory evidence thereof is not due to the fault or neglect of the party not performing.

ENTIRE AGREEMENT: The Agreement, Software License Agreement(s), and Technical Support Service Terms and Conditions contain all the terms and conditions of this transaction.

WARRANTY:

- A. Except as noted below, NexGen warrants that (i) NexGen developed software furnished by NexGen constitutes an accurate manufacture of NexGen's software, and (ii) NexGen will replace any NexGen developed software proven to be defective for a period of 90 days, provided that the Purchaser gives written notice of such defect to NexGen within 30 days of purchase. Technical support will be provided by telephone to assist with the repair of any defective software. In the event that on-site support is required by NexGen personnel, the Purchaser will be subject to additional billing for any labor, travel, material and other

expenses incurred. All time expended by NexGen for on-site support or any of the above exclusions will be billable at \$125 per hour, plus expenses and materials.

- B. The above warranties extend only to Purchaser and shall not be assigned or altered except by a writing signed by an authorized representative of NexGen at East Haven, CT. The above warranties are contingent upon the proper use of the hardware and/or software, and do not apply to hardware and/or software on which the original identification marks have been removed or altered, and do not apply to defects or failures due to (i) accident, neglect or misuse; (ii) failure or defect of electrical power, external electrical circuitry, air conditioning or humidity control; (iii) the use of items not provided by NexGen; (iv) unusual stress or Acts of God, (v) any party other than NexGen modifying, adjusting, repairing, servicing or installing the hardware and/or software.
- C. All warranties in this Agreement apply only to NexGen developed software. Non-NexGen equipment and/or software is sold subject to the warranties and limitations of the manufacturer, and NexGen makes no representations as to whether those warranties or limitations will extend or apply to Purchaser. NexGen will provide a 90-day labor warranty on NexGen provided equipment and non-NexGen developed software. NexGen shall not be the agent of any other manufacturer, nor will NexGen warrant or assume liability for any items produced by other manufacturers.

NO OTHER WARRANTIES:

EXCEPT AS PREVIOUSLY STATED ABOVE, THERE ARE NO WARRANTIES, EXPRESS OR IMPLIED, BY OPERATION OF LAW OR OTHERWISE, OF HARDWARE.

LIMITATION OF REMEDY AND LIABILITY:

- A. **Remedy and Liability:** In the case of a NexGen product proven to be defective, NexGen's entire liability and Purchaser's exclusive remedy shall be, at NexGen's option, either (i) replacement of the defective product; or (ii) return of the price paid for the defective product.
- B. **General Limitation:** IN NO EVENT SHALL NEXGEN BE LIABLE FOR (i) ANY DAMAGES RESULTING FROM PURCHASER'S FAILURE TO PERFORM PURCHASER'S OBLIGATIONS; (ii) ANY INCIDENTAL, INDIRECT, SPECIAL OR CONSEQUENTIAL DAMAGES WHATSOEVER (INCLUDING, BUT NOT LIMITED TO, LOST PROFITS AND DAMAGES RESULTING FROM LOSS OF USE OR LOST DATA), EVEN IF NEXGEN HAD BEEN ADVISED, KNEW OR SHOULD HAVE KNOWN OF THE POSSIBILITY THEREOF, OR (iii) ANY CLAIM BY ANY OTHER PARTY.

ACCEPTANCE: Items shall be deemed accepted by Purchaser upon successful operation using NexGen's then standard procedures and diagnostic test programs.

SUBSTITUTIONS AND MODIFICATIONS: NexGen reserves the right to make substitutions and modifications in the design and/or specifications of items provided by NexGen, providing that such substitutions or modifications do not materially and adversely affect performance of the item.

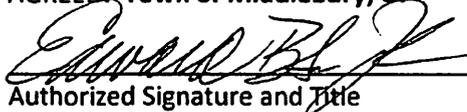
RETURN POLICY: If Purchaser cancels an order or portion of an order, NexGen will accept a hardware or software product return only with prior advance authorization from NexGen, and (i) only if allowed by the appropriate vendor, (ii) only if the product has not been opened, and (iii) only if the product's seal has not been broken. Upon receipt of the returned product(s) NexGen will credit the Purchaser the purchase price less a restocking charge of 25% (or a restocking fee greater than 25% and as defined by

the appropriate vendor) of the purchase price. It shall be the Purchaser's responsibility to pay for all return shipping fees to NexGen for the returned product(s). NexGen will not authorize any returns for products that have been opened and/or have damaged product seals. In light of this policy, it is the Purchaser's responsibility to validate the make and model number indicated on the package exterior before opening any hardware or software products.

CANCELLATION: If Purchaser cancels any order or if NexGen cancels any order due to (i) Purchaser's failure to comply with any of the terms and conditions of this Agreement or (ii) Purchaser's failure to maintain credit, Purchaser agrees to reimburse NexGen for all costs incurred by NexGen as a result of the cancellation of the order. Any delay in scheduled delivery caused by Purchaser may be treated as a cancellation at NexGen's option.

GENERAL: NexGen shall have no obligation under an order placed under this Agreement until a written acceptance thereof is dispatched to Purchaser by a duly authorized agent of NexGen at East Haven, CT. The terms and conditions of this Agreement shall prevail notwithstanding any variations or additions contained in any order or other document submitted by Purchaser and NexGen hereby rejects all variations and additions. NO MODIFICATION, TERMINATION, EXTENSION, RENEWAL OR WAIVER OF, NOR ADDITION TO THE TERMS AND CONDITIONS OF THIS AGREEMENT SHALL BE BINDING UPON NEXGEN UNLESS SPECIFICALLY SET FORTH IN A WRITING SIGNED BY AN AUTHORIZED REPRESENTATIVE OF NEXGEN AT EAST HAVEN, CT. This Agreement shall be governed by the laws of Connecticut. Purchaser shall neither assign any right nor delegate any obligation under this Agreement and any attempted assignment or delegation shall be void. Each Party shall pay all costs and expenses, including reasonable attorney's fees incurred by the other party, to the extent that the other party is successful in enforcing any of the rights contained hereunder. IN ADDITION TO THE LISTED ITEM(S), ANY OTHER ITEM FURNISHED OR SERVICE PERFORMED BY NEXGEN FOR PURCHASER IN THE FURTHERANCE OF THIS AGREEMENT, ALTHOUGH NOT SPECIFICALLY IDENTIFIED HEREIN, SHALL NONETHELESS BE COVERED BY THIS AGREEMENT UNLESS SUCH ITEM OR SERVICE IS SPECIFICALLY COVERED BY A WRITTEN AGREEMENT EXECUTED BY PURCHASER AND AN AUTHORIZED AGENT OF NEXGEN. This Agreement is the complete and exclusive statement of the agreement between the parties and supersedes all prior oral and written communications, proposals, agreements, representations, statements, negotiations and undertakings between the parties with respect to items ordered hereunder.

AGREED: Town of Middlebury, CT


Authorized Signature and Title

11/22/16
Date

AGREED: NexGen Solutions, LLC


Authorized Signature and Title

Date

RECEIVED FOR FILING

NOV 22 2016 at 11:55 AM

TOWN CLERK'S OFFICE
MIDDLEBURY, CT

NEXGEN SOLUTIONS, LLC
Software License Agreement

Brian M. Smith
TOWN CLERK

Licensee: Town of Middlebury, CT
Software: LEAS (Law Enforcement Administrative System)
Licensed Users: 50 Concurrent (Apeon)

NexGen Solutions, LLC, hereinafter referred to as "NexGen", grants the Licensee named above, hereinafter referred to as "Licensee", the right to use the NexGen software and documentation named above on the computer hardware located in Licensee's office subject to the terms and conditions stated below. All terms and conditions of this agreement shall apply to any and all versions and updates of the software and documentation.

USE: Licensee will use the software and documentation only on the computer equipment located in Licensee's office.

Licensee will use the software and documentation only for its own purposes. If Licensee's computer is used by other parties, Licensee will not permit use of this software and documentation by any other party unless the other party has obtained a license from NexGen granting the other party a right to use the software and documentation on the Licensee's computer.

Licensee may copy the program into any machine readable form ONLY for backup or modification purposes in support of its use of the program on Licensee's computer. Licensee may NOT copy the documentation or other written materials accompanying the program.

Licensee may modify the program and/or merge it into another program for its use on Licensee's computer. Any portion of the software merged into another program will continue to be subject to the terms and conditions of this Agreement. Licensee will reproduce and include the copyright notice on any copy, modification or portion merged into another program.

Licensee may not use copy, modify, or transfer the software and/or documentation, or any copy, modification or merged portion, in whole or in part, except as expressly provided in this license. If Licensee leases, rents or transfers possession of any copy, modification or merged portion of this software and/or documentation to another party, this license is automatically terminated.

TERM: This license takes effect upon payment in full of all applicable charges, and is effective until terminated. Licensee may terminate it at any time by destroying the software, documentation and all copies, modifications and merged portions in any form. This license will also terminate if Licensee fails to comply with any term or condition of this Agreement. Licensee agrees upon such termination to destroy the program and documentation together with all copies, modifications and merged portions in any form.

WARRANTY

NexGen warrants that all Software will conform to its Specifications and that the Products and Software delivered hereunder shall perform in conformance with those Specifications. NexGen shall replace all Software that is defective or not performing in accordance with the Specifications, at NexGen's sole expense.

NexGen represents that all Software and elements thereof, including but not limited to, documentation and source code, shall meet and be maintained by NexGen to conform to *industry standards*.

NexGen warrants the media on which the program is furnished to be free from defects in materials and workmanship under normal use for a period of ninety (90) days from the date of delivery to Licensee.

LIMITATIONS OF REMEDIES: NexGen's entire liability and Licensee's exclusive remedy shall be: NexGen will replace any media not meeting NexGen's "Limited Warranty" and which is returned to NexGen within ninety (90) days from the date of delivery, or Licensee may terminate this agreement within ninety (90) days from the date of delivery of software and documentation to Licensee by returning all software and documentation to NexGen, at which time Licensee fee will be refunded.

In no event will NexGen be liable to Licensee for any damages, including any loss, profits, lost savings, or other incidental or consequential damages arising out of the use or inability to use such software even if NexGen had been advised of the possibility of such damages, or for any claim by any other party.

Some states do not allow the limitation or exclusion of liability for incidental or consequential damages so the above limitation of exclusion may not apply to Licensee.

GENERAL: Licensee is exclusively responsible for enforcing the terms and conditions of this Agreement within its origination and agrees to take all appropriate actions with its employees or other persons permitted access to the software and documentation to satisfy its obligations with respect to use, protection and security of the software and documentation. If Licensee transfers the software and/or documentation to any other party without express written permission from NexGen, NexGen shall be entitled to recover from Licensee reasonable attorney fees, cost, and other necessary disbursements required to recover software and/or documentation from the other party. If such transfer is made in a willful and deliberate manner, NexGen shall be entitled to equitable relief as well as money damages.

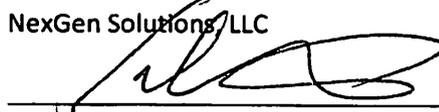
The terms, conditions and warranties herein extend only to Licensee and cannot be assigned or altered. This agreement will be governed by the laws of the State of Connecticut.

The undersigned acknowledges that he has read the agreement, understands it, and agrees to be bound by its terms and conditions. He further agrees that it is the complete and exclusive statement of the agreement between NexGen and Licensee which supersedes any proposal or prior agreement, oral or written and any other communications between NexGen and Licensee relating to the subject matter of this agreement. He further warrants that he is acting as a duly authorized representative of Licensee.

Licensee Town of Middlebury, CT


Authorized Signature _____ Date 11/23/16

NexGen Solutions, LLC


Authorized Signature _____ Date _____

Technical Support Service

Terms and Conditions

RECEIVED FOR FILING

Nov 22 2016 at 11:55 A.M.

TOWN CLERK'S OFFICE
MIDDLEBURY, CT

[Signature]
TOWN CLERK

TERM: The term of this agreement shall be as stated on the Technical Support Service (TSS) Invoice.

SCOPE: This agreement provides support by telephone only to the customer(s) listed on the TSS invoice and for the products purchased or licensed from NexGen which are listed on the TSS invoice. Unless a third-party software product is specifically itemized on the TSS invoice, NexGen defers support for this software to the specific software vendor. For those third-party software products listed on the TSS invoice, and since NexGen is not the author of the third-party software, (a) NexGen's responsibility is limited to providing support related to its administration and usage; and (b) some problems encountered with the third-party software may have to be referred to the software vendor and any charges incurred by such referrals are the responsibility of the customer. Products purchased from other vendors are specifically excluded from the scope of TSS. Updates to the NexGen provided software and documentation covered by this agreement, and released during the term of the agreement, will be provided to the customer at no additional charge. During the term of this agreement, customer shall be included as a member of the NexGen User Group and thus entitled to attendance at any scheduled User Group meetings and a copy of all newsletters.

STANDARD HOURS OF SERVICE: This agreement provides telephone support service from 8:30 a.m. through 5:00 p.m. EST Monday through Friday (excluding holidays). A Technical Support paging service is also available and answered 24 hours a day 7 days a week, for critical system outage and server down situations. However, any calls placed to this number, not deemed critical, will be placed in a callback queue for response on the next business day, during normal business hours. If a customer requests immediate assistance after hours for non-critical system or server down situations, and has not purchased an Emergency Service option, the customer may be subject to a \$500 per incident fee. A Critical system outage is defined as a situation in which mission critical data cannot be entered or retrieved system wide. The first available technical support representative will return support calls received during standard hours. Calls received at night or on weekends or holidays will be held until the next business day unless the caller requests billable emergency service.

Telephone technical support for upgrades, conversions, etc., is available at night and on weekends at no extra charge if the customer calls in advance to arrange a mutually convenient time.

BILLABLE EMERGENCY SERVICE: Calls for support received between 5:30 p.m. and 8:30 a.m. EST or on weekends or holidays will not be returned until the next business day unless the customer requests billable emergency service, which will be invoiced at \$500 per incident.

CUSTOMER RESPONSIBILITIES: Customer agrees to designate and train at least one person as "System Manager" and to strive to direct all requests for support through that person. In the event that the designated "System Manager" is replaced, it is the Customer's responsibility to designate a new "System Manager" and provide training for the new "System Manager" to a level of demonstrated operational competency. Agency will designate Super Users who become system experts in the system and maintain a level of a minimum of 1 per shift for the Town of Middlebury. If a Super User is assigned to different role within the agency, the minimums must be maintained by the customer. Customer will supply all labor necessary to install software corrections and upgrades. Customer agrees to attend NexGen recommended training for NexGen software products and all operating system software, if appropriate. In addition, customer agrees to attend Windows 7, Vista or Windows XP, if appropriate, training or demonstrate operational competency. Customers who do not attend recommended training or who cannot demonstrate operational competency will have TSS coverage limited to two (2) incidents per month, with additional TSS incident coverage being invoiced at \$500 per incident. Furthermore, NexGen strongly recommends that all file servers utilize some level of hardware redundancy and backup, such as RAID 5, system fault tolerance, and disaster recovery solution to insure maximum operational time. Should a situation arise in which a file server is down and an on-site maintenance visit is required by NexGen personnel to reload and restore any software programs, the customer will be subject to additional billing for any time, travel, material and other expenses incurred. Customer agrees to provide a secure remote connection via secure VPN by the Town of Middlebury, CT. This connection will enable remote access and diagnostic services.

SOFTWARE SUPPORT COVERAGE

LIMITATIONS: NexGen's Technical Support Service is primarily focused on providing support for NexGen supplied systems and custom applications. Third-party software support is limited to answering questions concerning the use of the software and does not include providing fixes. For third-party software such as Novell Netware, Windows, Microsoft Word, etc., NexGen will provide support as it relates to the administration and usage of the NexGen software system.

EXCLUSIONS: Nexgen's obligation to provide technical support hereunder is contingent upon the proper use of the software and/or equipment. Nexgen shall not be obligated to provide technical support service under this agreement because of (a) modifications, whether made or attempted, to the software and/or equipment by other than authorized Nexgen representatives; (b) failure to maintain proper environmental conditions, e.g., air conditioning, electrical power, dust free or humidity control (c) neglect, misuse or accident attributable to customer, including but not limited to unusual physical or electrical stress; (d) relocation, movement or replacement of the hardware; (e) damage caused by accessories, alterations, attachments, or other devices not furnished by Nexgen; (f) Acts of God, fire, flood earthquake, lightning strikes, war, nuclear disaster or other such causes beyond the reasonable control of Nexgen. In the event the on-site support is required by Nexgen personnel, the customer will be subject to additional billing for any labor, travel, material and other expenses incurred. All time expended by Nexgen for on-site support or any of the above exclusions will be billable at \$125 per hour, plus expenses and materials.

TERMINATION OF SERVICE: Nexgen reserves the right to discontinue support for any hardware and/or software which, in the opinion of Nexgen, has become unsupported, and shall refund the unused portion of support fee, less (a) any time and expenses incurred prior to discontinuance and (b) any other outstanding invoices, when support service has been terminated. Possible reasons for termination include, but are not limited to: (a) failure of customer to obtain adequate training for the use of either Nexgen's or other vendors' (NetMotion Wireless, Firehouse Software, Trancite - Easy Street Draw) hardware and/or software; (b) a physical, hardware and/or software environment at a customer site which is inadequate for the efficient and reliable

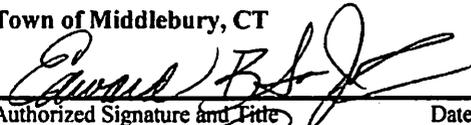
performance of Nexgen's products: (c) alterations, modifications, or additions to hardware and/or software environments made without Nexgen's written approval. In the event the customer becomes more than 90 days in arrears on any invoice(s) issued by Nexgen, Nexgen may terminate this agreement and apply any unused portion toward payment of the invoices in arrears.

LIMITATION OF REMEDY AND LIABILITY:

Nexgen's entire liability and Customer's exclusive remedy shall be as follows: for claims alleging breach of warranty with respect to technical support, Customer's remedy shall be to receive a refund of the amount actually paid for technical support as stated on the TSS invoice. Any action against Nexgen must be within one year after the cause of action accrues. **IN NO EVENT SHALL NEXGEN BE LIABLE FOR;** (i) ANY DAMAGES RESULTING FROM CUSTOMER'S FAILURE TO PERFORM CUSTOMER'S OBLIGATIONS; (ii) ANY INCIDENTAL, INDIRECT, SPECIAL OR CONSEQUENTIAL DAMAGES WHATSOEVER (INCLUDING, BUT NOT LIMITED TO, LOST PROFITS AND DAMAGES RESULTING FROM LOSS OF USE OR LOST DATA), EVEN IF NEXGEN HAD BEEN ADVISED, KNEW, OR SHOULD HAVE KNOWN OF THE POSSIBLE LIABILITY THEREOF; (iii) ANY CLAIM BY ANY OTHER PARTY; OR (iv) ANY FAILURE OR DELAY IN PERFORMANCE DUE IN WHOLE OR IN PART TO ANY CAUSE BEYOND THE REASONABLE CONTROL OF NEXGEN.

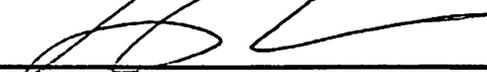
AGREED:

Town of Middlebury, CT



Authorized Signature and Title Date

AGREED: NexGen Solutions, LLC



Authorized Signature and Title Date