

TERMS AND CONDITIONS OF PURCHASE BY NEXTGEN360 LIMITED

1. **Interpretation**
- 1.1 **Definitions:**
- Business Day:** a day other than a Saturday, Sunday or public holiday in England, when banks in London are open for business.
- Conditions:** the terms and conditions set out in this document as amended from time to time in accordance with clause 19.4, a Purchase Order and any special terms agreed by the Buyer and signed by an authorised representative of the Buyer on its behalf.
- Contract:** the contract between the Buyer and the Supplier for the sale and purchase of the Goods and/or the supply of Services in accordance with the Conditions.
- Buyer:** NextGEN360 Limited (registered in England and Wales with company number 08116148) whose registered office is at Units 5 - 6 Castle Hill Horsfield Way, Bredbury Park Industrial Estate, Stockport, Cheshire, England, SK6 2SU.
- Buyer Materials:** has the meaning set out in clause 7.3(i) .
- Deliverables:** all documents, products and materials developed by the Supplier or its agents, contractors and employees as part of or in relation to the Services in any form or media, including drawings, maps, plans, diagrams, designs, pictures, computer programs, data, specifications and reports (including drafts).
- Delivery Date:** the date specified in the Purchase Order.
- Delivery Location:** the address for delivery of Goods as set out in the Order.
- Goods:** the goods (or any part of them) set out in the Order.
- Goods Specification:** any specification for the Goods, including any related plans and drawings, that is agreed in writing by the Buyer and the Supplier.
- Intellectual Property Rights:** patents, utility models, rights to inventions, copyright and neighbouring and related rights, moral rights, trade marks and service marks, business names and domain names, rights in get-up and trade dress, goodwill and the right to sue for passing off or unfair competition, rights in designs, rights in computer software, database rights, rights to use, and protect the confidentiality of, confidential information (including know-how and trade secrets), and all other intellectual property rights, in each case whether registered or unregistered and including all applications and rights to apply for and be granted, renewals or extensions of, and rights to claim priority from, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world.
- Mandatory Policies:** the Buyer's business policies listed in the Schedule 1, as amended by notification to the Supplier from time to time.
- Order:** the Buyer's order for the supply of Goods and/or Services, as set out in the Purchase Order.
- Purchase Order:** the Buyer's Purchase Order entitled signed on behalf of the Buyer and the Supplier.
- Services:** the services, including any Deliverables, to be provided by the Supplier under the Contract as set out in the Service Specification.
- Service Specification:** any description or specification for Services, including any related plans and drawings, that is agreed in writing by the Buyer and the Supplier.
- Supplier:** the person or firm from whom the Buyer purchases the Goods and/or Services and whose name and address is set out on the Purchase Order.
- 1.2 **Interpretation:**
- (a) A **person** includes a natural person, corporate or unincorporated body (whether or not having separate legal personality).
- (b) A reference to a party includes its successors and permitted assigns.
- (a) A reference to legislation or a legislative provision is a reference to it as amended or re-enacted. A reference to legislation or a legislative provision includes all subordinate legislation made under that legislation or legislative provision.
- (b) Any words following the terms **including, include, in particular, for example** or any similar expression shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms.
- (c) A reference to **writing** or **written** includes emails.
2. **Basis of contract**
- 2.1 The Conditions apply to the Contract to the exclusion of any other terms that the Supplier seeks to impose or incorporate, or which are implied by law, trade custom, practice or course of dealing.
- 2.2 The Order constitutes an offer by the Buyer to purchase the Goods and/or Services in accordance with the Conditions.
- 2.3 The Order shall be deemed to be accepted on the earlier of:
- (a) the Supplier issuing a written acceptance of the Order; and
- (b) the Supplier doing any act consistent with fulfilling the Order,
- at which point the Contract shall come into existence. If the Supplier does not accept an Order within two Business days after receipt of the Order, the Buyer will be entitled to notify the Supplier in writing that the Order is withdrawn.
- 2.4 The Supplier waives any right it might otherwise have to rely on any term endorsed upon, delivered with or contained in any documents of the Supplier that is inconsistent with the Conditions.
- 2.5 To the extent that there is any inconsistencies:-
- (a) between these terms and the Purchase Order, the Purchase Order shall prevail; and
- (b) between this document and any special terms and conditions agreed by the Buyer and signed by an authorised representative of the Buyer on its behalf the latter shall prevail.
- 2.6 All the Conditions shall apply to the supply of both Goods and Services except where the application to one or the other is specified.
3. **The goods**
- 3.1 The Supplier shall ensure that the Goods shall:
- (a) correspond with their description and any applicable Goods Specification;
- (b) be of satisfactory quality (within the meaning of the Sale of Goods Act 1979, as amended) and fit for any purpose held out by the Supplier or made known to the Supplier by the Buyer expressly or by implication, and in this respect the Buyer relies on the Supplier's skill and judgement;
- (c) where they are manufactured products, be free from defects in design, materials and workmanship and remain so for 12 months after delivery of the Goods;
- (d) comply with all applicable British Standards and applicable statutory and regulatory requirements relating to the design, manufacture, labelling, packaging, storage, testing, handling and delivery of the Goods;

TERMS AND CONDITIONS OF PURCHASE BY NEXTGEN₃₆₀ LIMITED

- (e) comply with all health and safety requirements; and
- (f) conform with any samples provided by the Supplier to the Buyer.
- 3.2 The Supplier shall ensure that at all times it has and maintains all the licences, permissions, authorisations, consents and permits that it needs to carry out its obligations under the Contract in respect of the Goods.
- 3.3 The Buyer may inspect and test the Goods during their manufacture and at any time before delivery of the Goods. The Supplier shall remain fully responsible for the Goods despite any such inspection or testing and any such inspection or testing shall not reduce or otherwise affect the Supplier's obligations under the Contract. No failure by the Buyer to carry out such inspections and/or tests shall constitute acceptance of the Goods.
- 3.4 The Buyer may require the Supplier at any time to provide at no extra charge to the Buyer:
- (a) samples of Goods ordered; and
- (b) certificates for materials and equipment used in the manufacture of the Goods.
- 3.5 The Supplier shall in relation to the Goods maintain or (where necessary) establish and maintain such
- (a) quality control procedures;
- (b) testing and inspection measures; and
- (c) other procedures and policies;
- as shall be required by the Buyer from time to time.
- 3.6 If the Buyer considers that the Goods do not conform or are unlikely to comply with the Supplier's undertakings at clause 3.1 or the Buyer is not reasonably satisfied that the Goods or their manufacture or processing comply in all material respects with the relevant Contract the Buyer shall inform the Supplier and the Buyer shall be entitled at its discretion:
- (a) to require the Supplier at its expense to immediately take such remedial action as is necessary to ensure compliance; or
- (b) to carry out or have carried out at the Supplier's expense any work necessary to ensure due compliance.
- 3.7 The Buyer may conduct further inspections and tests after the Supplier has carried out its remedial actions.
- 4. Delivery of Goods**
- 4.1 The Supplier shall ensure that:
- (a) the Goods are properly packed and secured in such manner as to enable them to reach their destination in good condition;
- (b) the Goods are marked in accordance with the Buyer's instructions and all lawful requirements;
- (c) each delivery of the Goods is accompanied by a delivery note which shows the date of the Order, the Buyer's Order number, the type and quantity of the Goods (including the part number of the Goods, where applicable), special storage instructions (if any) and, if the Goods are being delivered by instalments, the outstanding balance of Goods remaining to be delivered; and
- (d) if the Supplier requires the Buyer to return any packaging material for the Goods to the Supplier, that fact is clearly stated on the delivery note. Any such packaging material shall be returned to the Supplier at the cost of the Supplier.
- 4.2 The Supplier shall deliver the Goods:
- (a) on the Delivery Date;
- (b) at the Delivery Location; and
- (c) during the Buyer's normal business hours, or as instructed by the Buyer.
- 4.3 Delivery of the Goods shall be completed on the completion of unloading the Goods at the Delivery Location.
- 4.4 If the Supplier:
- (a) delivers less than 95% of the quantity of Goods ordered, the Buyer may reject the Goods; or
- (b) delivers more than 105% of the quantity of Goods ordered, the Buyer may at its discretion reject the Goods or the excess Goods and any rejected Goods shall be returnable at the Supplier's risk and expense. If the Supplier delivers more or less than the quantity of Goods ordered, and the Buyer accepts the delivery, a pro rata adjustment shall be made to the invoice for the Goods.
- 4.5 The Supplier shall not deliver the Goods in instalments without the Buyer's prior written consent. Where it is agreed that the Goods are to be delivered by instalments, they may be invoiced and paid for separately. However, failure by the Supplier to deliver any one instalment on time or at all, or any defect in an instalment shall entitle the Buyer to the remedies set out in clause 8.
- 4.6 The Buyer may at any time prior to despatch of the Goods amend or cancel the relevant Contract by written notice to the Supplier. If the Buyer amends or cancels a Contract, its liability to the Supplier shall be limited to payment to the Supplier of all costs reasonably incurred by the Supplier in fulfilling the Contract up until the date of receipt of the notice of amendment or cancellation, except that where the amendment or cancellation results from the Supplier's failure to comply with its obligations under this agreement the Buyer shall have no liability to the Supplier in respect of it
- 5. Prohibition and declarant of constituent substances**
- 5.1 The utilization of certain substances in the Vaping sector as well as in electrical vape devices is limited and/or prohibited by different laws, guidelines and lists of associations and processors.
- 5.2 The Supplier confirms and warrants that all Goods shall comply with all regulations world-wide, and in particular with the following:
- (a) TPD regulations
- The MHRA is the competent authority for a notification scheme for e-cigarettes and refill containers in Great Britain and Northern Ireland and is responsible for implementing the majority of provisions under Part 6 of the Tobacco and related Products Regulations (TRPR) and the Tobacco Products and Nicotine Inhaling Products (Amendment) (EU Exit) Regulations 2020.
- (b) Guideline 2002/95/EG (RoHS)
- The guideline for limitation of the use of certain hazardous substances in electrical and electronic devices (RoHS = Restriction of the use of certain hazardous substances in electrical and electronic equipment).
- (c) WEEE
- The Waste Electrical and Electronic Equipment Directive (WEEE Directive) is the European Community directive 2012/19/EU on waste electrical and electronic equipment (WEEE) which, together with the RoHS Directive 2002/95/EC CE directives RoHS (prohibition of hazardous substances). This law

TERMS AND CONDITIONS OF PURCHASE BY NEXTGEN₃₆₀ LIMITED

- regulates putting into circulation, readmission, and eco-friendly disposal of electrical and electronic devices.
- (d) REACH System
- Regulation for the registration, permission, and restriction of chemical substances (REACH = Registration, Evaluation, Authorization Restriction of Chemicals). Manufacturers and importers must demonstrate that their substances, preparation and products do not burden the health of processors or end users nor the environment. These substance data must be passed on to all buyers and successive users. The directive is in force since June 1, 2007.
- 5.3 The Supplier must provide the Buyer with evidence in writing that the Goods comply with the provisions referred to in this clause 5, and update this evidence in case of modification of the product or the provisions. Compliance with these requirements by Supplier is the basis for safe and environmentally compatible use of the products by the Buyer.
- 5.4 Notwithstanding these regulatory frameworks, the Supplier confirm that all domestic and international stipulations for the transmission of information concerning health and safety and environmental protection shall be observed, including without limitation, the CE safety data sheet as per CE directive 93/68/EEC.
- 5.5 Modifications of the production process and the material composition of the merchandise are only permitted with the prior written approval of the Buyer.
- 6. Prohibited Ingredient Omission Declaration**
- 6.1 The Supplier confirms and warrants that the following ingredients & chemical types are not present at any concentration and shall not be present at any concentration within any of the Goods provided to the Buyer:-
- (a) General Requirements:
- (i) Substances classified as carcinogenic, mutagenic or reprotoxic (CMR categories 1 and 2),
- (ii) Substances classified with specific target organ toxicity for the respiratory tract (STOT category 1),
- (A) Respiratory sensitizers,
- (B) Vitamins used as food supplements,
- (C) Stimulant additives such as caffeine or taurine
- (b) Specified Chemicals:
- (i) Diacetyl (a.k.a., butane-2,3-dione)
- (ii) Acetylpropionyl (a.k.a, Pentane 2,3 dione),
- (iii) Diethylene glycol,
- (iv) Ethylene glycol,
- (v) Formaldehyde,
- (vi) Acetaldehyde,
- (vii) Acrolein,
- (viii) Metals (inc, cadmium, chromium, iron, lead, mercury & nickel),
- (ix) Preservatives liable to release formaldehyde.
- 7. Supply of Services**
- 7.1 The Supplier shall from the date set out in the Order and for the duration of the Contract supply the Services to the Buyer in accordance with the terms of the Contract.
- 7.2 The Supplier shall meet any performance dates for the Services specified in the Order or that the Buyer notifies to the Supplier and time is of the essence in relation to any of those performance dates.
- 7.3 In providing the Services, the Supplier shall:
- (a) co-operate with the Buyer in all matters relating to the Services, and comply with all instructions of the Buyer;
- (b) perform the Services with the best care, skill and diligence in accordance with best practice in the Supplier's industry, profession or trade;
- (c) use personnel who are suitably skilled and experienced to perform tasks assigned to them, and in sufficient number to ensure that the Supplier's obligations are fulfilled in accordance with the Contract;
- (d) ensure that the Services will conform with all descriptions, standards and specifications set out in the Service Specification, and that the Deliverables shall be fit for any purpose that the Buyer expressly or impliedly makes known to the Supplier;
- (e) provide all equipment, tools and vehicles and such other items as are required to provide the Services;
- (f) use the best quality goods, materials, standards and techniques, and ensure that the Deliverables, and all goods and materials supplied and used in the Services or transferred to the Buyer, will be free from defects in workmanship, installation and design;
- (g) obtain and at all times maintain all licences and consents which may be required for the provision of the Services;
- (h) observe all health and safety rules and regulations and any other security requirements that apply at any of the Buyer's premises;
- (i) hold all materials, equipment and tools, drawings, specifications and data supplied by the Buyer to the Supplier (**Buyer Materials**) in safe custody at its own risk, maintain the Buyer Materials in good condition until returned to the Buyer, and not dispose or use the Buyer Materials other than in accordance with the Buyer's written instructions or authorisation;
- (j) not do or omit to do anything which may cause the Buyer to lose any licence, authority, consent or permission upon which it relies for the purposes of conducting its business, and the Supplier acknowledges that the Buyer may rely or act on the Services; and
- (k) comply with any additional obligations as set out in the Service Specification.
- 8. Buyer remedies**
- 8.1 The Buyer shall not be deemed to have accepted any Goods until it has had a reasonable time to inspect them following delivery, or, in the case of a latent defect in the Goods, until a reasonable time after the latent defect has become apparent
- 8.2 If the Goods are not delivered on the Delivery Date, or if the Supplier fails to perform the Services by the applicable date, or both, the Buyer shall, without limiting or affecting any of its other rights or remedies available to it, have any one or more of the following rights and remedies:

TERMS AND CONDITIONS OF PURCHASE BY NEXTGEN₃₆₀ LIMITED

- (a) to terminate the Contract with immediate effect by giving written notice to the Supplier;
- (b) to refuse to accept any subsequent performance of the Service and/or delivery of the Goods which the Supplier attempts to make;
- (c) to recover from the Supplier any costs incurred by the Buyer in obtaining substitute goods and/or services from a third party;
- (d) to require a refund from the Supplier of sums paid in advance for Services that the Supplier has not provided and/or Goods that it has not delivered; and
- (e) to claim damages for any additional costs, loss or expenses incurred by the Buyer which are in any way attributable to the Supplier's failure to meet such dates.
- 8.3 If the Supplier has delivered Goods that do not comply with the undertakings set out in clause 3.1 and the warranties set out in clauses 5 and 6, then, without limiting or affecting other rights or remedies available to it, the Buyer shall have one or more of the following rights and remedies, whether or not it has accepted the Goods:
- (a) to terminate the Contract with immediate effect by giving written notice to the Supplier;
- (b) to reject the Goods (in whole or in part) whether or not title has passed and to return them to the Supplier at the Supplier's own risk and expense;
- (c) to require the Supplier to repair or replace the rejected Goods, or to provide a full refund of the price of the rejected Goods;
- (d) to refuse to accept any subsequent delivery of the Goods which the Supplier attempts to make;
- (e) to recover from the Supplier any expenditure incurred by the Buyer in obtaining substitute goods from a third party; and
- (f) to claim damages for any additional costs, loss or expenses incurred by the Buyer arising from the Supplier's failure to supply Goods in accordance with clauses 3.1, 5 and 6.
- 8.4 If the Supplier has supplied Services that do not comply with the requirements of clause 7.3(d) then, without limiting or affecting other rights or remedies available to it, the Buyer shall have one or more of the following rights and remedies:
- (a) to terminate the Contract with immediate effect by giving written notice to the Supplier;
- (b) to return the Deliverables to the Supplier at the Supplier's own risk and expense;
- (c) to require the Supplier to provide repeat performance of the Services, or to provide a full refund of the price paid for the Services;
- (d) to refuse to accept any subsequent performance of the Services which the Supplier attempts to make;
- (e) to recover from the Supplier any expenditure incurred by the Buyer in obtaining substitute services or deliverables from a third party; and
- (f) to claim damages for any additional costs, loss or expenses incurred by the Buyer arising from the Supplier's failure to comply with clause 7.3(d).
- 8.5 Notwithstanding acceptance of any Goods in accordance with this clause 8, the Buyer shall be permitted to reject and return any Goods that do not comply with clauses 3.1, 5 and 6 or are otherwise not in conformity with the terms of this agreement at any time up to 6 (six) months after delivery of the Goods, without limiting any other right or remedy that the Buyer may have.
- 8.6 The Conditions shall extend to any substituted or remedial services and/or repaired or replacement goods supplied by the Supplier.
- 8.7 The Buyer's rights and remedies under the Conditions are in addition to its rights and remedies implied by statute and common law.
- 8.8 If required by the Buyer the Goods shall within 14 (fourteen) days prior to despatch be inspected and/or tested by the Supplier in the presence of a representative of the Buyer by operating or using the Goods in the usual manner and if the Goods fail to work in accordance with their specification
- (a) the Supplier shall remedy the defects within 7 (seven) days after the inspection and/or test and
- (b) the Goods shall then be inspected and/or tested again in the manner set out above in this clause 8.8.
- 8.9 The Supplier shall promptly obtain all necessary licences clearances and other consents necessary for the supply of the Goods
- 9. Title and risk**
- Title and risk in the Goods shall pass to the Buyer on completion of delivery.
- 10. Price and payment**
- 10.1 The price of the Goods shall be the price set out in the Order.
- 10.2 The price of the Goods:
- (a) excludes amounts in respect of value added tax (VAT), which the Buyer shall additionally be liable to pay to the Supplier at the prevailing rate, subject to the receipt of a valid VAT invoice; and
- (b) includes the costs of packaging, insurance and carriage of the Goods.
- 10.3 No extra charges shall be effective unless agreed in writing with the Buyer.
- 10.4 The charges for the Services shall be set out in the Order, and shall be the full and exclusive remuneration of the Supplier in respect of the performance of the Services. Unless otherwise agreed in writing by the Buyer, the charges shall include every cost and expense of the Supplier directly or indirectly incurred in connection with the performance of the Services.
- 10.5 In respect of the Goods, the Supplier may invoice the Buyer for price of the Goods plus VAT at the prevailing rate (if applicable) on or at any time after the completion of delivery. In respect of the Services, the Supplier shall invoice the Buyer on completion of the Services. The Supplier shall ensure that each invoice includes the date of the Order, the invoice number, the Buyer's Order number, the Supplier's VAT registration number and any supporting documents that the Buyer may reasonably require.
- 10.6 The Buyer shall pay correctly rendered invoices within 30 days of receipt of the invoice. Payment shall be made to the bank account nominated in writing by the Supplier.
- 10.7 If a party fails to make any payment due to the other party under the Contract by the due date for payment, then the defaulting party shall pay interest on the overdue sum from the due date until payment of the overdue sum, whether before or after judgment. Interest under this clause will accrue each date at 4% a year above the Bank of England's base rate from time to time, but at 4% a year for any period when the base rate is below 0%. Where a payment is disputed in good faith, interest is only payable after the dispute is resolved, on sums found or agreed to be due, from the due date until payment.
- 10.8 The Buyer may at any time set off any liability of the Supplier to the Buyer against any liability of the Buyer to the Supplier, whether either liability is present or future, liquidated or unliquidated, and whether or not either liability arises under this

TERMS AND CONDITIONS OF PURCHASE BY NEXTGEN₃₆₀ LIMITED

- agreement. If the liabilities to be set off are expressed in different currencies, the Buyer may convert either liability at a market rate of exchange for the purpose of set-off. Any exercise by the Buyer of its rights under this clause shall not limit or affect any other rights or remedies available to it under this agreement or otherwise.
- 10.9 The Supplier shall maintain complete and accurate records of the time spent and materials used by the Supplier in providing the Services, and the Supplier shall allow the Buyer to inspect such records at all reasonable times on request.
- 11. Intellectual Property Rights**
- 11.1 All Intellectual Property Rights in or arising out of or in connection with the Services (other than Intellectual Property Rights in any Buyer Materials) shall be owned by the Supplier.
- 11.2 The Supplier grants to the Buyer, or shall procure the direct grant to the Buyer of, a fully paid-up, worldwide, non-exclusive, royalty-free perpetual and irrevocable licence to copy and modify the Deliverables (excluding Buyer Materials) for the purpose of receiving and using the Services and the Deliverables.
- 11.3 The Buyer grants the Supplier a fully paid-up, non-exclusive, royalty-free non-transferable licence to copy any materials provided by the Buyer to the Supplier for the term of the Contract for the purpose of providing the Services to the Buyer.
- 11.4 The Supplier acknowledges that all rights in the Buyer Materials are and shall remain the exclusive property of the Buyer.
- 12. Indemnity**
- 12.1 The Supplier shall indemnify the Buyer against all liabilities, costs, expenses, damages and losses (including but not limited to any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal costs (calculated on a full indemnity basis) and all other [reasonable] professional costs and expenses) suffered or incurred by the Buyer as a result of or in connection with:
- (a) any claim made against the Buyer for actual or alleged infringement of a third party's intellectual property rights arising out of or in connection with the manufacture, supply or use of the Goods, or receipt, use or supply of the Services (other than the Buyer Materials);
 - (b) any claim made against the Buyer by a third party for death, personal injury or damage to property arising out of or in connection with defects in Goods, as delivered, or the Deliverables;
 - (c) any claim made against the Buyer by a third party arising out of or in connection with the supply of the Goods, as delivered, or the Services;
 - (d) the Supplier being in breach of clause 5; and
 - (e) the Supplier being in breach of clause 6.
- 12.2 This clause **12** shall survive termination of the Contract.
- 13. Insurance**
- During the term of the Contract and for a period of one year thereafter, the Supplier shall maintain in force, with a reputable insurance company, professional indemnity insurance, product liability insurance and public liability insurance to cover the liabilities that may arise under or in connection with the Contract, and shall, on the Buyer's request, produce both the insurance certificate giving details of cover and the receipt for the current year's premium in respect of each insurance.
- 14. Confidentiality**
- 14.1 Each party undertakes that it shall not any time during the Contract and for a period of two years after termination of the Contract, disclose to any person any confidential information concerning the business, affairs, Buyers, clients or suppliers of the other party, except as permitted by clause **14.2**.
- 14.2 Each party may disclose the other party's confidential information:
- (a) to its employees, officers, representatives, contractors, subcontractors or advisers who need to know such information for the purposes of exercising the party's rights or carrying out its obligations under the Contract. Each party shall ensure that its employees, officers, representatives, contractors, subcontractors or advisers to whom it discloses the other party's confidential information comply with this clause **14**; and
 - (b) as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority.
- 14.3 Neither party shall use the other party's confidential information for any purpose other than to exercise its rights and perform its obligations under or in connection with the Contract.
- 15. Compliance with relevant laws and policies**
- 15.1 In performing its obligations under the Contract, the Supplier shall:
- (a) comply with all applicable laws, statutes, regulations from time to time in force; and
 - (b) comply with the Mandatory Policies.
- 15.2 The Buyer may immediately terminate the Contract for any breach of clause **15**.
- 16. Data Protection**
- 16.1 The following definitions apply in this clause 16:
- (a) **Commissioner Controller, Processor, Data Subject, Personal Data, Personal Data Breach, processing and appropriate technical and organisational measures:** as defined in the notifying shall have the meaning given to them in the UK GDPR, and supervisory authority shall have the meaning given to it in the EU GDPR.
 - (b) **Applicable Laws:** means all applicable laws, statutes, regulations and codes from time to time in force.
 - (c) **Applicable Data Protection Laws:** means:
 - (i) To the extent UK GDPR applies, the law of the United Kingdom or of a part of the United Kingdom which relates to the protection of personal data.
 - (ii) To the extent the EU GDPR applies, the law of the European Union or any member state of the European Union to which the Supplier is subject, which relates to the protection of personal data.
 - (d) **EU GDPR:** means the General Data Protection Regulation ((EU) 2016/679), as it has effect in EU law.
 - (e) **UK GDPR:** has the meaning given to it in section 3(10) (as supplemented by section 205(4)) of the Data Protection Act 2018.

TERMS AND CONDITIONS OF PURCHASE BY NEXTGEN₃₆₀ LIMITED

- 16.2 Both parties will comply with all applicable requirements of the Applicable Data Protection Laws. This clause 16 is in addition to, and does not relieve, remove or replace, a party's obligations or rights under the Applicable Data Protection Laws. clause 16 and allow for audits by the Customer or the Customer's designated auditor and immediately inform the Customer if, in the opinion of the Supplier, an instruction infringes the Applicable Data Protection Laws.
- 16.3 The parties acknowledge that for the purposes of the Applicable Data Protection Laws, the Customer is the Controller and the Supplier is the Processor. 16.6 The Customer does not consent to the Supplier appointing any third party processor of Personal Data under the Contract.
- 16.4 Without prejudice to the generality of clause 16.2, the Customer will ensure that it has all necessary appropriate consents and notices in place to enable lawful transfer of the Personal Data to the Supplier and/or lawful collection of the Personal Data by the Supplier on behalf of the Customer for the duration and purposes of the Contract. 16.7 Either party may, at any time on not less than 30 days' notice, revise this clause 16 by replacing it with any applicable controller to processor standard clauses or similar terms forming part of an applicable certification scheme (which shall apply when replaced by attachment to the Contract).
- 16.5 Without prejudice to the generality of clause 16.2, the Supplier shall, in relation to any Personal Data processed in connection with the performance by the Supplier of its obligations under the Contract: 16.8 The Supplier shall, indemnify and keep the Buyer indemnified from and against any and all costs, damages and expenses of any kind arising from any claim or demand brought by any person, data subject, Commissioner or supervisory authority as a result of any breach or alleged breach by Supplier of any Applicable Data Protection Law or its obligations under liability for losses arising from breaches of this clause 16.
- (a) process that Personal Data only on the documented written instructions of the Customer unless the Supplier is required by Applicable Laws to otherwise process that Personal Data. Where the Supplier is relying on Applicable Laws as the basis for processing Personal Data, the Supplier shall promptly notify the Customer of this before performing the processing required by the Applicable Laws unless the Applicable Laws prohibits the Supplier from so notifying the Customer;
- (b) ensure that it has in place appropriate technical and organisational measures, reviewed and approved by the Customer, to protect against unauthorised or unlawful processing of Personal Data and against accidental loss or destruction of, or damage to, Personal Data, appropriate to the harm that might result from the unauthorised or unlawful processing or accidental loss, destruction or damage and the nature of the data to be protected, having regard to the state of technological development and the cost of implementing any measures (those measures may include, where appropriate, pseudonymising and encrypting Personal Data, ensuring confidentiality, integrity, availability and resilience of its systems and services, ensuring that availability of and access to Personal Data can be restored in a timely manner after an incident, and regularly assessing and evaluating the effectiveness of the technical and organisational measures adopted by it);
- (c) ensure that all personnel who have access to and/or process Personal Data are obliged to keep the Personal Data confidential; and
- (d) not transfer any Personal Data outside of the UK unless the prior written consent of the Customer has been obtained and in any event subject to the Supplier providing the Customer with reasonable evidence that such activity is being undertaken in full compliance with Applicable Data Protection Laws;
- (e) assist the Customer, at the Customer's cost, in responding to any request from a Data Subject and in ensuring compliance with its obligations under the Applicable Data Protection Laws with respect to security, breach notifications, impact assessments and consultations with supervisory authorities or regulators;
- (f) notify the Customer without undue delay on becoming aware of a Personal Data Breach;
- (g) at the written direction of the Customer, delete or return Personal Data and copies thereof to the Customer on termination of the Contract unless required by Applicable Laws to store the Personal Data; and
- (h) maintain complete and accurate records and information to demonstrate its compliance with this
- 17. Termination**
- 17.1 The Buyer may terminate the Contract in whole or in part at any time before delivery of the Goods with immediate effect by giving the Supplier written notice, whereupon the Supplier shall discontinue all work on the Contract. The Buyer shall pay the Supplier fair and reasonable compensation for any work in progress on the Goods at the time of termination, but such compensation shall not include loss of anticipated profits or any consequential loss.
- 17.2 Without limiting its other rights or remedies, the Buyer may terminate the Contract with immediate effect by giving written notice to the Supplier if:
- (a) the Supplier commits a material breach of any term of the Contract and (if such a breach is remediable) fails to remedy that breach within 14 days of that party being notified in writing to do so;
- (b) the Supplier takes any step or action in connection with its entering administration, provisional liquidation or any composition or arrangement with its creditors (other than in relation to a solvent restructuring), obtaining a moratorium, being wound up (whether voluntarily or by order of the court, unless for the purpose of a solvent restructuring), having a receiver appointed to any of its assets or ceasing to carry on business or, if the step or action is taken in another jurisdiction, in connection with any analogous procedure in the relevant jurisdiction;
- (c) the Supplier takes any step or action in connection with the Supplier being made bankrupt, entering any composition or arrangement with its creditors, having a receiver appointed to any of its assets, or ceasing to carry on business or if the step or action is taken in another jurisdiction, in connection with any analogous procedure in the relevant jurisdiction;
- (d) the Supplier suspends, or threatens to suspend, or ceases or threatens to cease to carry on all or a substantial part of its business; or
- (e) the Supplier's financial position deteriorates so far as to reasonably justify the opinion that its ability to give effect to the terms of this agreement is in jeopardy.
- 17.3 On termination of the Contract, the Supplier shall immediately deliver to the Buyer all Deliverables whether or not then completion and return all Buyer Materials. If the Supplier fails to do so, then the Buyer may enter the Supplier's premises and take possession of them. Until they have been returned or delivered, the Supplier shall be solely responsible for their safe keeping and will not use them for any purpose not connected with the Contract.

TERMS AND CONDITIONS OF PURCHASE BY NEXTGEN₃₆₀ LIMITED

- 17.4 Termination of the Contract, however arising, shall not affect any of the parties' rights and remedies that have accrued as at termination, including the right to claim damages in respect of any breach of the Contract which existed at or before the date of termination.
- 17.5 Any provision of the Contract that expressly or by implication is intended to come into or continue in force on or after termination [or expiry] of the Contract shall remain in full force and effect.
- 18. Force majeure**
- Neither party shall be in breach of the Contract nor liable for delay in performing, or failure to perform, any of its obligations under the Contract if such delay or failure result from events, circumstances or causes beyond its reasonable control. In such circumstances the time for performance shall be extended by a period equivalent to the period during which performance of the obligation has been delayed or failed to be performed. If the period of delay or non-performance continues for four weeks, the party not affected may terminate the Contract by giving seven days' written notice to the affected party.
- 19. General**
- 19.1 **Assignment and other dealings**
- (a) The Buyer may at any time assign, transfer, mortgage, charge, subcontract, delegate, declare a trust over or deal in any other manner with any or all of its rights or obligations under the Contract.
- (b) The Supplier may not assign, transfer, mortgage, charge, delegate, declare a trust over or deal in any other manner with any or all of its rights or obligations under the Contract without the prior written consent of the Buyer.
- (i) delivered by hand or by pre-paid first-class post or other next working day delivery service at its registered office (if a company) or its principal place of business (in any other case); or
- (ii) sent by email to the address specified in the Purchase Order.
- (b) Any notice shall be deemed to have been received:
- (i) if delivered by hand, at the time the notice is left at the proper address;
- (ii) if sent by pre-paid first-class post or other next working day delivery service, at 9.00 am on the second Business Day after posting; or
- (iii) if sent by email, at the time of transmission, or, if this time falls outside business hours in the place of receipt, when business hours resume. In this clause 19.7(b)(iii), business hours means 9.00am to 5.00pm Monday to Friday on a day that is not a public holiday in the place of receipt.
- (c) This clause does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any arbitration or other method of dispute resolution.
- 19.8 Third party rights.**
- Unless it expressly states otherwise, the Contract does not give rise to any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of the Contract.
- 19.2 **Subcontracting.** The Supplier may not subcontract any or all of its rights or obligations under the Contract without the prior written consent of the Buyer. If the Buyer consents to any subcontracting by the Supplier, the Supplier shall remain responsible for all the acts and omissions of its subcontractors as if they were its own.
- 19.9 Governing law.** The Contract, and any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with it or its subject matter or formation, shall be governed by and construed in accordance with the law of England and Wales.
- 19.10 Jurisdiction.** Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with the Contract or its subject matter or formation.
- 19.3 Entire agreement.** The Contract constitutes the entire agreement between the parties and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter.
- 19.4 Variation.** Except as set out in the Conditions, no variation of the Contract, including the introduction of any additional terms and conditions, shall be effective unless it is agreed in writing and signed by the Buyer.
- 19.5 Waiver.** Except as set out in clause 2.4, no failure or delay by a party to exercise any right or remedy provided under the Contract or by law shall constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict the further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy shall prevent or restrict the further exercise of that or any other right or remedy.
- 19.6 Severance.** If any provision or part-provision of the Contract is or becomes invalid, illegal or unenforceable, it shall be deemed deleted, but that shall not affect the validity and enforceability of the rest of this agreement. If any provision of the Contract is deemed deleted under this clause 19.6 the parties shall negotiate in good faith to agree a replacement provision that, to the greatest extent possible, achieves the intended commercial result of the original provision.
- 19.7 Notices.**
- (a) Any notice given to a party under or in connection with the Contract shall be in writing and shall be:

TERMS AND CONDITIONS OF PURCHASE BY NEXTGEN₃₆₀ LIMITED

Schedule 1 BUYER'S MANDATORY POLICIES

The Mandatory Policies are:

- Modern Slavery and Human Trafficking Policy.
- Corporate and Social Responsibility Policy.
- Anti-Bribery and Anti-Corruption Policy.
- Ethics Policy.
- Data and Privacy Policy.
- Security Policy.