

# GIBB GROUP

## Terms and Conditions

**Effective from: 6 September 2023**

These terms and conditions (the "**Terms and Conditions**") apply to the supply of goods by (i) **GIBB GROUP LIMITED**, a limited company registered in Scotland under company registration number SC098530, and whose registered address is at Tern Place, Denmore Road, Bridge of Don, Aberdeen, Scotland, AB23 8JX, United Kingdom, (ii) **GIBB GROUP (NETHERLANDS) B.V.**, a besloten vennootschap (BV) company registered in the Netherlands whose registered address is at De Coopvaert, 6th Floor, Blaak 522, 3011 TA, Rotterdam, Netherlands, or (iii) **GIBB GROUP LLC**, a limited liability company registered in Delaware whose registered address is at Universal Registered Agents, Inc., 300 Creek View Road, Suite 209, Newark 19711, United States, (as applicable) ("**we**", "**us**", "**our**", and the respective derivatives of those expressions) to you the customer ("**you**") as a purchaser and/or hirer of any of the goods or equipment (the "**Goods**") which are advertised on <http://www.gibbgroupltd.com>, <http://www.gibbsafety.com> or <http://www.gibbtools.com> (each individually and together, the "**Website**").

### Application of these Terms and Conditions:

1. It is acknowledged that all orders for the provision (including hire) to you of any Goods accepted by us are subject to these Terms and Conditions and your use of the Website is subject to our [Website Terms](#). Accordingly, no other terms and conditions will apply to the provision or hire of any Goods unless first agreed to in writing by a duly appointed and authorised representative of ours.

### Definitions and interpretation:

2. In these Terms and Conditions, the following definitions apply:

"**ActSafe Unit**" means the SKYLOTEC ActSafe Unit ACX;

"**Business Day**" means a day, other than a Saturday, Sunday or public holiday in England, when banks in London are open for business;

"**Control**" (including the terms "controls", "controlled by" and "under common control with") means the possession, directly or indirectly, of more than 50% of the equity securities or equity interests in such entity or the power to direct or cause the direction of the management and policies of such entity (whether through ownership of securities, partnership interest or other ownership interests, by contract, or otherwise);

"**Deposit**" means the deposit amount payable to us by you quoted to you at point of Quotation, as further described in Clause 17 below;

"**Off-Hire Form**" means the form issued by us following receipt of return of the Goods by you to us;

"**Quotation**" means the quote given to you by us via email, telephone or via our website;

“**Rental Period**” means the period starting on the date on which the Goods are delivered to you and continuing until the Goods are returned to us and we have recorded a satisfactory inspection and Off-Hire Form, unless and until this agreement is terminated earlier in accordance with its terms; and

“**Total Loss**” means due to your default the Goods are, in our reasonable opinion or the opinion of our insurer(s), replica or replacement items returned to us in place of the Goods, damaged beyond repair, lost, stolen, seized or confiscated.

3. A reference to **writing** or **written** includes email.
4. A reference to legislation or a legislative provision is a reference to it as amended, extended or re-enacted from time to time.
5. A reference to legislation or a legislative provision shall include all subordinate legislation made from time to time under that legislation or legislative provisions.
6. Headings in these Terms and Conditions are for convenience and ease of reference only and shall not affect their interpretation.

#### Description of Goods:

7. Whilst every reasonable effort is made by us to ensure that the representations and descriptions of the Goods included on this Website correspond to the actual Goods, it is acknowledged that all of the descriptions of the Goods are approximate and shall not form part of any contract between us and you. Accordingly, we shall not be liable to you for any errors or omissions with respect to any such representations and descriptions of the Goods on this Website or in any other advertisement. It is agreed that sections 13 to 15 of the Sale of Goods Act 1979 are, to the fullest extent permitted by law, excluded from this agreement.
8. It is acknowledged that any advertisement of any Good on this Website is not an offer that is capable of acceptance, but is only an invitation to treat. Our acceptance of your order for the hire or purchase (as the case may be) of any Goods will occur only when we provide you with written confirmation of your order and of the associated pricing and delivery dates; accordingly, it is at the point of the communication of that confirmation to you that a contract will be deemed by us and you to have been formed.
9. Nothing on this Website should be taken by you as being a representation of the source of origin, the place or nature of the manufacture or the production of the Goods or any part of them.
10. You may be required to select the size, model, colour and series number of the Goods that you wish to procure, and you will need to identify the stock number of the applicable Goods as part of the Order.

#### International delivery:

11. It is acknowledged that import duties, tariffs and any other taxes due in any applicable jurisdiction (together, the “**Duties**”) may apply if you order or hire Goods from outside the United Kingdom. It is acknowledged that we are not liable for any Duties, nor for making any calculations or estimates in respect of the same. In the event that signatures are not required



to prove delivery of the Goods, it is acknowledged that our tracking code will be sufficient proof of our having dispatched the Goods to you. In the event that the Duties are not paid by you, and the Goods are returned to us by our courier (the "**Carrier**"), we will refund to you the cost of the Goods less the original carriage fees and the return carriage fees.

12. We will not be liable for any loss of, or damage to, those Goods in transit from us to you that have to cross an international border. In the event that you notify us in writing of the loss of any of the Goods in transit, we will endeavour to locate the Goods using our Carrier, but we will not replace or refund any Goods that are to be sent across an international border once they have been received by our Carrier from us. If any such Goods are to be returned, the cost of their return will be borne by you.
13. It is acknowledged that if, for any reason, the Goods do not comply with the laws or regulations prevailing at a particular international border and cannot therefore be delivered to you, your sole right, and our only liability to you, will be for us to provide you with a refund (but subject to Clause 12 of these Terms and Conditions) once the relevant Goods are returned to us by our Courier at your cost.

#### Charges:

14. Our prices for (i) the purchase, or (ii) rental payments ("**Rental Payments**") over the Rental Period, for any Goods (together, the "**Charges**") are as detailed on the relevant pages of this Website or Quotation (if applicable), but we reserve the right to adjust the Charges for any reason at any time, including by way of introducing and withdrawing special offers. Whilst we will endeavour to provide the latest information about our Charges on this Website, it is possible that this information may not necessarily be accurate:
  - 14.1. at the date at which you order certain Goods for purchase or hire (the "**Order**");
  - 14.2. where the Charges are varied by us in the event that you make a forward Order for Goods, between the date on which the Order is made and the date on which the Goods are passed by us to our Carrier, in which instances we will notify you of any discrepancy.
15. All of the Charges advertised on this Website are exclusive of Value Added Tax, any Duties or other imposts (including the cost of shipping the Goods to you through our Carrier), which shall be charged at the prevailing rate and payable by you at the rate and in the manner from time to time prescribed by law. Our Value Added Tax number is GB265696904. However, all references to the Charges in these Terms and Conditions shall be deemed to include all such Value Added Tax, any Duties or other imports unless specifically stated otherwise.
16. All amounts due under this agreement shall be paid in full without any set-off, counterclaim, deduction or withholding (other than any deduction or withholding of tax as required by law).
17. In addition to the Charges, we may require you to pay a Deposit against default by you of payment of any Rental Payments or any loss of or damage caused to the Goods including a Total Loss. If required and agreed, on the date of this agreement, you will pay the Deposit to us. If you fail to make any Rental Payment in accordance with this agreement, or cause any loss or damage to the Goods (in whole or in part), we shall be entitled to apply the Deposit against such default, loss or damage. You shall pay to us any sums deducted from the Deposit within ten (10) Business Days of a demand for the same. The Deposit (or balance thereof) shall be refundable, provided that all monies owed by you to us under this agreement have been



paid to us in full and upon us recording a satisfactory inspection of the Goods and completing an Off-Hire Form.

18. You will be able to identify the cost of shipping the Goods to you by inspecting the relevant information on this Website or by contacting us, but it is acknowledged that the information on this Website is subject to change.
19. You will pay the Charges for the Goods you intend to purchase or hire pursuant to your Order in accordance with the payment terms detailed on this Website or in accordance with our invoice (if applicable). If, for any reason, there is an incidence of late payment (and/or if you do not pay any Charges in full when due), we shall have the right to:
  - 19.1. cancel or suspend your Order; and/or
  - 19.2. charge you interest on any amount owed at a rate of four per cent (4%) above the prevailing Bank of England base rate, but at four per cent (4%) for any period when that base rate is below zero per cent (0%).

#### Purchase of Goods – title and risk:

20. In the case of any purchase of Goods, title in the Goods shall not pass to you until you have paid, and we have received, the Charges in full; as such, title will vest with us until we are in receipt of all the relevant Charges. You shall not pass or sell the Goods to any third party following your receipt of them without our prior written consent and, in the event that you do so (following the receipt of our consent), you will account to us for the outstanding amounts from any proceeds of sale or otherwise for the difference owed to us. If you do not pay us for any outstanding balance on the date on which we request the settlement of the relevant amount, you acknowledge that we shall have the right to enter upon your premises in order to recover the applicable Goods or, in the alternative, you will procure for us the right to enter upon the premises of any third party to recover the Goods (it being understood that we shall have retained title to those Goods pursuant to this Clause 20 of these Terms and Conditions). Demand for, or the recovery of, the Goods by us shall not discharge you of your liability to pay the Charges in full, or for us to be able to initiate a claim for the whole of the Charges.

#### Hire of Goods - your obligations:

21. Use of the ActSafe Unit must only be carried out by those who are trained to do so without exception. Training and ensuring this Clause 21 is complied with is your sole responsibility.
22. You shall under these Terms and Conditions during the term of this agreement warrant and undertake to:
  - 22.1. ensure the Goods are suitable for the purposes of their use and for carrying out any daily or pre-use checks;
  - 22.2. ensure that professional training takes place for the safe and correct use of the Goods and such training is complete, up to date at the time of use of the Goods by you and anyone you authorise to have access to and use of the Goods;
  - 22.3. ensure that access to and use of the Goods is restricted to you and your employees and staff only;



- 22.4. ensure that the Goods are kept and operated in a safe, protected and suitable environment, used only for the purposes for which they are designed, and operated in a proper manner by trained competent staff in accordance with any manufacturing operating instructions;
- 22.5. take such steps (including compliance with all safety and usage instructions provided by us) as may be necessary to ensure, so far as is reasonably practicable, that the Goods are at all times safe and without risk to health when it is being set, used, cleaned or maintained by a person at work;
- 22.6. maintain at your own expense the Goods in good and substantial repair in order to keep them in as good an operating condition as they were on the delivery date (fair wear and tear only excepted) including replacement of worn, damaged and lost parts, and shall make good any damage to the Goods. For the avoidance of doubt, all items of PPE returned from hire will be subject to a further charge made to you for the costs of cleaning;
- 22.7. make no alteration to the Goods and shall not remove any existing component (or components) from the Goods without our prior written consent unless the component (or components) is (or are) replaced immediately (or if removed in the ordinary course of repair and maintenance as soon as practicable) by the same component or by one of a similar make and model or an improved or advanced version of it. Title and property in all substitutions, replacements, renewals made in or to the Goods shall vest in us immediately upon installation;
- 22.8. keep us fully informed and immediately notify us of all material matters relating to the Goods including but not limited to any damage, loss, confiscation or seizing of the Goods, any health and safety related matters relating to the Goods or performance errors relating to the Goods;
- 22.9. at all times keep the Goods in your possession or control and keep us informed of their location;
- 22.10. permit us or our duly authorised representatives to inspect the Goods at all reasonable times and for such purpose to enter your premises or any premises at which the Goods may be located, and you shall grant reasonable access and facilities for such inspection;
- 22.11. maintain operating and maintenance records of the Goods and make copies of such records readily available to us, together with such additional information as we may reasonably require;
- 22.12. not, without our prior written consent, part with control of (including for the purposes of repair or maintenance), sell or offer for sale, underlet or lend the Goods or allow the creation of any mortgage, charge, lien or other security interest in respect of any of them;
- 22.13. not without our prior written consent, attach the Goods to any land or building so as to cause the Goods to become a permanent or immovable fixture on such land or building. If the Goods do become affixed to any land or building then the Goods must be capable of being removed without material injury to the Goods or such land or building and you shall repair and make good any damage caused by the affixation or removal of the Goods from any land or building and indemnify us against all losses, costs or expenses incurred as a result of such affixation or removal;



- 22.14. not do or permit to be done any act or thing which will or may jeopardise our right, title or interest in the Goods and, where the Goods have become affixed to any land or building, you must take all necessary steps to ensure that we may enter such land or building and recover the Goods both during the term of this agreement and for a reasonable period thereafter, including by procuring from any person having an interest in such land or building, a waiver in writing and in our favour of any rights such person may have or acquire in the Goods and a right for us to enter onto such land or building to remove the Goods;
- 22.15. not suffer or permit the Goods to be confiscated, seized or taken out of your possession or control under any distress, execution or other legal process, but if the Goods are so confiscated, seized or taken, you shall notify us and you shall at your sole expense use your best endeavours to procure an immediate release of the Goods and shall indemnify us on demand against all losses, costs, charges, damages and expenses incurred as a result of such confiscation;
- 22.16. not use the Goods for any unlawful purpose;
- 22.17. ensure that at all times the Goods remains identifiable as being our property and wherever possible shall ensure that a visible sign to that effect is attached to the Goods;
- 22.18. deliver up the Goods at the end of the Rental Period at such address as we require and complete an Off-Hire Form and return to us at the same time, or if we request, allow us or our representatives access to your premises or any premises where the Goods are located for the purpose of removing the Goods;
- 22.19. to indemnify us on demand against each loss, liability and cost which we may incur arising out of the breach of your obligations under this agreement;
- 22.20. to inform us immediately of any changes in ownership or Control of you, and of any change in your organisation or method of doing business that might be expected to affect the performance of your duties under this agreement; and
- 22.21. not do or permit to be done anything which could invalidate the insurances referred to in these Terms and Conditions.
23. You acknowledge that we shall not be responsible for any confiscation or seizing of the Goods, claims, disputes, health and safety matters, loss of or damage to the Goods arising out of or in connection with any negligence, misuse, mishandling of the Goods or otherwise caused by you, your officers, employees or staff, agents, representatives, customers, clients, suppliers, contractors or anyone else or any other entity, and without affecting any other right or remedy available to us, you shall indemnify us in full against all liabilities, costs, expenses, damages and losses (including 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 professional costs and expenses suffered or incurred by us in the event of you, any of your officers, employees or staff, agents, representatives or anyone authorised by you or given access by you to the Goods and/or arising out of, or in connection with any failure by you to comply with these Terms and Conditions.

#### Hire of Goods – insurance, title and risk:

24. In the case of any order to hire Goods, the Goods shall at all times remain our property, and you shall have no right, title or interest in or to the Goods (save the right to possession and use



of the Goods subject to the terms and conditions of this agreement). The Goods shall remain at your sole risk during the Rental Period and any further term during which any Goods hired are in your possession, custody or control ("**Risk Period**") until such time as the Goods are acknowledged by us as redelivered to us along with a completed Off-Hire Form. During the Rental Period and the Risk Period, you shall, at your own expense, obtain and maintain the following insurances:

- 24.1. insurance of the Goods to a value not less than their full replacement value comprehensively against all usual risks of loss, damage or destruction by fire, theft or accident, and such other risks as we may from time to time nominate in writing; and if requested by us, you shall provide copies to us of the insurance policy certificates and details of the cover provided as evidence that such cover remains in place and all insurance should be placed with a reputable insurer;
- 24.2. insurance for such amounts as a prudent owner or operator of the Goods would insure for, or such amount as we may from time to time reasonably require, to cover any third party or public liability risks of whatever nature and however arising in connection with the Goods; and the insurance required will be for a limit of no less than £10,000,000; and if requested by us you, you shall provide copies to us of the insurance policy certificates and details of the cover provided as evidence that such cover remains in place and all insurance should be placed with a reputable insurer; and
- 24.3. insurance against such other or further risks relating to the Goods as may be required by law, together with such other insurance as we may from time to time consider reasonably necessary and advise to you and if requested by us, you shall provide copies to us of the insurance policy certificates and details of the cover provided as evidence that such cover remains in place and all insurance should be placed with a reputable insurer.
25. All insurance policies procured by you shall be endorsed to provide us with at least twenty (20) Business Days' prior written notice of cancellation or material change (including any reduction in coverage or policy amount) and shall upon our request name us on the policies as a loss payee in relation to any claim relating to the Goods. You shall be responsible for paying any deductibles due on any claims under such insurance policies and if requested by us you, you shall provide copies to us of the insurance policy certificates and details of the cover provided as evidence that such cover remains in place and all insurance should be placed with a reputable insurer.
26. Risk of loss, theft, damage or destruction of the Goods delivered to you shall (unless down to a manifest error on our part in delivering to the wrong address), pass to you upon the earlier of delivery to you or the Carrier's first attempted delivery to you subject to the provisos in Clause 12 above.

### Creating an Account with us:

27. In order to be able to submit an Order to either purchase or hire Goods, you will first need to create an account (an "**Account**") using the facility included within this Website. In the course of creating an Account you will need to provide us with certain information about yourself, though not any payment information (unless otherwise required so that we can meet your Order(s)). It is acknowledged that the information required by us may change from time to time.
28. You warrant, represent and undertake that, in the course of creating your Account using our facility:



- 28.1. the information that you upload is, at all times whilst you have your Account, accurate, current and complete;
  - 28.2. if you are procuring the Goods on behalf of your employer or principal, you have been duly appointed to do so and have the authority to bind your employer or principal and are permitted to provide the payment information of your employer or principal; and
  - 28.3. you will not divulge any of your Account details, including your user name and password, to any third party.
29. We will not be liable to you if you upload onto this Website other than in accordance with our directions, or otherwise utilise, your Account information in such a way that it is liable to be compromised. If you believe that your Account information has been, or is likely to be, compromised, you must notify us promptly so that we can suspend your Account and/or, at your direction, any Order that is in hand (including any unauthorised order), but you acknowledge that it will not be possible for us to cancel an Order (or an unauthorised order) after we have passed the relevant Goods to our Carrier, and in such circumstances we shall have no liability to you for any loss or damage you suffer.

#### Our rights and responsibilities:

30. We reserve the right to accept or decline any Order made by you, irrespective of whether or not you have paid the Charges. We may notify you of our refusal to accept your Order in writing or by telephone within a reasonable period of time following our receipt of the same. If we refuse to accept an Order and we are already in receipt of the relevant Charges from you, we will refund you those Charges.
31. We will use commercially reasonable endeavours execute your Order to your requirements, but it is acknowledged that we shall be entitled to provide you with suitable substitute Goods following receipt of a request from you, or in the event that the applicable advertised Good has been superseded by a new edition. If a discrepancy arises in connection with the Charges as a result of this, it is acknowledged that you give us the right to credit or charge you the difference, as the case may be.
32. If we cannot fulfil your Order from our existing stock, we will (following receipt of a written direction from you) either put the applicable Goods on back order to be fulfilled once we have those Goods to hand, or we will cancel the Order and refund you the Charges.
33. We reserve the right, without notice to you and for any reason, to discontinue the provision (including the hire) of any of the Goods advertised on this Website.
34. We shall provide the Goods using reasonable skill and care and in accordance with these Terms and Conditions, and these undertakings are your sole remedies under these Terms and Conditions, save in respect of Clauses 52 to 57 of these Terms and Conditions.

#### Delivery:

35. We will deliver the Goods to the address detailed by you when completing your Account information, or to such other address as you might specify. To facilitate any delivery, you shall at your sole expense provide all requisite materials, facilities, access and suitable working





conditions to enable such delivery to be carried out safely and expeditiously including any materials, facilities, access and working conditions specified by us.

36. Any delivery times detailed on this Website are estimates only, although we shall endeavour to adhere to those delivery times. It is acknowledged that we shall have no liability to you in the event that we do not comply with the estimated delivery times and, accordingly, time is not of the essence with respect to our delivery obligations. It is further acknowledged that certain Goods may take longer to deliver than others, on account of their weight, shape, destination or otherwise. If we do not deliver the Goods by the estimated delivery time, we may attempt to ascertain their whereabouts and the likely delivery time, and may notify you accordingly.
37. You shall procure that a duly authorised representative shall be present at the delivery of any hired Goods. Acceptance of delivery by such representative shall constitute conclusive evidence that you have examined the hired Goods and found them to be in good condition, complete and fit in every way for the purpose for which it is intended. Your duly authorised representative shall sign, print their name and date the delivery note provided by us at delivery.
38. If you fail to accept delivery of hired Goods on the delivery date, then, except where such failure is caused by our failure to comply with our obligations under this agreement:
  - 38.1. the hired Goods shall be deemed to have been delivered at 9.00 am on the delivery date;
  - 38.2. the Rental Payments shall be payable by you to us for the Rental Period within the period stated on the invoice we issue to you;
  - 38.3. without affecting any other right or remedy available to us, we reserve the right to recover all expenses, costs and/fees for any failure by you to accept delivery of the hired Goods on the delivery date and for any repeated delivery where it is subsequently agreed by us in writing to a new delivery date; and
  - 38.4. without affecting any other right or remedy available to us, we reserve the right to terminate this agreement with immediate effect in the event of any failure by you to accept delivery of the hired Goods on the delivery date or any new delivery date subsequently agreed by us in writing.

#### Inspection, acceptance and return of Goods:

39. You must inspect the Goods promptly following your receipt of them, and you will be deemed by us and you to have accepted the Goods if you do not notify us in writing within ten (10) days from the date on which you received them (the "**Acceptance Period**"), with appropriate details, that:
  - 39.1. there is a defect in the Goods that is evident upon reasonable examination;
  - 39.2. there is a shortfall or excess in or of the quantity of the Goods detailed in the applicable Order; and/or
  - 39.3. the delivery is otherwise than in accordance with the Order.



40. Subject to Clause 12 of these Terms and Conditions, in the event that you notify us within the Acceptance Period of a defect in the Goods that is evident upon reasonable examination, you must not open them, and our sole liability to you will be, at our discretion, to replace the defective Goods or to refund the Charges. We will send the Carrier to collect the defective Goods from you, and we will pay the costs of the Carrier.
41. In the event that you notify us within the Acceptance Period of a shortfall or excess in or of the quantity of the Goods, our sole liability to you will be (at our discretion) deliver the shortfall or refund or debit (as the case may be) the relevant balance.
42. In the event that you notify us within the Acceptance Period that the delivery is otherwise than in accordance with the Order, our sole liability to you will be, at our discretion, to replace the defective provision with the Goods required by the Order or refund the Charges to you.
43. In the event that you notify us that we have not delivered the Goods by the estimated due date for delivery detailed in this Website, and you do not receive them within fifty (50) days thereafter, our sole liability to you will be, at our discretion, to deliver the undelivered Goods to you or to refund the Charges for those undelivered Goods.
44. If we receive no communication from you (whether by acknowledgement of receipt of the Goods or otherwise) during the Acceptance Period, those Goods will be deemed by you and us to have been delivered to you, and accepted by you, by the relevant estimated due date and constitute conclusive evidence that you have examined the Goods and has found them to be in good condition, complete and fit in every way for the purpose for which they are intended.
45. If the Goods develop a material defect within the applicable warranty period, we shall repair or replace them (or procure that they are repaired or replaced) in accordance with the provisions of the applicable warranty. If the affected Goods are to be replaced the period of the replacement Goods' warranty shall be the unexpired period of the defective Goods' warranty. These terms and conditions shall apply to any repaired or replacement Goods supplied by us.
46. If you decide during the Acceptance Period that you do not wish to retain the Goods, they can be returned to us, provided:
  - 46.1. you have not damaged or otherwise tampered with the packaging (so that we can sell them again as being new); and
  - 46.2. you will pay the costs of our Carrier.
47. We shall only accept the return of any Goods if they are made available by you in accordance with our directions and in suitable condition and packaging, as determined by us in our sole discretion. We will supply you with a returns number which you will need to cite on any applicable paperwork. If you do not comply with these stipulations we or our Carrier may refuse to accept delivery of the relevant Goods. We will charge you the at our sole discretion costs for cleaning or sanitising any Goods so returned (including but not limited to any PPE under Clause 22.6 above) which you agree you will pay on demand.
48. Title to any Goods that are returned to us shall become ours again, and title to any substitute Goods shall vest with you in accordance with Clause 20 of these Terms and Conditions.



### Export Controls:

49. It is acknowledged that certain Goods may be subject to the Export Controls; accordingly you shall, in connection with any Goods affected by the Export Controls, comply with the Export Laws (insofar as they relate to the relevant Goods) and obtain any licence, permit or other consent necessary to export, import, re-export or transfer those Goods, and it is acknowledged that a failure by you to comply with the same shall be deemed to be a breach of these Terms and Conditions which is not capable of rectification.
50. You shall not, whether directly or indirectly, sell or permit to be sold, dispose of, export, re-export, transfer the Goods, or any part of them, to any jurisdiction that is subject to the International Restrictions. Accordingly, you certify, warrant, represent and undertake that you will not use the Goods, or any part of them, for use, sale or incorporation into any product that could be used in breach of the Export Controls or the International Restrictions, and it is acknowledged that a failure by you to comply with the same shall be deemed to be a breach of these Terms and Conditions which is not capable of rectification.

### Exclusion and limitation of liability:

51. Your particular attention is drawn to the liability provisions detailed in Clauses 52 to 57 of these Terms and Conditions, which apply to every liability arising under or in connection with this agreement including liability in contract, tort (including negligence), misrepresentation, restitution, deliberate fault or otherwise.
52. Neither our nor your liability is limited pursuant to these Terms and Conditions in respect of:
  - 52.1. death or personal injury attributable to negligence;
  - 52.2. fraud;
  - 52.3. fraudulent misrepresentation; or
  - 52.4. any other liability that cannot be limited as a matter of law.
53. Subject to Clause 52 of these Terms and Conditions, our total aggregate liability to you under these Terms and Conditions, whether in contract, tort (including negligence), breach of statutory duty, misrepresentation, indemnity or otherwise, shall be limited to the total value of the applicable Order.
54. Subject to Clause 52 of these Terms and Conditions, we shall not be liable under these Terms and Conditions for:
  - 54.1. any wasted expenditure;
  - 54.2. any loss of actual or anticipated profits;
  - 54.3. any loss of actual or anticipated savings;
  - 54.4. any loss of business;
  - 54.5. any loss of sales or revenue;



- 54.6. any loss of agreements or contracts;
  - 54.7. any loss of goodwill or reputation; or
  - 54.8. any loss of, or damage to, data, software or information.
55. Subject to Clause 52 of these Terms and Conditions, we shall not be liable under these Terms and Conditions for any consequential or indirect loss or damage, however caused.
56. You shall have no remedy against us in respect of any obsolete, inaccurate or incomplete statement made in the course of using this Website, submitting an Order or receiving the Goods, unless any such statement was made fraudulently.
57. We shall not under any circumstances whatsoever be liable to, you, your officers, employees or staff, customers, clients, agents, representatives, contractors, subcontractors, suppliers, or anyone else or any other entity, in respect of any act or omission by you, your officers, any of your employees or staff, customers, clients, representatives, customers, clients, contractors, subcontractors, agents, suppliers or anyone else or any other entity.

#### Force majeure:

58. It is possible that our ability to deliver the Goods to you may be attributable to an act, circumstance or event that is beyond our reasonable control (a "**Force Majeure Event**"); accordingly, if we are prevented or restricted from performing our obligations on account of any such Force Majeure Event, we shall be relieved of our obligations to you in respect of the affected Order for as long as the Force Majeure Event persists. If the Force Majeure Event continues for more than fifty (50) days, we shall have the option, at our discretion, to can the affected Order without incurring any liability to you.

#### Intellectual property rights:

59. You acknowledge that we and our licensors have full right and/or title to all of the intellectual property rights, including patents, copyright, trade marks, design rights, database rights, know-how or other rights, whether registered or unregistered in all jurisdictions (together, the "**IPR**"), in this Website (and any information about the Goods detailed within it), and the stock numbers relating to the Goods and, as such, the whole or partial reproduction of the same (save as permitted in accordance with the Terms of Use) is prohibited.
60. We do not warrant, represent or undertake to you, or otherwise give you any assurance, that the Goods supplied to you do not infringe the IPR of any third party.

#### Applicable laws:

61. You warrant, represent and undertake that you shall (and, where relevant, shall procure) that you will in your dealings with us comply with all applicable laws, statutes and regulations from time to time in force, including:
- 61.1. the Anti-Bribery Laws; and
  - 61.2. the United Kingdom Modern Slavery Act 2015,



- 61.3. and you acknowledge that any breach by you of this Clause 61 of these Terms and Conditions shall be deemed to be a material breach of these Terms and Conditions which shall not be capable of rectification.

#### Privacy Policy:

62. Our privacy policy set out at <https://gibbgroupltd.com/privacy-policy/> (the "**Privacy Policy**"), details the basis upon which we will process any of the personal data that we collect from you or which you notify to us in accordance with applicable data protection and privacy legislation in force from time to time in the UK, including the United Kingdom Data Protection Act 2018, European Union Regulation 2016/679 and European Union Directive 2002/58/EC (the "Data Protection Legislation").
63. The provisions of the Privacy Policy shall apply with respect to any personal data you provide to us in connection with your use of this Website, your Account, your submission of an Order and your receipt of the Goods.

#### Termination:

64. Without affecting any other right or remedy available to it, we may terminate this agreement with immediate effect by giving notice to you if:
- 64.1. you fail to pay any amount due under this agreement on the due date for payment;
  - 64.2. you breach these Terms and Conditions;
  - 64.3. you repeatedly breach any of the terms of this agreement in such a manner as to reasonably justify the opinion that its conduct is inconsistent with it having the intention or ability to give effect to the terms of this agreement;
  - 64.4. you suspend, or threaten to suspend, payment of your debts or are unable to pay your debts as they fall due or admits inability to pay your debts or (being a company or limited liability partnership) is deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986 as if the words "it is proved to the satisfaction of the court" did not appear in sections 123(1)(e) or 123(2) of the IA 1986 or (being an individual) is deemed either unable to pay its debts or as having no reasonable prospect of so doing, in either case, within the meaning of section 268 of the Insolvency Act 1986 or (being a partnership) has any partner to whom any of the foregoing apply;
  - 64.5. you commence negotiations with all or any class of your creditors with a view to rescheduling any of its debts, or makes a proposal for or enters into any compromise or arrangement with its creditors;
  - 64.6. you apply to court for, or obtain, a moratorium under Part A1 of the IA 1986;
  - 64.7. a petition is filed, a notice is given, a resolution is passed, or an order is made, for or in connection with your winding up (if you are a company, limited liability partnership or partnership) other than for the sole purpose of a scheme for your solvent amalgamation with one or more other companies or your solvent reconstruction;



- 64.8. an application is made to court, or an order is made, for the appointment of an administrator, or a notice of intention to appoint an administrator is given or an administrator is appointed, over you (being a company);
- 64.9. the holder of a qualifying floating charge over your assets (being a company) has become entitled to appoint or has appointed an administrative receiver;
- 64.10. a person becomes entitled to appoint a receiver over all or any of your assets or a receiver is appointed over all or any of your assets;
- 64.11. you (being an individual) are the subject of a bankruptcy petition, application or order;
- 64.12. your creditor or encumbrancer attaches or takes possession of, or a distress, execution, sequestration or other such process is levied or enforced on or sued against, the whole or any part of your assets and such attachment or process is not discharged within 14 days;
- 64.13. any event occurs, or proceeding is taken, with respect to you in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events mentioned in Clauses 63.4 to 63.11 (inclusive) including but not limited to Chapter 11 bankruptcy in the United States;
- 64.14. you suspend or ceases, or threaten to suspend or cease, carrying on all or a substantial part of its business;
- 64.15. you (being an individual) dies or, by reason of illness or incapacity (whether mental or physical), is incapable of managing their affairs or becomes a patient under any mental health legislation; or
- 64.16. there is a change of Control of you.
- 65. It is acknowledged that we reserve the right to terminate your Account without on notice at any time for any reason outside of Clause 63 and without having to provide a reason.
- 66. We have the right to terminate this agreement in the event of a Total Loss in relation to the Goods.
- 67. You may not terminate any outstanding or open Orders without our prior written consent which may be withheld in our sole discretion.

#### Consequences of termination:

- 68. Upon termination of this agreement, however caused in respect of any hiring of Goods or purchase of Goods where the cleared sum for such Goods has not been received:
  - 68.1. our consent to your possession of the Goods shall terminate and we may, by our authorised representatives, without notice and at your expense, retake possession of the Goods and for this purpose may enter your premises or any premises at which the Goods are located; and
  - 68.2. without prejudice to any other rights or remedies, you shall pay to us on demand:
    - 68.2.1. all Rental Payments and other sums due but unpaid at the date of such demand together with any interest accrued pursuant to Clause 19;



- 68.2.2. any costs and expenses incurred by us in recovering the Goods and/or in collecting any sums due under this agreement (including any storage, insurance, repair, transport, legal and remarketing costs); and
- 68.2.3. in the event of a Total Loss you shall also pay us the total value of the Goods.
- 68.3. Upon termination of this agreement by us, you shall pay to us on demand a sum equal to the whole of the Rental Payments that would (but for the termination) have been payable if the agreement had continued from the date of such demand to the end of the Rental Period. The sums payable pursuant to this clause shall be agreed compensation for our loss and shall be payable in addition to the sums payable pursuant to Clause 67. Such sums may be partly or wholly recovered from any Deposit.
69. Termination or expiry of this agreement shall not affect any rights, remedies, obligations or liabilities of the parties that have accrued up to the date of termination or expiry, including the right to claim damages in respect of any breach of the agreement which existed at or before the date of termination or expiry.

#### Miscellaneous:

70. In the event that we or you fail to exercise any right or remedy pursuant to these Terms and Conditions, that failure shall not be construed as a waiver of that right or remedy.
71. In the event of any ambiguity, conflict or inconsistency arising between this version of the Terms and Conditions and any previous edition of these Terms and Conditions, this current version of these Terms and Conditions will prevail.
72. If any part of these Terms and Conditions is found to be unenforceable by any court, tribunal or regulatory body of competent jurisdiction, the relevant wording shall be construed or interpreted so as to give full effect to the remainder of the affected part.
73. Nothing in these Terms and Conditions shall confer any rights upon any third party and, accordingly, the United Kingdom Contracts (Rights of Third Parties) Act 1999 shall not apply.
74. All notices and communications shall be given or made by you to us either by post at our address above, or by email; all notices and communications sent to us by post shall be deemed to be received within three (3) days following the date of posting if sent by first class post, and if sent by email on the same day if the day on which it is sent is a Business Day or the next Business Day if the day on which it is sent is a weekend or public holiday.
75. If you have any issues with our Goods, Charges and offerings, please contact us by using the contact details on this Website.
76. You shall, and shall use all reasonable endeavours to procure that any necessary third party shall, promptly execute and deliver such documents and perform such acts as may be required for the purpose of giving full effect to this agreement.
77. Unless it expressly states otherwise, this agreement does not give rise to any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this agreement.



78. No variation of this agreement shall be effective unless it is in writing and signed by the parties (or their authorised representatives).
79. Nothing in this agreement is intended to, or shall be deemed to, establish any partnership or joint venture between any of the parties, constitute any party the agent of another party, or authorise any party to make or enter into any commitments for or on behalf of any other party.
80. You shall not assign, transfer, mortgage, charge, subcontract, delegate, declare a trust over or deal in any other manner with any of its rights and obligations under this agreement.
81. These Terms and Conditions set forth the full extent of our obligations and liabilities in respect of the provision or hire of the Goods to you. Save as detailed expressly in these Terms and Conditions, all implied warranties, terms and conditions (including any terms implied by statute) concerning this Website and the provision or hiring of the Goods by us are disclaimed and excluded to the fullest extent permitted by law, including any implied terms of satisfactory quality, fitness for purpose and the use of reasonable skill and care in the performance of our obligations. Accordingly, except as required by law, we shall not be liable to you for any loss, damage, cost, expense, claim or otherwise arising out of the actual or alleged breach of any such implied warranties, terms or conditions (including any terms implied by statute) or the breach of any other duty of any kind imposed upon us as a matter of law. You acknowledge that you are responsible for ensuring that the Goods are fit for the purpose for which you ordered them pursuant to the applicable Order.
82. These Terms and Conditions (including our [Website Terms](#) and [Privacy Policy](#)) set out the entire agreement between you and us and supersede any previous terms, conditions, warranties and/ or representations. You acknowledge that you have not relied on any statement, promise, representation or assurance or warranty that is not set out in these Terms and Conditions.
83. Nothing in these Terms and Conditions shall affect your statutory rights as a consumer (as defined under the relevant consumer legislation) to the extent those rights are applicable to the hire or purchase of Goods under this agreement and cannot be limited or excluded by law.

#### Governing law and jurisdiction:

84. These Terms and Conditions are governed by the laws of England and Wales, and is subject to the exclusive jurisdiction of the courts of England and Wales.

