

Gillett Environmental Limited – The Form

This Trade Account Form (**‘the Form’**) sets out the particulars of the trade account which Gillett Environmental Limited (registered company number 06740061) (also trading as Lytham St. Annes Skip Hire) and whose registered office is at Boundary Road, Lytham, Lancashire, FY8 5HU (**‘GEL’**) is willing to offer to the customer whose details are set out below (**‘the Customer’**).

The terms and conditions applicable to the trade account (**‘the Account Terms’**) are enclosed herewith and must be signed before the Customer is granted a trade account.

Business Name	
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Business Type (delete as applicable)	Company / LLP / Partnership / Sole Trader
Corporate Registered Number (if applicable)	
Registered / Business Address	

Contact Details	Name	
	Email	
	Telephone Number	
	Fax Number	

Details of Directors / Partners / Controlling Individual	Name	Details	Personal Guarantee*?
	Where a personal guarantee is being provided by the individual(s) named above, for the purposes of the Account Terms they shall be referred to as ‘the Guarantors’ and each ‘a Guarantor’ .		

Credit Limit	£			
Payment Terms				
Bank Details	Name		Account #	
	Address		Sort Code	

Signature	The legally binding contract between the parties on which basis the trade account is based is comprised of this Form together with the Account Terms enclosed herewith (and any documents referred to therein including the Skip Hire Terms and the Sale of Goods Terms (together ‘the Specific Terms’)) (‘the Contract’). Prior to this Contract coming into force in force, this Form must be signed and returned to GEL either (i) in person or via post to the address first set out above; or (ii) via email to accounts@gillettenviro.com. By signing below, I hereby warrant that I am duly authorised to do so for and on behalf of the Customer and have read, understood and agree to the Account Terms (and the Specific Terms) enclosed herewith (with particular attention having been given to clauses 3, 7 and 8).
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- For and on behalf of the Customer	Signed:		Dated:	
	Print Name:	, acting for and on behalf of the Customer		

- As the provider(s) of a personal guarantee	* Where a personal guarantee is being provided by the above named individuals, this Form must be signed by each below, indicating that they: - have been given the opportunity to and have obtained legal advice; and - agree to provide a personal guarantee under the Account Terms on a personal basis, having particular regard to clause 6.			
	Signed:		Dated:	
	Print Name:	, acting in a personal capacity		
	Signed:		Dated:	
	Print Name:	, acting in a personal capacity		
	Signed:		Dated:	
	Print Name:	, acting in a personal capacity		

Gillett Environmental Limited – The Account Terms

1. INTERPRETATION

- 1.1 The defined terms used within this Contract shall take the meanings given to them in the Specific Terms, unless otherwise set out within the Form, these Account Terms or where the context otherwise provides.

Account Terms: means these terms and conditions.

Credit Limit: means the credit limit which the Customer is entitled to as set out within the Form or otherwise varied in accordance with clause 5 from time to time.

Commencement Date: the date on which the Form is received by GEL, being the date on which this Contract is formed as set out in clause 2.

Contract: shall take the meaning given to it in the Form.

Customer: shall take the meaning given to it in the Form.

Form: means the document headed as such and which the Customer is required to sign prior to the Contract being formed.

GEL: shall take the meaning given to it in the Form.

Guarantor(s): shall take the meaning given to it in the Form.

Payment Terms: shall mean the special terms on which the Customer shall pay GEL for the Goods as set out in the Form.

Sale of Goods Terms: means the terms and conditions set out in Appendix 2 (as varied by the terms of this Contract) and which form the basis on which GEL shall sell any Goods to the Customer.

Sale or Hire: means an individual contract formed under the Specific Terms between GEL and the Customer.

Skip Hire Terms: means the terms and conditions set out in Appendix 1 (as varied by the terms of this Contract) and which form the basis on which GEL shall hire the Container to the Customer.

Specific Terms: means the Skip Hire Terms and/or Sale of Goods Terms applicable to a particular Order.

Term: means the term of this Contract.

- 1.2 The terms and conditions set out within the Specific Terms shall take effect as if set out in the body of these Account Terms save that where and to the extent that there is a conflict between the Specific Terms and these Account Terms, these Account Terms shall prevail to the extent of the inconsistency.
- 1.3 Where and to the extent that any of the terms set out within the Specific Terms take effect in accordance with clause 1.2 as if set out within this Contract, references within the Specific Terms shall, in the context of these Account Terms be taken as referring to this Contract.

2. CONTRACT FORMATION AND DURATION

- 2.1 These Account Terms set out the basis on which GEL grants the Customer with a trade account save that and for the avoidance of doubt the Contract shall not be formed until such time as the Customer has signed and returned the Form to GEL as directed in the Form.

- 2.2 Once formed this Contract shall remain in force indefinitely from the Commencement Date unless and until terminated in accordance with clause 7 below.

3. PURCHASING GOODS AND CREDIT LIMIT – SPECIAL ATTENTION IS DRAWN TO THIS CLAUSE

- 3.1 Individual Orders made by the Customer from time to time throughout the Term shall be made in accordance with the mechanism set out in the applicable Specific Terms save to the extent that the same are amended, varied or added to by these Account Terms and the Form.

- 3.2 The Customer may from time to time raise Orders up to a cumulative amount of Charges not exceeding the Credit Limit.

- 3.3 The Customer agrees and acknowledges that GEL may decrease the Credit Limit at its absolute discretion on immediate notice in the event that the Customer has breached the Contract or where GEL reasonably believes that it shall do so.

- 3.4 In the event that the Customer would like to increase the Credit Limit then it must make a written application to GEL. GEL shall confirm whether such application is accepted or rejected and in the event that it accepts the application, it may at its absolute discretion amend any of the terms of this Contract, including but not limited to the Payment Terms.

- 3.5 At the end of each calendar month, GEL shall raise an invoice for the balance of all Charges incurred by the Customer during that month and the Customer agrees that unless otherwise specified in the Payment Terms, it shall pay such balance within 30 days of the date of the invoice.

- 3.6 Notwithstanding the amount of any payment received from the Customer by GEL, all payments received by it shall be applied to the oldest outstanding Charges.

4. NON-SOLICITATION

- 4.1 A party shall not, without the prior written consent of the other party, at any time from the Commencement Date to the expiry of 24 months after the later of the completion date of the final Contract or the end of the, solicit or entice away from that party or employ or attempt to employ any person who is, or has been, engaged as an employee, consultant or subcontractor of that party.

- 4.2 Where any consent is given by GEL in accordance with clause 4.1, such consent shall be subject to the Customer paying to the consenting party a sum equivalent to 20% of the then current annual

remuneration of the GEL employee, consultant or subcontractor or, if higher, 20% of the annual remuneration to be paid by GEL to that employee, consultant or subcontractor.

5. WARRANTIES

5.1 Each party warrants that:

- (a) it has full power and authority to carry out the actions contemplated under this Contract;
- (b) its entry into and performance of this Contract will not infringe the intellectual property rights of any third party or cause it to be in breach of any obligations to a third party; and
- (c) so far as it is aware, all information, data and materials provided by it will be true, accurate and complete in all material respects, and it is entitled to provide the same to the other without recourse to any third party.

5.2 Except as expressly provided in this Contract, there are no conditions, warranties or other terms binding on the parties with respect to the actions contemplated by this Contract. Any condition, warranty or other term in this regard that might otherwise be implied or incorporated into this Contract, whether by statute, common law or otherwise, is, to the extent that it is lawful to do so, excluded by this Contract.

6. PERSONAL GUARANTEE – SPECIAL ATTENTION IS DRAWN TO THIS CLAUSE

6.1 Each Guarantor irrevocably guarantees to pay to GEL all money which is now or may at any time after the date of this Contract become due or owing to GEL by the Customer pursuant to or in connection with the Contract notwithstanding that the Guarantor may not have notice of any neglect or omission on the Customer's part under the Contract.

6.2 Where the Guarantor is more than one person:

- (a) all of them are jointly and severally liable under this Contract;
- (b) GEL shall have the same rights as if the Contract were a separate guarantee by each Guarantor;
- (c) GEL may settle with or release from liability any of them, without releasing or reducing the liability of the others; and
- (d) the liabilities of each of them under this Contract is severable. If the Contract, or any provision of it, is unenforceable against any of them, it will not affect the enforceability or continuation of the Contract in respect of any others.

6.3 As a separate and independent obligation each Guarantor as principal obligor agrees to indemnify GEL against any Losses suffered as consequence of material breach or non-performance by the Customer of its obligations and/or liabilities pursuant to the Contract.

6.4 This Guarantee shall be a continuing guarantee and the liability of the Guarantor under this Contract shall not be released or diminished by any variation in the terms of the Contract or forbearance, neglect or delay by GEL in seeking performance of the obligations of the Customer

or the Guarantor under the or any granting of time for such performance.

6.5 If the Customer is in breach or default in the performance of any obligation or liability under the Contract the Guarantor undertakes forthwith on demand unconditionally to perform or procure the performance of the obligation or liability in such manner to ensure that GEL shall receive the entire benefit it would have received had such obligation or liability been performed or discharged by the Customer.

6.6 The Guarantor undertakes that the Guarantor shall not during the term of the Contract do or omit to do anything which might lead to any of the events set out in clause 7.2(c) – (m) to occur in relation to the Customer.

6.7 GEL shall not be obliged to take any action or obtain judgment against the Customer before taking steps to enforce any of its rights or remedies against the Guarantor.

6.8 Any demand or notice on under this clause 6 shall be in writing signed by an officer of GEL and will be served on the Guarantor personally at the address set out above or any other place where the Guarantor may be present (including but not limited to the address of the Customer).

7. WITHOUT AFFECTING ANY OTHER RIGHT OR REMEDY AVAILABLE TO IT GEL TERMINATION OF THIS CONTRACT – SPECIAL ATTENTION IS DRAWN TO THIS CLAUSE

7.1 Without affecting any other right or remedy available to it, either party may terminate this Contract by serving no less than 10 Business Days' notice to the other for any reason.

7.2 Without affecting any other right or remedy available to it GEL may terminate (or suspend) this Contract with immediate effect by giving written notice to the Customer:

- (a) if the Customer commits a material breach of any term of this Contract (or a Sale or Hire) which breach is irremediable or (if such breach is remediable) fails to remedy that breach within a period of 5 Business Days after being notified in writing to do so;
- (b) if the Customer repeatedly breaches any of the terms of this Contract (or a Sale or Hire) 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 Contract (or a Sale or Hire);
- (c) the Customer suspends, or threatens to suspend, payment of its debts or is unable to pay its debts as they fall due or admits inability to pay its 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 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;

- (d) the Customer commences negotiations with all or any class of its 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 other than (being a company) for the sole purpose of a scheme for a solvent amalgamation of the Customer with one or more other companies or the solvent reconstruction of the Customer;
 - (e) a petition is filed, a notice is given, a resolution is passed, or an order is made, for or in connection with the winding up of the Customer (being a company) other than for the sole purpose of a scheme for a solvent amalgamation of the Customer with one or more other companies or the solvent reconstruction of the Customer;
 - (f) an application is made to court, or an order is made, for the appointment of an administrator, or if a notice of intention to appoint an administrator is given or if an administrator is appointed, over the Customer (being a company);
 - (g) the holder of a qualifying floating charge over the assets of the Customer (being a company) has become entitled to appoint or has appointed an administrative receiver;
 - (h) a person becomes entitled to appoint a receiver over the assets of the Customer or a receiver is appointed over the assets of the Customer;
 - (i) the Customer (being an individual) is the subject of a bankruptcy petition or order;
 - (j) a creditor or encumbrancer of the Customer 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 the Customer's assets and such attachment or process is not discharged within 10 Business Days;
 - (k) any event occurs, or proceeding is taken, with respect to the Customer in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events mentioned in clause 7.2(c) to clause 7.2(j) (inclusive);
 - (l) the Customer suspends or ceases, or threatens to suspend or cease, carrying on all or a substantial part of its business; or
 - (m) the Customer (being an individual) dies or, by reason of illness or incapacity (whether mental or physical), is incapable of managing his or her own affairs or becomes a patient under any mental health legislation.
- 8. CONSEQUENCES OF TERMINATION – SPECIAL ATTENTION IS DRAWN TO THIS CLAUSE**
- 8.1 On termination of this Contract, each Sale or Hire then in force at the date of such termination and the obligations of the Guarantor under this Contract in respect thereof shall continue in full force and effect, unless otherwise terminated in accordance with the provisions of the Specific Terms.
- 8.2 On termination of this Contract, unless such items are needed by it to perform its obligations under a Sale or Hire (and only until the end of such time), each party shall immediately:
- (a) return or destroy (as directed by the other party) any documents, handbooks, or other information or data provided to it by the other party for the purposes of this Contract. If reasonably required by the other party, it shall provide written evidence (in the form of a letter signed by it that these have been destroyed and that it has not retained any copies of them; and
 - (b) return all of the other party's equipment and materials, failing which, the other party may enter the relevant premises and take possession of them. Until these are returned or repossessed, that party shall be solely responsible for their safe-keeping.

Appendix 1 – Skip Hire Terms

TERMS AND CONDITIONS

These Terms set out the basis on which LSA Skip Hire provides the Services to the Customer and together with the Order, the Waste Transfer Note and any documentation referred to in the aforementioned documentation form the legally binding contract between the parties (“**the Contract**”). The Customer’s special attention is drawn to clauses 3 – 5, 7 and 8 below.

1. DEFINITIONS AND INTERPRETATION

1.1 Unless the context requires, the following defined words and expressions shall take the meanings given to them:

Additional Container Fee: has the meaning given to it in clause 4.4(a).

Additional Journey Fee: £150 + VAT or such other (lesser) fee as LSA Skip Hire deems appropriate in the circumstances.

Business Day: any day which is not a Saturday, Sunday or public bank holiday in England when banks in London are open for business.

Cancellation Fee: £95 + VAT, which is a figure deemed appropriate by LSA Skip Hire to compensate it for wasted time and administration in dealing with the Contract up to that point.

Charges: the charges payable by the Customer to LSA Skip Hire for the Services including the Price and any applicable Cancellation Fee, Additional Journey Fees, Waiting Fees, Infringing Waste Fees, Additional Container Fees and Extension Fees.

Collection: the collection of the Container from the Premises by LSA Skip Hire and **Collect** and **Collecting** shall be construed accordingly.

Collection Deadline: has the meaning given to it in clause 4.2.

Consents: has the meaning given to it in clause 3.2(b).

Container: the relevant roll on-off or skip waste container ordered by the Customer for the Services.

Contract: has the meaning given to it above and which shall be formed in accordance with clause 2.2 below.

Customer: means the party which has placed the Order and whose details shall be confirmed in the Waste Transfer Note.

Delivery: the depositing of the Container at the Premises by LSA Skip Hire and **Deliver** and **Delivered** shall be construed accordingly.

Extension Fees: has the meaning given to it in clause 5.4.

Force Majeure Event: means an event beyond the reasonable control of LSA Skip Hire including but not limited to strikes, lock-outs or other industrial disputes (whether involving the workforce of the Supplier or any other party), failure of a telecommunications service, utility service or transport network, act of God, war, riot, civil commotion, default of suppliers, agents or subcontractors, malicious damage, compliance with any law or governmental order, rule, regulation or direction, accident, breakdown of plant or machinery, fire, flood, or storm.

Infringing Waste Fee: the reasonable costs of disposing of the infringing Waste to LSA Skip Hire.

Location: has the meaning given to it in clause 2.1(d) below.

LSA Skip Hire: Gillett Environmental Limited (registered company number 06740061) trading as Lytham St. Annes Skip Hire and whose registered office is at Boundary Road, Lytham, Lancashire, FY8 5HU.

Losses: means actions, awards, charges, claims, damages, demands, expenses, fees, fines, liabilities, losses, penalties or proceedings.

Order: means the order placed by the Customer with LSA Skip Hire for the provision of the Services, whether made orally or in writing.

PDA: has the meaning given to it in clause 3.6 below.

Premises: the address to which the Customer requires the Container to be delivered.

Price: the price of the hire of the Container.

Requested Date: has the meaning given to it in clause 2.1(c) below.

Services: the hiring of the Container for the purposes of the collection and disposal of the Waste.

Support: has the meaning given to it in clause 3.7.

Terms: these terms and conditions.

Waiting Fee: the rate of £1 + VAT.

Waste: means the waste which the Customer wishes to have collected and disposed of.

Waste Transfer Note: the document produced by LSA Skip Hire containing details of the Order.

1.2 Unless the context otherwise requires words importing one gender include all other genders and words importing the singular include the plural and vice versa.

1.3 The headings in this Contract shall not affect its interpretation or construction.

1.4 Any reference in this Contract to any statutory provision includes any statutory modification or re-enactment of it or the provision referred to.

1.5 A reference to **writing** or **written** includes emails.

2. CONTRACT FORMATION

2.1 The Order shall specify details of:

- (a) the type of Container required;
- (b) the nature and substance of the Waste;
- (c) the date on which the Container is required (“**the Requested Date**”);
- (d) the Premises and the location within the Premises at which the Customer desires the Container to be positioned (“**the Location**”);
- (e) whether the Customer would like LSA Skip Hire to obtain any Consents; and
- (f) any further information or special requirements which LSA Skip Hire may reasonably be required to be informed of for the purposes of performing the Services.

2.2 On receipt of the Order LSA Skip Hire shall provide the Customer with the Price. Where the Customer indicates that this is acceptable, the Contract shall be deemed to have been formed.

2.3 In the event that the Customer wishes to cancel any Contract in advance of Delivery taking place, it agrees that it shall still be required to pay a Cancellation Fee and that where payment of the Charges has already been made to LSA Skip Hire, LSA Skip Hire shall issue a refund to the Customer within 7 Business Days.

3. DELIVERY – PAY SPECIAL ATTENTION TO THIS CLAUSE

3.1 LSA Skip Hire shall provide the Customer with the Services and in doing so shall use reasonable endeavours to Deliver on the Requested Date. The Customer agrees and acknowledges that time for Delivery in accordance with the Requested Date is not of the essence and LSA Skip Hire makes no warranties that Delivery shall take place at any given time or on any given date.

3.2 For the purposes of making Delivery, performing the Services and Collection, the Customer warrants that it shall facilitate LSA Skip Hire’s unobstructed, non-limited, and safe access to, egress from and movement around the Premises. Where the Location and/or the Premises is:

- (a) not owned by the Customer, the Customer warrants that it has the requisite authority and/or consent of the owner for Delivery to take place; or

- (b) a highway or public place, the Customer agrees and acknowledges that it is its responsibility to obtain the requisite permissions, consents and permits of the authority governing the Location and/or the Premises for Delivery to take place and the Container to remain there ("**Consents**"), that the Location and/or the Premises is adequately lit and that the Container is coned off and lit in accordance with applicable legislation.
- 3.3 The Customer agrees that LSA Skip Hire shall not be liable for any failure to perform the Services, make Delivery to the Location or at all, or make Collection where such non-performance is as a result of the Customer's failure to comply with clause 3.2. Where LSA Skip Hire is unable to make Delivery:
- (a) to the Location, LSA Skip Hire shall make Delivery to such other reasonable position at the Premises as it may determine at its absolute discretion or as otherwise agreed between the parties; or
 - (b) at all, it may leave the Premises with the Container and attempt to make Delivery at a later date as agreed between the parties. In each case where LSA Skip Hire fails to make Delivery under this clause, LSA Skip Hire may charge the Customer the Additional Journey Fee and such Additional Journey Fee shall be paid by the Customer to LSA Skip Hire in advance of the subsequent attempt to make Delivery.
- 3.4 Where the Customer refuses to permit LSA Skip Hire to make Delivery, it agrees and acknowledges that the full Charges shall remain payable and that it shall not be entitled to any refund.
- 3.5 The maximum time permitted for Delivery and Collection between arriving at and leaving the Premises is 15 minutes and where LSA Skip Hire has to wait beyond the maximum time, it reserves the right to charge the Waiting Fee per minute.
- 3.6 Upon making Delivery, LSA Skip Hire shall provide the Customer with a digital summary viewable on the driver's personal digital assistant ("**PDA**"). The Waste Transfer Note is available on request. The PDA and Waste Transfer Note shall confirm the details of the Order. Where, at the time of Delivery the Customer is:
- (a) present at the Premises, LSA Skip Hire requires that the Customer sign the PDA and such signature; or
 - (b) not present at the Premises, LSA Skip Hire shall leave a delivery note confirming details of the Order at the Premises and the failure of the Customer to notify LSA Skip Hire of any issues within 24 hours of Delivery, shall indicate the Customer's acceptance that there are no issues with Delivery.
- 3.7 The Customer warrants that the condition and ground of the Premises (including any access road or track) is suitable for the Container to be Delivered and Collected on, travel over, be transported over and without support ("**Support**"). Where Support is required, this shall be supplied by the Customer and placed in a suitable position for the Container to be Delivered or Collected on, travel over and be transported over. Any Support supplied by LSA Skip Hire is provided solely to assist the Customer under their duties within this clause 3.7 and expressly not to relieve it of his legal, regulatory or contractual obligations.
- 3.8 The Customer is responsible for the protection of, and liable for any damage to, any underground, surface or above ground services and utilities including, but not limited to cables, ducts, water pipes and gas lines, and any pavements, bridges, tunnels and roadways on or adjacent to the Premises and the Customer shall liaise as necessary and comply with all requirements of the relevant statutory authority or similar body.
- 4. WASTE – PAY SPECIAL ATTENTION TO THIS CLAUSE**
- 4.1 Subject to clause 4.2 below the Waste to be deposited in the Container shall:
- (a) be general and inert waste such as soil, garden waste, paper, plastics, wood and hardcore;
 - (b) only be that which the Container was provided for; and
 - (c) not exceed the volume of the Container provided (which where relevant shall not prohibit any Container doors or lids closing) or any specified weight limit for that Container.
- 4.2 Unless otherwise agreed between the parties or as provided for on the Waste Transfer Note, the Container shall not be filled with any Waste falling into the following categories:
- (a) plasterboard;
 - (b) asbestos and anything that looks like asbestos at the reasonable determination of LSA Skip Hire;
 - (c) electrical appliances including fridges/freezers;
 - (d) fluorescent/sodium lamps;
 - (e) gas cylinders/empty aerosols;
 - (f) tyres;
 - (g) unclean solvent paint cans/silicone and adhesive tubes/hilti gun cartridges;
 - (h) clinical or medical waste;
 - (i) solvents;
 - (j) liquids including oil;
 - (k) explosive waste;
 - (l) roofing felt;
 - (m) hazardous or toxic materials;
 - (n) food waste; and
 - (o) tree stumps and roots larger than 2 inches in diameter.
- 4.3 In the event of any breach of this clause 4, LSA Skip Hire may at its absolute discretion refuse to make Collection until such time as the Customer has removed the infringing Waste.
- 4.4 In the event that LSA Skip Hire makes Collection notwithstanding breach of:
- (a) clause 4.1(c), LSA Skip Hire reserves the right to charge for the price equivalent to the additional Container(s) which the Customer should have hired from LSA Skip Hire to avoid it having been in breach ("**Additional Container Fee**"); or
 - (b) the remainder of this clause 4, LSA Skip Hire reserves the right to charge the Infringing Waste Fee, and such Collection shall not be construed as LSA Skip Hire declaring the Customer having complied with this clause 4.
- 5. STORAGE AND COLLECTION – PAY SPECIAL ATTENTION TO THIS CLAUSE**
- 5.1 The Container shall not be removed from or repositioned within the Premises by anyone other than LSA Skip Hire and the Customer accepts that when any Container or other equipment owned by LSA Skip Hire and their contents is on the Premises or otherwise in its possession, it has the full risk, care, custody and control of such Container and equipment owned by LSA Skip Hire and their contents.
- 5.2 The Customer shall store and use the Container at all times in accordance with due regard for health, safety, the protection of the environment and fully and at all times in compliance with all applicable laws, regulations, rules, codes and procedures.
- 5.3 The lighting of fires in or near Containers is strictly prohibited.
- 5.4 The Customer shall notify LSA Skip Hire that it is ready for Collection on a date falling no later than:
- (p) one month, for Customers with an account; or
 - (q) seven days, for Customers without an account, (or such greater period as LSA Skip Hire may at its absolute discretion permit) following Delivery ("**Collection Deadline**").
- 5.5 The Customer agrees that failure to request Collection by the Collection Deadline shall permit LSA Skip Hire to charge £10 + VAT per day for roll on-off Containers and £5 + VAT per day for skip Containers ("**Extension Fees**").
- 5.6 If the Container is involved in any accident resulting in injury to persons or damage to property, immediate notification must be given by the Customer to LSA Skip Hire by telephone and confirmed in writing to LSA Skip Hire no later than 24 hours after such telephone notification. In relation to any claim no admission of liability, offer, promise of payment or indemnity shall be made by the Customer without LSA Skip Hire's prior written permission.

5.7 The Customer shall be responsible for the return of the Container or other equipment owned by LSA Skip Hire to LSA Skip Hire in equal good order (fair wear and tear excepted) following use. The Customer shall be liable to LSA Skip Hire for the full replacement value of any Container which is not returned to LSA Skip Hire at all; or otherwise returned in breach of this clause.

6. CHARGES AND PAYMENTS

6.1 Save where:

- (a) the Customer holds an account with LSA Skip Hire; or
 - (b) otherwise specified in these Terms; or
 - (c) the parties agree otherwise; or
- LSA Skip Hire shall invoice the Customer and the Customer shall pay the Charges to LSA Skip Hire upon formation of the Contract or such other day prior to Delivery as may be agreed. In the event of any conflict between sub-clauses (a)-(c) above, they shall take precedence in the following order: (c), (a), (b).

6.2 Time for payment of the Charges shall be of the essence.

6.3 Additional Charges may be payable by the Customer to LSA Skip Hire in accordance with clauses 3.3, 3.5, 4.4 and 5.4 and save where otherwise provided for or agreed between the parties LSA Skip Hire may raise invoices in respect of such additional Charges from time to time. Any invoices raised in accordance with this clause shall be paid within 5 Business Days.

6.4 All Charges are exclusive of VAT, which shall be payable in addition to the Charges at the rate or the rates for the time being in force.

6.5 In the event of late or non-payment by the Customer, LSA Skip Hire may:

- (a) charge the Customer interest on the overdue amount at the rate of 5% per cent per annum above the Bank of England base rate from time to time. Such interest shall accrue on a daily basis from the due date until actual payment of the overdue amount, whether before or after judgment. The Customer shall pay the interest together with the overdue amount; and/or
- (b) suspend (until receipt of payment in full, without liability to the Customer) or terminate the Services by removal of any Container from the Premises.

6.6 The Customer shall pay all amounts due under the Contract in full without any set-off, counterclaim, deduction or withholding (except for any deduction or withholding required by law). LSA Skip Hire may at any time, without limiting any other rights or remedies it may have, set off any amount owing to it by the Customer against any amount payable by LSA Skip Hire to the Customer.

7. LIMITATION OF LIABILITY – PAY SPECIAL ATTENTION TO THIS CLAUSE

7.1 Save to the extent otherwise provided for:

- (a) LSA Skip Hire shall have no liability or responsibility whatsoever for any Losses of whatever nature due to or arising through any cause beyond its reasonable control or for a Force Majeure Event;
- (b) LSA Skip Hire shall have no liability or responsibility, whether by way of indemnity or by reason of any breach of the Contract or otherwise in contract, breach of statutory duty or misrepresentation or by reason of the commission of any tort (including but not limited to negligence) in connection with the Services, for any of the Customer's loss of profit; loss of use of the Container or any other asset or facility; loss of production or productivity; loss of contracts with any third party; liabilities of whatever nature to any third party; any financial or economic loss; indirect, special or consequential loss or damage of whatever nature; and
- (c) LSA Skip Hire's total liability to the Customer for any Losses howsoever arising whether by reason of any breach of the Contract or otherwise in contract, breach of statutory duty or misrepresentation or by reason of the commission of any tort (including but not limited to negligence) shall not exceed the value of the Charges

paid by the Customer to LSA Skip Hire in cleared funds under the Contract.

7.2 For the avoidance of doubt, nothing in these Terms limits or seeks to exclude LSA Skip Hire's liability for claims of death or personal injury caused by LSA Skip Hire's negligence, fraud or for any other liability for which it is not permitted to seek to limit or exclude by operation of law.

8. INDEMNITY – PAY SPECIAL ATTENTION TO THIS CLAUSE

The Customer shall indemnify keep indemnified and hold harmless LSA Skip Hire for and against any and all Losses (including but not limited to any direct, indirect, special 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 LSA Skip Hire including but not limited to those suffered or incurred arising out of or in connection with:

- (a) any acts or omissions of the Customer;
- (b) damage to, theft or loss of the Container;
- (c) the Customer's breach or negligent performance or non-performance of any terms of this Contract;
- (d) the enforcement of this Contract.

9. TERMINATION AND SUSPENSION

9.1 Without limiting its other rights or remedies, LSA Skip Hire may without liability to the Customer, suspend wholly or partly (including refusing to make Collection) this Contract or terminate the Contract with immediate effect by giving written notice to the Customer if any of the following events occur or LSA Skip Hire reasonably believes that any such event is likely to occur:

- (a) subject to clause 9.2 the Customer commits a material breach of any term of the Contract and (if such a breach is remediable) fails to remedy that breach within 7 days of that party being notified in writing to do so;
- (b) the Customer repeatedly breaches any of the terms of the Contract in such a manner as to reasonably justify the opinion that the Customer's conduct is inconsistent with the Customer having the intention or ability to give effect to the terms of the Contract;
- (c) the Customer suspends, or threatens to suspend, payment of its debts or is unable to pay its debts as they fall due or admits inability to pay its 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 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;
- (d) the Customer commences negotiations with all or any class of its 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;
- (e) a petition is filed, a notice is given, a resolution is passed, or an order is made, for or in connection with the winding up of the Customer (being a company) other than for the sole purpose of a scheme for a solvent amalgamation of that other party with one or more other companies or the solvent reconstruction of the Customer;
- (f) the Customer (being an individual) is the subject of a bankruptcy petition or order;
- (g) a creditor or encumbrancer of the Customer 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 its assets and such attachment or process is not discharged within 14 days;
- (h) an application is made to court, or an order is made, for the appointment of an administrator or if a notice of intention to appoint an administrator is given or if an

administrator is appointed over the Customer (being a company);

- (i) the holder of a qualifying floating charge over the assets of the Customer (being a company) has become entitled to appoint or has appointed an administrative receiver;
- (j) a person becomes entitled to appoint a receiver over the assets of the Customer or a receiver is appointed over the assets of the Customer;
- (k) any event occurs or proceeding is taken with respect to the Customer in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events mentioned in clause 9.1(c) to clause 9.1(i) (inclusive);
- (l) the Customer suspends or ceases, or threatens to suspend or cease, to carry on all or a substantial part of its business;
- (m) the Customer's financial position deteriorates to such an extent that in LSA Skip Hire's opinion the Customer's capability to adequately fulfil its obligations under the Contract has been placed in jeopardy;
- (n) the Customer (being an individual) dies or, by reason of illness or incapacity (whether mental or physical), is incapable of managing his own affairs or becomes a patient under any mental health legislation;
- (o) where changes in legislation make the performance of the Services impossible or substantially different from originally envisaged.

9.2 Without limiting its other rights or remedies, LSA Skip Hire may terminate this Contract with immediate effect by giving written notice to the Customer if the Customer fails to pay any amount due under this Contract on the due date for payment and fails to pay all outstanding amounts within 5 days after being notified in writing to do so.

9.3 Upon termination of the Contract in accordance with this clause:

- (a) the Customer shall immediately pay to LSA Skip Hire all of LSA Skip Hire's outstanding unpaid invoices and interest and, in respect of Services supplied but for which no invoice has been submitted, LSA Skip Hire shall submit an invoice, which shall be payable by the Customer immediately on receipt;
- (b) LSA Skip Hire may force entry to the Premises and retake possession of the Container;
- (c) the accrued rights, remedies, obligations and liabilities of the parties as at expiry or termination of this Contract shall be unaffected, including the right to claim damages in respect of any breach of the Contract which existed at or before the date of termination or expiry; and
- (d) clauses which expressly or by implication survive termination shall continue in full force and effect.

10. FORCE MAJEURE

10.1 LSA Skip Hire shall not be liable to the Customer as a result of any delay or failure to perform its obligations under this Contract as a result of a Force Majeure Event.

10.2 If the Force Majeure Event prevents LSA Skip Hire from providing any of the Services for more than two months, either party shall, without limiting its other rights or remedies, have the right to terminate this Contract immediately by giving written notice to the other party.

11. TRANSFER

The rights of the Customer under the Contract cannot be transferred to a third party in any way without LSA Skip Hire's prior written consent. LSA Skip Hire may assign, transfer, subcontract or make over all or part of the Contract without the Customer's consent.

12. THIRD PARTIES

It is the intention of the parties that no person not a party to this Contract shall have any rights in relation to it under the Contracts (Rights of Third Parties) Act 1999.

13. NO PARTNERSHIP

Nothing in this Contract shall be deemed to constitute a partnership between the parties nor constitute any party the agent of the other.

14. SEVERANCE

14.1 If any provision or part-provision of this Contract is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision or part-provision shall be deemed deleted. Any modification to or deletion of a provision or part-provision under this clause shall not affect the validity and enforceability of the rest of the Contract.

14.2 If any provision or part-provision of this Contract is invalid, illegal or unenforceable, the parties shall negotiate in good faith to amend such provision so that, as amended, it is legal, valid and enforceable, and, to the greatest extent possible, achieves the intended commercial result of the original provision.

15. NOTICES

Any notice to be served on either of the parties by the other shall be sent by prepaid recorded delivery or registered post to the addresses notified by one party to the other or otherwise set out in these Terms or by electronic mail to the respective addresses notified by one party to the other or info@gillettenviro.com in the case of LSA Skip Hire and shall be deemed to have been received by the addressee within 2 Business Days of posting or 1 Business Day if sent by electronic mail to the correct facsimile number (with correct answerback) or correct electronic mail number of the addressee.

16. WAIVER

A waiver of any right under the Contract or law is only effective if it is in writing and shall not be deemed to be a waiver of any subsequent breach or default. No failure or delay by a party in exercising 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 its 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.

17. ENTIRE AGREEMENT

17.1 This Contract sets out the entire agreement between the parties in connection with its subject matter and neither party has entered into this Contract in reliance on any warranty, representation or statement made by the other which is not set out in this Contract.

17.2 Nothing in this Contract purports to exclude liability for any fraudulent statement or act.

18. VARIATION

No variation of this Contract shall be effective unless it is in writing and signed by the parties (or their authorised representatives).

19. GOVERNING LAW AND JURISDICTION

19.1 This Contract, and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims), shall be governed by, and construed in accordance with the law of England and Wales.

19.2 Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim arising out of or in connection with this Contract or its subject matter or formation (including non-contractual disputes or claims).

Appendix 2 – Sale of Goods Terms

TERMS AND CONDITIONS

These Terms set out the basis on which GEL provides the Goods to the Customer and together with the Order and any documentation referred to in the aforementioned documentation, form the legally binding contract between the parties ("**the Contract**"). The Customer's special attention is drawn to clauses 3, 5, 7 and 8 below.

1. INTERPRETATION

1.1 In these Terms, the following definitions apply:

Additional Journey Fee: £145 + VAT or such other (lesser) fee as GEL deems appropriate in the circumstances.

Business Day: any day which is not a Saturday, Sunday or public bank holiday in England when banks in London are open for business.

Cancellation Fee: £95 + VAT, which is a figure deemed appropriate by GEL to compensate it for wasted time and administration in dealing with the Contract up to that point.

Charges: the charges payable by the Customer to GEL for the Goods including the Price and any applicable Cancellation Fee, Additional Journey Fees and Waiting Fees.

Consents: has the meaning given in clause 3.3(b).

Contract: has the meaning given to it above and which shall be formed in accordance with clause 2.3.

Customer: means the party which has placed the Order and whose details shall be confirmed in the Delivery/Waste Transfer Note.

Delivery: the depositing of the Goods at the Premises by GEL and **Deliver** and **Delivered** shall be construed accordingly.

Delivery/Waste Transfer Note: the document produced by GEL and which shall be provided to the Customer on request.

Force Majeure Event: means an event beyond the reasonable control of GEL including but not limited to strikes, lock-outs or other industrial disputes (whether involving the workforce of the Supplier or any other party), failure of a telecommunications service, utility service or transport network, act of God, war, riot, civil commotion, default of suppliers, agents or subcontractors, malicious damage, compliance with any law or governmental order, rule, regulation or direction, accident, breakdown of plant or machinery, fire, flood, or storm.

Goods: the goods (or any part of them) detailed in the Order.

Losses: means actions, awards, charges, claims, charges, damages, demands, expenses, fees, fines, liabilities, losses, penalties or proceedings.

GEL: Gillett Environmental Limited (registered company number 06740061) and whose registered office is at Boundary Road, Lytham, Lancashire, FY8 5HU.

Location: has the meaning given to it in clause 2.1(c) below.

Order: means the order placed by the Customer with GEL for the provision of the Goods, whether made orally or in writing.

PDA: has the meaning given in clause 3.7 below.

Premises: the address to which the Customer requires the Goods to be delivered.

Price: the price of the Goods.

Requested Date: has the meaning given to it in clause 2.1(b) below.

Sales Materials: has the meaning given in clause 2.5.

Support: has the meaning given to it in clause 3.8.

Terms: these terms and conditions.

Waiting Fee: the rate of £1 + VAT.

1.2 Unless the context otherwise requires words importing one gender include all other genders and words importing the singular include the plural and vice versa.

1.3 The headings in this Contract shall not affect its interpretation or construction.

1.4 Any reference in this Contract to any statutory provision includes any statutory modification or re-enactment of it or the provision referred to.

1.5 A reference to **writing** or **written** includes emails.

2. CONTRACT FORMATION & THE GOODS

2.1 The Order shall specify details of:

- (a) the type of Goods required;
- (b) the date on which the Goods are required ("**the Requested Date**");
- (c) the Premises and the location within the Premises at which the Customer desires the Goods to be positioned ("**the Location**");
- (d) any further information or special requirements which GEL may reasonably be required to be informed of for the purposes of providing the Goods.

2.2 In placing an Order the Customer warrants that it has satisfied itself as to the suitability of the Goods for the purposes for which it requires them and agrees and understands that:

- (a) GEL shall not be required to provide any advice or guidance in respect of the suitable uses of the Goods; and
- (b) where GEL does provide any information regarding the Goods, no reliance shall be placed on this by the Customer and that GEL shall not be liable to the Customer in any way where the Goods do not meet its requirements.

2.3 On receipt of the Order GEL shall provide the Customer with the Price. Where the Customer indicates that this is acceptable, the Contract shall be deemed to have been formed.

2.4 In the event that the Customer wishes to cancel any Contract in advance of Delivery taking place, it agrees that it shall still be required to pay a Cancellation Fee (or the Additional Journey Fee where the driver in en route to the Premises) and that where payment of the Charges has already been made to GEL, GEL shall issue a refund to the Customer within 7 Business Days.

2.5 Any samples, drawings, descriptive matter, or advertising produced by GEL and any descriptions, colours or illustrations contained in its catalogues, brochures or other publications (including any website operated by it from time to time) ("**Sales Materials**") are produced for the sole purpose of giving an approximate idea of the Goods described in them. They shall not form part of the Contract or have any contractual force.

2.6 The Customer agrees and understand that the Goods:

- (a) are as described in the Sales Materials in all material respects;
- (b) are recycled;
- (c) are not 100% pure and may contain small additional items such as waste plastics, wood and metals;
- (d) provided on an 'as is' basis.

3. DELIVERY – PAY SPECIAL ATTENTION TO THIS CLAUSE

3.1 GEL shall ensure that each delivery of the Goods is accompanied by the Delivery/Waste Transfer Note which shows the date of the Order, all relevant Customer and GEL reference numbers, the type and quantity of the Goods

- (including the code number of the Goods, where applicable), if the Order is being delivered by instalments, the outstanding balance of Goods remaining to be delivered.
- 3.2 GEL (or, where appropriate, the instructed carrier) shall use reasonable endeavours to Deliver on the Requested Date. The Customer agrees and acknowledges that time for Delivery in accordance with the Requested Date is not of the essence and GEL makes no warranties that Delivery shall take place at any given time or on any given date.
- 3.3 For the purposes of making Delivery, the Customer warrants that it shall facilitate GEL's unobstructed, non-limited, and safe access to, egress from and movement around the Premises. Where the Location and/or the Premises is:
- (a) not owned by the Customer, the Customer warrants that it has the requisite authority and/or consent of the owner for Delivery to take place; or
 - (b) a highway or public place, the Customer agrees and acknowledges that it is its responsibility to obtain the requisite permissions, consents and permits of the authority governing the Location and/or the Premises for Delivery to take place there ("**Consents**") and in accordance with applicable legislation.
- 3.4 The Customer agrees that GEL shall not be liable for any failure to make Delivery to the Location or at all where such non-performance is as a result of the Customer's failure to comply with clause 3.3. Where GEL is unable to make Delivery:
- (a) to the Location, GEL shall make Delivery to such other reasonable position at the Premises as it may determine at its absolute discretion or as otherwise agreed between the parties; or
 - (b) at all, it may leave the Premises with the Goods and attempt to make Delivery at a later date as agreed between the parties. In each case where GEL fails to make Delivery under this clause, GEL may charge the Customer the Additional Journey Fee and such Additional Journey Fee shall be paid by the Customer to GEL in advance of the subsequent attempt to make Delivery.
- 3.5 Where the Customer refuses to permit GEL to make Delivery, it agrees and acknowledges that the full Charges shall remain payable and that it shall not be entitled to any refund.
- 3.6 The maximum time permitted for Delivery between arriving at and leaving the Premises is 15 minutes and where GEL has to wait beyond the maximum time, it reserves the right to charge the Waiting Fee per minute.
- 3.7 Upon making Delivery, GEL shall provide the Customer with a digital summary viewable on the driver's personal digital assistant ("**PDA**"). The Delivery/Waste Transfer Note is available on request. The PDA and Delivery/Waste Transfer Note shall confirm the details of the Order. Where, at the time of Delivery the Customer is:
- (a) present at the Premises, GEL requires that the Customer sign the PDA and such signature; or
 - (b) not present at the Premises, GEL shall leave a note at the Premises and the failure of the Customer to notify GEL of any issues within 24 hours of Delivery, shall indicate the Customer's acceptance that there are no issues with Delivery.
- 3.8 The Customer warrants that the condition and ground of the Premises (including any access road or track) is suitable for the Goods to be Delivered on, travel over, be transported over and without support ("**Support**"). Where Support is required, this shall be supplied by the Customer and placed in a suitable position for the Goods to be Delivered, travel over and be transported over. Any Support supplied by GEL is provided solely to assist the Customer under their duties within this clause 3.8 and expressly not to relieve it of his legal, regulatory or contractual obligations.
- 3.9 The Customer is responsible for the protection of, and liable for any damage to, any underground, surface or above ground services and utilities including, but not limited to cables, ducts, water pipes and gas lines, and any pavements, bridges, tunnels and roadways on or adjacent to the Premises and the Customer shall liaise as necessary and comply with all requirements of the relevant statutory authority or similar body.
- 3.10 GEL shall not be liable for any delay in delivery of the Goods that is caused by a Force Majeure Event.
- 3.11 The Customer shall not be entitled to reject the Goods if GEL delivers up to and including 5% more or less than the quantity of Goods ordered. The actual quantity of the Goods shall be as determined by GEL upon despatch from GEL's or a nominated carrier's premises unless reasonable contrary proof is provided by the Customer.
- #### 4. QUALITY
- 4.1 GEL warrants that on Delivery the Goods shall:
- (a) conform in all material respects with their description;
 - (b) be free from material defects in design, material and workmanship; and
 - (c) be of satisfactory quality (within the meaning of the Sale of Goods Act 1979).
- 4.2 The terms implied by sections 13 to 15 of the Sale of Goods Act 1979 are, to the fullest extent permitted by law, excluded from the Contract.
- #### 5. TITLE AND RISK – PAY SPECIAL ATTENTION TO THIS CLAUSE
- 5.1 Title to the Goods shall not pass to the Customer until the earlier of:
- (a) GEL receiving payment in full (in cash or cleared funds) for the Goods and any other goods that GEL has supplied to the Customer in respect of which payment has become due, in which case title to the Goods shall pass at the time of payment of all such sums; or
 - (b) the Customer reselling the Goods, in which case title to the Goods shall pass to the Customer at the time specified in clause 5.2 and the proceeds of sale shall be immediately accounted to GEL and otherwise held in a fiduciary capacity on trust for GEL to the extent of any liability for unpaid sums.
- 5.2 Subject to clause 5.3, the Customer may resell or use the Goods in the ordinary course of its dealings (but not otherwise) before GEL receives payment for the Goods. However, if the Customer resells the Goods before that time:
- (a) it does so as principal and not as GEL's agent; and
 - (b) title to the Goods shall pass from GEL to the Customer immediately before the time at which resale by the Customer occurs.
- 5.3 If before title to the Goods passes to the Customer the Customer becomes subject to any of the events listed in clause 9.2, then, without limiting any other right or remedy GEL may have:
- (a) the Customer's right to resell the Goods or use them in the ordinary course of its dealings ceases immediately; and
 - (b) GEL may at any time:
 - (i) require the Customer to deliver up all Goods in its possession which have not been resold, or irrevocably incorporated into another product; and
 - (ii) if the Customer fails to do so promptly, enter any premises of the Customer or of any third party where the Goods are stored in order to recover them.

6. CHARGES AND PAYMENT

6.1 Save where:

- (a) the Customer holds an account with GEL; or
- (b) otherwise specified in these Terms; or
- (c) the parties agree otherwise; or

GEL shall invoice the Customer and the Customer shall pay the Charges to GEL upon formation of the Contract or such other day prior to Delivery as may be agreed. In the event of any conflict between sub-clauses (a)-(c) above, they shall take precedence in the following order: (c), (a), (b).

6.2 Time for payment of the Charges shall be of the essence.

6.3 Additional Charges may be payable by the Customer to GEL in accordance with clauses 2.4, 3.4 and 3.6 and save where otherwise provided for or agreed between the parties GEL may raise invoices in respect of such additional Charges from time to time. Any invoices raised in accordance with this clause shall be paid within 5 Business Days.

6.4 All Charges are exclusive of VAT, which shall be payable in addition to the Charges at the rate or the rates for the time being in force.

6.5 In the event of late or non-payment by the Customer, GEL may:

- (a) charge the Customer interest on the overdue amount at the rate of 5% per cent per annum above the Bank of England base rate from time to time. Such interest shall accrue on a daily basis from the due date until actual payment of the overdue amount, whether before or after judgment. The Customer shall pay the interest together with the overdue amount; and/or
- (b) suspend (until receipt of payment in full, without liability to the Customer) Delivery of the Goods or recover the Goods from the Premises where Delivery has taken place.

6.6 The Customer shall pay all amounts due under the Contract in full without any set-off, counterclaim, deduction or withholding (except for any deduction or withholding required by law). GEL may at any time, without limiting any other rights or remedies it may have, set off any amount owing to it by the Customer against any amount payable by GEL to the Customer.

7. LIMITATION OF LIABILITY – PAY SPECIAL ATTENTION TO THIS CLAUSE

7.1 Save to the extent otherwise provided for:

- (a) GEL shall have no liability or responsibility whatsoever for any Losses of whatever nature due to or arising through any cause beyond its reasonable control or for a Force Majeure Event;
- (b) GEL shall have no liability or responsibility, whether by way of indemnity or by reason of any breach of the Contract or otherwise in contract, breach of statutory duty or misrepresentation or by reason of the commission of any tort (including but not limited to negligence) in connection with the Goods, for any of the Customer's loss of profit; loss of use of the Goods; loss of production or productivity; loss of contracts with any third party; liabilities of whatever nature to any third party; any financial or economic loss; indirect, special or consequential loss or damage of whatever nature; and
- (c) GEL's total liability to the Customer for any Losses howsoever arising whether by reason of any breach of the Contract or otherwise in contract, breach of statutory duty or misrepresentation or by reason of the commission of any tort (including but not limited to negligence) shall not exceed the value of the Charges paid by the Customer to GEL in cleared funds under the Contract.

7.2 For the avoidance of doubt, nothing in these Terms limits or seeks to exclude GEL's liability for claims of death or personal injury caused by GEL's negligence, fraud or for

any other liability for which it is not permitted to seek to limit or exclude by operation of law.

8. INDEMNITY – PAY SPECIAL ATTENTION TO THIS CLAUSE

The Customer shall indemnify keep indemnified and hold harmless GEL for and against any and all Losses (including but not limited to any direct, indirect, special 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 GEL including but not limited to those suffered or incurred arising out of or in connection with:

- (a) any acts or omissions of the Customer;
- (b) GEL following the Customer's instructions;
- (c) the Customer's breach or negligent performance or non-performance of any terms of this Contract;
- (d) the enforcement of this Contract.

9. TERMINATION AND SUSPENSION

9.1

Without limiting its other rights or remedies, GEL may without liability to the Customer, suspend wholly or partly this Contract or terminate the Contract with immediate effect by giving written notice to the Customer if any of the following events occur or GEL reasonably believes that any such event is likely to occur:

- (a) subject to clause 9.2 the Customer commits a material breach of any term of the Contract and (if such a breach is remediable) fails to remedy that breach within 7 days of that party being notified in writing to do so;
- (b) the Customer repeatedly breaches any of the terms of the Contract in such a manner as to reasonably justify the opinion that the Customer's conduct is inconsistent with the Customer having the intention or ability to give effect to the terms of the Contract;
- (c) the Customer suspends, or threatens to suspend, payment of its debts or is unable to pay its debts as they fall due or admits inability to pay its 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 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;
- (d) the Customer commences negotiations with all or any class of its 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;
- (e) a petition is filed, a notice is given, a resolution is passed, or an order is made, for or in connection with the winding up of the Customer (being a company) other than for the sole purpose of a scheme for a solvent amalgamation of that other party with one or more other companies or the solvent reconstruction of the Customer;
- (f) the Customer (being an individual) is the subject of a bankruptcy petition or order;
- (g) a creditor or encumbrancer of the Customer 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 its assets and such attachment or process is not discharged within 14 days;
- (h) an application is made to court, or an order is made, for the appointment of an administrator or if a notice of intention to appoint an administrator is given or if an administrator is appointed over the Customer (being a company);

- (i) the holder of a qualifying floating charge over the assets of the Customer (being a company) has become entitled to appoint or has appointed an administrative receiver;
- (j) a person becomes entitled to appoint a receiver over the assets of the Customer or a receiver is appointed over the assets of the Customer;
- (k) any event occurs or proceeding is taken with respect to the Customer in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events mentioned in clause 9.1(c) to clause 9.1(i) (inclusive);
- (l) the Customer suspends or ceases, or threatens to suspend or cease, to carry on all or a substantial part of its business;
- (m) the Customer's financial position deteriorates to such an extent that in GEL's opinion the Customer's capability to adequately fulfil its obligations under the Contract has been placed in jeopardy;
- (n) the Customer (being an individual) dies or, by reason of illness or incapacity (whether mental or physical), is incapable of managing his own affairs or becomes a patient under any mental health legislation;
- (o) where changes in legislation make the performance of its obligations under the Contract impossible or substantially different from originally envisaged.

9.2 Without limiting its other rights or remedies, GEL may terminate this Contract with immediate effect by giving written notice to the Customer if the Customer fails to pay any amount due under this Contract on the due date for payment and fails to pay all outstanding amounts within 5 days after being notified in writing to do so.

9.3 Upon termination of the Contract in accordance with this clause:

- (a) the Customer shall immediately pay to GEL all of GEL's outstanding unpaid invoices and interest;
- (b) GEL may force entry to the Premises and retake possession of the Goods;
- (c) the accrued rights, remedies, obligations and liabilities of the parties as at expiry or termination of this Contract shall be unaffected, including the right to claim damages in respect of any breach of the Contract which existed at or before the date of termination or expiry; and
- (d) clauses which expressly or by implication survive termination shall continue in full force and effect.

10. FORCE MAJEURE

10.1 GEL shall not be liable to the Customer as a result of any delay or failure to perform its obligations under this Contract as a result of a Force Majeure Event.

10.2 If the Force Majeure Event prevents GEL from providing any of the Goods for more than two months, either party shall, without limiting its other rights or remedies, have the right to terminate this Contract immediately by giving written notice to the other party.

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The rights of the Customer under the Contract cannot be transferred to a third party in any way without GEL's prior written consent. GEL may assign, transfer, subcontract or make over all or part of the Contract without the Customer's consent.

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It is the intention of the parties that no person not a party to this Contract shall have any rights in relation to it under the Contracts (Rights of Third Parties) Act 1999.

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Nothing in this Contract shall be deemed to constitute a partnership between the parties nor constitute any party the agent of the other.

14. SEVERANCE

14.1 If any provision or part-provision of this Contract is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision or part-provision shall be deemed deleted. Any modification to or deletion of a provision or part-provision under this clause shall not affect the validity and enforceability of the rest of the Contract.

14.2 If any provision or part-provision of this Contract is invalid, illegal or unenforceable, the parties shall negotiate in good faith to amend such provision so that, as amended, it is legal, valid and enforceable, and, to the greatest extent possible, achieves the intended commercial result of the original provision.

15. NOTICES

Any notice to be served on either of the parties by the other shall be sent by prepaid recorded delivery or registered post to the addresses notified by one party to the other or otherwise set out in these Terms or by electronic mail to the respective addresses notified by one party to the other or info@gillettenviro.com in the case of GEL and shall be deemed to have been received by the addressee within 2 Business Days of posting or 1 Business Day if sent by electronic mail to the correct facsimile number (with correct answerback) or correct electronic mail number of the addressee.

16. WAIVER

A waiver of any right under the Contract or law is only effective if it is in writing and shall not be deemed to be a waiver of any subsequent breach or default. No failure or delay by a party in exercising 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 its 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.

17. ENTIRE AGREEMENT

17.1 This Contract sets out the entire agreement between the parties in connection with its subject matter and neither party has entered into this Contract in reliance on any warranty, representation or statement made by the other which is not set out in this Contract.

17.2 Nothing in this Contract purports to exclude liability for any fraudulent statement or act.

18. VARIATION

No variation of this Contract shall be effective unless it is in writing and signed by the parties (or their authorised representatives).

19. GOVERNING LAW AND JURISDICTION

19.1 This Contract, and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims), shall be governed by, and construed in accordance with the law of England and Wales.

19.2 Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim arising out of or in connection with this Contract or its subject matter or formation (including non-contractual disputes or claims).

