

# TERMS AND CONDITIONS FOR HIRE OF KYOOB PRODUCTS

1	<b>Interpretation</b>	9.1.5	in the event of loss or damage to the Goods, any costs incurred by Kyoob in connection with the replacement or repair of the Goods.
1.1	In these Conditions the following words have the following meanings:	9.2	The Hirer's liability under this Condition 9 shall extend to (but not be limited to) the full replacement cost of the Goods at the time of any loss or damage.
	<b>The Agreement:</b> any agreement between Kyoob and the Hirer for the Hire of the Goods incorporating these Conditions;	9.3	Nothing in this or any other Condition shall exclude or limit Kyoob's liability for death or personal injury caused by Kyoob's negligence or fraudulent misrepresentation.
	<b>The Goods:</b> the Kyoob space units and all accessories or any other goods agreed in the Agreement to be hired from Kyoob by the Hirer;	10	<b>Conditions, Warranties and Exclusions</b>
	<b>The Hirer:</b> the person(s), firm or company hiring the Goods from Kyoob;	10.1	Kyoob agrees that upon issue of it will at the cost and expense of the Hirer assign to the Hirer the benefit of all express warranties granted in favor of Kyoob by the supplier of the Goods or the manufacturer of them or any third party.
1.2	<b>Kyoob:</b> Kyoob Space Limited or its successors or assigns from time to time as appropriate.	10.2	The Hirer has granted the Goods at its own risk having made its own inspection of the Goods and save as above Kyoob does not let nor supply the Goods with any representation concerning the condition performance or qualities of the Goods or with or subject to any condition, or warranty express or to be implied by statute, description at common law or otherwise and all such representations, conditions, warranties whether relating to the capacity, age quality, description, condition, leasing, possession transportation or use of the Goods to the quality or suitability or fitness of the Goods for a particular or any purpose are to the fullest extent permitted by law excluded.
1.3	In these Conditions references to any statute or statutory provision shall, unless the context otherwise requires, be construed as a reference to that statute or statutory provision as from time to time amended, consolidated, modified, extended, re-enacted or replaced.	10.3	Kyoob shall not be liable to the Hirer:
1.4	Headings are for convenience only and shall not affect the construction of these Conditions.	10.3.1	in contract or in tort for loss, injury or damage arising by reason of any defects in the Goods whether latent or apparent on examination;
2	<b>Application of Terms</b>	10.3.2	for any statement, condition, warranty or representation made by any supplier, dealer, agent, broker other person through whom this transaction may have been introduced, negotiated or conducted, and persons other than those in the employment of Kyoob who have authority express or implied to act as agent for Kyoob;
2.1	Subject to any variation under Condition 2.3 the Agreement will be on these Conditions to the exclusion of all other terms and conditions (including any terms and conditions which the Hirer purports to apply under any request for hire, confirmation or other document).	10.3.3	either for any loss whatever suffered by the Hirer as a result of the Goods or any part of them being unusable or to supply any replacement Goods during any period when the Goods or part of them are unusable; or
2.2	No terms or conditions endorsed upon, delivered with or contained in the Hirer's request for hire, confirmation or other document will form part of the Agreement simply as a result of such document being referred to in the Agreement.	10.3.4	for any loss or damage incurred or sustained by the Hirer in consequence of Kyoob terminating the hiring under condition 11 or in retaking possession of the Goods.
2.3	These Conditions apply to all Kyoob's hiring arrangements and any variation to these Conditions shall have no effect unless expressly agreed in writing by Kyoob.	10.4	Nothing in these Conditions excludes or limits the liability of Kyoob for death or personal injury caused by Kyoob's negligence, or for fraudulent misrepresentation.
2.4	Each request for hire by the Hirer shall be deemed to be an offer by the Hirer to hire the Goods subject to these Conditions.	10.5	Kyoob's total liability in contract, tort (including negligence or breach of statutory duty), misrepresentation or otherwise, arising in connection with this performance or contemplated performance of this Agreement shall be limited to 90% of the upper limit of Kyoob's insurance in respect of which the Hirer suffered or incurred such loss or damage.
3	<b>Duration</b>	10.6	Kyoob shall not be liable to the Hirer for any loss of profit or other economic loss (direct or indirect), indirect or consequential loss or damage, costs, expenses or other claims for consequential compensation whatsoever (howsoever caused) or loss or damage (contractual, tortious, breach of statutory duty or otherwise) which arises out of or in connection with the Agreement, or for any liability incurred by the Hirer to any other person for any economic loss, claim for damages or awards howsoever arising from the Goods or otherwise.
3.1	Subject to the provisions, the Agreement shall commence on the date of hiring.	10.7	All Goods are supplied by Kyoob on the understanding that any and all necessary planning consents, licences, permissions and Building Regulations approvals are and have been obtained by the Hirer. Kyoob expressly excludes all liability in respect of Goods supplied to or on behalf of the Hirer for which the necessary consents and approvals have not been obtained.
4	<b>Delivery</b>	11	<b>Termination</b>
4.1	Unless otherwise agreed in writing by Kyoob, delivery of the Goods will take place at Kyoob's place of business.	11.1	The Hirer may terminate the Agreement at any time for whatever reason by giving the required notice, (as stipulated on the front sheet to these Conditions) in writing to Kyoob and delivering up the Goods to Kyoob or such other address as Kyoob may have previously specified in writing. Upon the expiration of such notice and such delivery being made, the Agreement shall come to an end but the Hirer shall not be entitled to repayment of any sums previously paid by the Hirer to Kyoob under the terms of this Agreement nor to any credit or allowance in respect of any such payments.
4.2	The Hirer will take delivery of the Goods within 5 working days of Kyoob giving the Hirer notice that the Goods are ready for delivery.	11.2	Kyoob may terminate this Agreement immediately at any time on the occurrence of any of the following events:
4.3	Any dates specified by Kyoob for the delivery of the Goods are intended to be an estimate and time for delivery shall not be made of the essence.	11.2.1	if the Hirer fails to make payment for the Goods or any sums agreed to be paid by the Hirer to Kyoob under this Agreement punctually on the date when due;
4.4	The Hirer shall be responsible for the carriage of the Goods to and from Kyoob's place of business at the Hirer's expense. The Hirer shall satisfy itself that the Goods have been delivered in satisfactory condition in accordance with the Agreement, and if the Goods are found to be unsatisfactory to notify Kyoob in writing with full and specific details of any complaint or defect within three days after the date of delivery.	11.2.2	if the Hirer is in breach of any of the Conditions;
5	<b>Price</b>	11.2.3	if the Hirer does or allows to be done any act or thing which may prejudice or endanger Kyoob's property or rights in the Goods;
5.1	Unless Kyoob agrees otherwise in writing the price for the Goods shall be as set out on the front sheet to these Conditions	11.2.4	if the Hirer enters into liquidation or is wound up or has a petition for winding up presented against it or a resolution is passed for voluntary winding up (otherwise than for a bona fide reconstruction);
5.2	The price for the Goods shall be exclusive of any VAT.	11.2.5	if a petition for the appointment of an administrator is presented against the Hirer or if the Hirer has a receiver or administrative receiver appointed of its undertaking;
6	<b>Payment</b>	11.2.6	if the Hirer convenes any meeting of its creditors or makes a deed of assignment or arrangement or otherwise compounds with its creditors;
6.1	Payment is due 30 days from the date of invoice.	11.2.7	if any step is taken to levy a distress or execution or if a distress or execution is levied upon any assets of or in the possession of the Hirer; or
6.2	Time for payment shall be of the essence of the Agreement.	11.2.8	if the Hirer shall abandon the Goods.
6.3	No payment shall be deemed to have been received until Kyoob has received cleared funds.	11.3	Upon the occurrence of any of the events in Condition 11.2, Kyoob's consent to the Hirer's possession of the Goods shall terminate immediately and Kyoob may enter an any land or premises in order to take possession of the Goods without notice to the Hirer.
6.4	The Hirer shall make all payments due under the Agreement without any deduction, set-off, counterclaim, discount, abatement or otherwise unless the Hirer has a valid Court order requiring an amount equal to such deduction to be paid by Kyoob to the Hirer. Failure to pay any sums due within 7 days after the due date shall be a repudiation of the Agreement.	11.4	Immediately upon the hiring of the Goods being terminated as above, the Hirer shall pay to Kyoob:
6.5	If the Hirer fails to pay to Kyoob any sum due under the Agreement the Hirer will be liable to pay interest to Kyoob on such sum from the due date for payment at the annual rate of 8% above the base lending rate of HSBC PLC from time to time accruing on a daily basis until payment is made.	11.4.1	all payments due under the Agreement and any interest payable up to the date of termination;
7	<b>Hirer's Rights</b>	11.4.2	damages for any breach of these conditions and all expenses and costs incurred by Kyoob in retaking possession of and selling or attempting to sell the Goods and/or enforcing its rights under the Agreement;
7.1	So long as the Hirer is neither in default in the payment in respect of hiring the Goods or any sum of money payable nor is in breach of any of its covenants on its part to perform under the Agreement it may peaceably hold and enjoy quiet possession of the Goods for the duration of the Agreement.	11.4.3	compensation for the continued use or possession of the Goods, from the date of termination until such time as the Goods are delivered up to Kyoob at an address notified by Kyoob to the Hirer, such compensation being an amount payable weekly in arrears calculated in accordance with the price of hiring of the Goods as specified on the front sheet to these Conditions (as amended in writing by Kyoob where applicable). This Condition does not counter any right on the Hirer to the Continued use or possession of the Goods.
7.2	The Hirer acknowledges that, notwithstanding the hiring arrangements under the Agreement, all legal title to the Goods shall at all times remain vested in Kyoob. Nothing in the Agreement shall confer or shall be deemed to confer any interest in the Goods on the Hirer.	11.5	Upon early termination by the Hirer under this Condition 11, the outstanding balance for the contracted minimum hire period remains payable.
8	<b>Hirer's Covenants</b>	11.6	Immediately upon termination of the Agreement for whatever reason the Hirer shall return the Goods to Kyoob at the Hirer's expense and (fair wear and tear excepted) serviced and maintained in good repair and working order and with any alterations re-versed back to the original state, at such address in Great Britain in Kyoob shall notify to the Hirer and if necessary to allow Kyoob, its agents or representatives access to any premises where the Goods may be for the purpose of retaining them and at Kyoob's request and as its agent to sell the Goods at the best price reasonably available and on such terms as Kyoob may require.
8.1	During the term of the Agreement the Hirer agrees to:	11.7	Any provision which expressly or by implication is intended continue in full force and effect shall continue in full force and effect after termination or explain, of the Agreement.
8.1.1	keep the Goods in good and substantial repair and condition at the Hirer's cost, (fair wear and tear only excepted) and replace all missing, damaged or broken Goods or parts thereof with goods or parts of equal quality and value and in default of so doing permit Kyoob to take possession of the Goods for the purpose of having repairs carried out and repay to Kyoob the cost of such repairs and Kyoob shall have a lien on the Goods until such repayment but exercise of such lien shall not prevent the accrual of instalments or rental under the Agreement. The Hirer agrees it will only use appropriately qualified persons to carry out any repairs;	12	<b>General</b>
8.1.2	punctually pay all registration charges, licence fees, rent, rates, taxes and other outgoing payable in respect of any premises in which the Goods may, from time to time, be placed or kept and produce to Kyoob on demand, the last receipts for all such payments, Kyoob being at liberty in the event of default by the Hirer under this sub-clause to make all, or any of such payments and to recover the amount thereof from the Hirer forthwith;	12.1	Any notice under this Agreement shall be validly given if served in writing and served personally on the other party or left at the other party's principle place of business or at the other party's last known business or private address. If sent by post, notice shall be deemed to have been served within forty eight hours after the time of posting.
8.1.3	permit Kyoob and any person or company authorized by it upon reasonable notice at any time to enter upon the premises in which the Goods are from time to time placed or kept for the purpose of inspecting and examining the condition of the Goods;	12.2	No relaxation, forbearance, delay or indulgence by Kyoob in enforcing any of these Conditions or the granting of time by Kyoob to the Hirer shall prejudice, affect or restrict the rights and powers of Kyoob hereunder, nor shall any waiver of any breach of these Conditions operate as if waiver of any subsequent or any continuing breach.
8.1.4	keep the Goods in its own possession at its principle place of business (or at such other location(s) as Kyoob may agree in advance in writing) and in compliance with any policy of insurance and neither to sell or offer for sale, assign, mortgage, pledge, underlet, lend or otherwise deal with the Goods or any interest in it or in this Agreement nor allow the creation of any charge or lien over it nor without the previous written consent of Kyoob to attach the Goods to any land or premises so as to cause them to become a permanent or immovable fixture on such land or premises;	12.3	The Agreement shall not commence unless and until it has been signed by and on behalf of Kyoob and the Hirer has paid any deposit prescribed by law save and except that acceptance of the Goods on a site by the Hirer or its representative will be deemed to constitute commencement of the Agreement and acceptance of the Conditions.
8.1.5	neither sell, transfer, lease, or otherwise dispose of nor mortgage, charge nor otherwise encumber any land or building on or in which the Goods is kept, nor to agree to do any such thing nor to agree to create any floating charge unless Kyoob has prior to such event obtained the Hirer's written consent. The Hirer agrees it will only use appropriately qualified persons to carry out any repairs;	12.4	Kyoob reserves the right to assign this Agreement and to assign or subcontract its rights and/or obligations under this Agreement whether in whole or in part.
8.1.6	ensure that if the Goods are or become affixed to any land or building it shall be capable of being removed without material injury to such land or building and to take all necessary steps to prevent title to the Goods from passing to the landlord of such land or building (other than Kyoob);	12.5	Nothing in this Agreement shall create, or be deemed to create partnership or joint venture or relationship of employer/employee between the parties.
8.1.7	repair and make good any damage caused by the affixation of the Goods to or their removal from any land or building (whether such affixation or removal is effected by Kyoob or the Hirer);	12.6	This Agreement contains the entire agreement between the parties in relation to its subject matter. Each party irrevocably and unconditionally waives any right it may have to claim damages for, and/or rescind this Agreement because of breach of any warranty not contained in this Agreement, or any misrepresentation whether or not contained in this Agreement unless such misrepresentation was made fraudulently.
8.1.8	notify Kyoob of any change in the Hirer's address and upon request by Kyoob promptly inform Kyoob of the whereabouts of the Goods;	12.7	No purported alteration or variation of this Agreement shall be effective unless it is in writing and it refers specifically to this Agreement and is signed by a duly authorised representative of each of the parties of this Agreement.
8.1.9	immediately after the signing of the Agreement, insure the Goods and keep them insured during the term of the Agreement against loss or damage by accident, fire and theft to the full replacement value thereof or such other sum as Kyoob may stipulate with a reputable insurance company to be approved by Kyoob under a comprehensive policy of insurance in the name of Kyoob, free from restriction or excess. In addition to insure Kyoob and the Hirer against all liability to third parties for death personal injury and damage to or loss of property arising directly or indirectly out of the use, possession or operation of the Goods during the hire period for such amount as Kyoob may stipulate or in the absence of any such stipulation for such amount as is prudent in all the circumstances. In default of the Hirer complying with this Condition, Kyoob may insure as aforesaid and recover the costs thereof from the Hirer forthwith. The Hirer hereby irrevocably appoints Kyoob his agent for the purpose of receiving all monies payable under the said insurance policy ("the Insurance Policy") and giving a discharge therefor;	12.8	The rights and remedies of either party in respect of this Agreement shall not be diminished, waived or extinguished by the granting of any indulgence, forbearance or extension of time granted by such party to the other nor by failure of or delay by the said party in ascertaining or exercising any such rights or remedies. Any waiver of any breach of this Agreement shall be in writing. The waiver by either party of any breach of this Agreement shall not prevent the subsequent enforcement of that provision and shall not be deemed to be a waiver of any subsequent breach of that or any other provision.
8.1.10	immediately upon the occurrence of a Total Loss the hiring of the Goods shall terminate but without prejudice to this Agreement which shall continue in full force and effect to any claims or liabilities then outstanding or arising in the future by virtue of this Agreement;	12.9	The Contracts (Rights of Third Parties) Act 1999 shall not apply to this Agreement. No person who is not a party to this Agreement (including any employee, officer, representative or sub-hirer of either party shall have the right, whether under the Contracts (Rights of Third Parties) Act 1999 or otherwise) to enforce any term of this Agreement which expressly by implication confers benefit to that person without the express prior agreement in writing of the parties which agreement must refer to this Agreement.
8.1.11	if loss or damage occurs which does not amount to a Total Loss to the Goods to notify Kyoob within 2 days of the occurrence of such loss or damage, and Kyoob shall apply all insurance monies payable in making good such damage. The Hirer shall be solely responsible for all losses or damage to the Goods however caused occurring at any time or times before physical possession of them is retaken by Kyoob;	12.10	If at any time any part of this Agreement (including any one or more of the Conditions of this Agreement or any condition, sub-clause or paragraph or any part of one or more of these Conditions) is held to be or becomes void or otherwise unenforceable for any reason under any applicable law, the same shall be deemed omitted from this Agreement and the validity and/or enforceability of the remaining provisions of this Agreement shall not in any way be affected or impaired as a result of that omission.
8.1.12	punctually pay all premiums payable under the Insurance Policy, produce the receipts for such payment to Kyoob on demand, do everything necessary to maintain the Insurance Policy in full effect and not do anything whereby the Insurance Policy may be invalidated;	12.11	This Agreement shall be governed and construed according to the laws of England and Wales and the parties shall submit to the exclusive jurisdiction of the English courts.
8.1.13	provide suitable foundations in a position approved by Kyoob on which the Goods shall be sited and not remove the Goods without Kyoob's written consent;		
8.1.14	not modify the Goods without Kyoob's written consent and not remove Kyoob's name or any other identifying mark therefrom;		
8.1.15	immediately notify Kyoob where the Goods are lost, stolen, destroyed or damaged by the negligence or wrongful act of a third party, and not to compromise any claim without the consent of Kyoob. The Hirer shall allow Kyoob to take over the conduct of any negotiations, (except in relation to claims of the Hirer for personal injuries, loss of use of the Goods, or loss of, or damage to, the property of the Hirer unconnected with the Goods) and shall, at the Hirer's own expense, take such proceedings, (in the Hirer's sole name or jointly with Kyoob), as Kyoob shall direct holding all sums recovered, together with monies received by the Hirer under any Insurance Policy taken out by the Hirer, pursuant to the provisions of this Agreement on trust for Kyoob and paying or applying as Kyoob directs, such part thereof as is necessary to discharge the Hirer's liability to Kyoob at the date of such payment and to compensate Kyoob for the loss, theft or destruction of, or damage to the Goods, any surplus being retainable by the Hirer for its own benefit;		
8.1.16	use the Goods in a skilful and proper manner and accordance with any operating instructions issued for them and to ensure that the Goods are operated and used by properly skilled and trained personnel;		
8.1.17	furnish promptly to any inspector of taxes such information as may be legally required to be so furnished about the leasing of the Goods or the use to which the same is being or has been put and to furnish to Kyoob promptly upon requests in order to enable Kyoob to respond to such a request of Kyoob from any inspector of taxes;		
8.1.18	provide such information about its own operations as may be requested by Kyoob in its negotiations with any Financier in any transactions.		
8.2	Where there is a total loss or constructive or arranged total loss ("Total Loss") of the Goods by accident, fire or theft the hire rates shall cease on the happening of such an event but the Hirer shall pay to Kyoob an amount equal to full replacement value of the Goods and shall pay interest on such sum calculated in accordance with Condition 6.5, from the date of the event causing Total Loss until date of payment by the insurers under the Insurance Policy, such interest to run from day to day and to be paid on demand by Kyoob.		
9	<b>Indemnity</b>		
9.1	In addition to any other remedy available to Kyoob, the Hirer irrevocably and unconditionally agrees to indemnify Kyoob its employees, subcontractors and agents (who shall have no duty to mitigate their loss) in full and on demand and keep them so indemnified against all claims, demands, actions, proceedings and all damages, losses, costs and expenses (including without limitation legal and other professional advisers' fees and all consequential and economic loss (including without limitation loss of profit, future revenue, reputation or goodwill and anticipated savings)) whether direct or indirect made against or incurred or suffered by or of them directly or indirectly and whether wholly or in part resulting from the matters listed below whether or not such losses or the consequence of the matters listed below were foreseeable at the date of the Agreement:		
9.1.1	any claims for any loss, injury or damage suffered by any person from the presence of the Goods or the delivery, possession, use, operation, removal, or return of it or any defect in the Goods or the testing, maintenance or overhaul or it;		
9.1.2	any loss of or damage to Goods for whatever reason and whether or not such loss or damage results from the Hirer's negligence;		
9.1.3	any breach by the Hirer of these Conditions;		
9.1.4	any expenses incurred in connection with ascertaining the location of the Goods, taking possession of them as a result of the Hirer's breach of any of these Conditions and preserving, insuring and storing the Goods after taking possession.		