

Terms of Hire

1. Interpretation

1.1. In these Terms :

you	means the individual, firm, body corporate or other body who hires the Equipment or whose order for the Equipment is accepted by us.
we, us, ours	Hodgson Tool Hire Ltd, Tollgate Road, Burscough, Lancashire. L40 8LD
Equipment	means the equipment which we hire in accordance with these Terms.
Terms	means the terms of hire set out in this document and includes any special terms agreed in Writing between you and us.
Contract	means the contract for the hire of the Equipment by you from us.
Writing	includes, facsimile, electronic transmission and comparable means of communication.
Site	the location where the Equipment is delivered or otherwise initially located by you

1.2. The headings in these Terms are for convenience only and shall not affect their interpretation.

1.3. These conditions do not affect any of your statutory rights where you are a person dealing as a consumer, not for business purposes. Any clause which would otherwise exclude or restrict your rights as a consumer will, to that extent have no force or effect. In particular, where you deal as a consumer Term 9 does not apply to you.

2. Basis of the hire

2.1. We shall hire to you the Equipment in accordance with these Terms which shall govern the Contract. These Terms are binding and the Contract comes into existence once we accept your order.

2.2. No variation to these Terms shall be binding unless agreed in Writing.

2.3. Our employees or agents are not authorised to make any representations concerning the Equipment unless confirmed in Writing and any advice or recommendation given by us to you as to the storage, application or use of the Equipment which is not confirmed in Writing is followed or acted upon entirely at your own risk.

2.4. The Equipment is offered subject to it being available for hire.

2.5. We reserve the right to provide Equipment similar or comparable to that ordered by you.

2.6. We can only take responsibility for the fitness of the Equipment for your requirements if you supply us with full and correct information and if you comply with our written recommendations.

3. Ownership and period of use

3.1. The Equipment shall at all times remain ours. Unless otherwise agreed in Writing you must not sell, sub hire or otherwise dispose of or abandon the Equipment.

3.2. If you are not a limited liability company or local or similar authority then the maximum period of hire is 3 months and the Equipment must be returned to us before this period expires.

3.3. The minimum period of hire (unless we agree in Writing a shorter period) is 24 Hours.

4. Hire charges

4.1. The hire charges and dates when they are due for payment are as stated in the Contract or as otherwise agreed in Writing with us.

4.2. We may increase the hire charges during the Contract upon giving you 14 days written notice. You are entitled to terminate the Contract within that 14 day period.

4.3. The hire charges shall commence on the date stated on the acknowledgement of order, delivery ticket or if no such date is stated the date upon which the Equipment is made available for collection by or delivery to you.

4.4. The hire charges shall continue and be payable for all days (including bank and statutory holidays, Saturday and Sunday) until:

4.4.1. If agreed in Writing by us to be for a fixed period duration; upon expiry of that period; or;

4.4.2. in respect of an *off-hire* either:-

4.4.2.1. the collection of the Equipment from Site or;

- 4.4.2.2.seven days from acknowledgement of off-hire in Writing being received by us and an off hire number being allocated and notified to you by us, whichever is the earlier, or;
- 4.4.3. where the provisions of clause 4.4.1 and this clause 4.4.2 do not apply;
 - 4.4.3.1.either party giving to the other notice in Writing of not less than seven days, such expiry not to be earlier than the end of the minimum period of the Contract as stated in the acknowledgment of order or contract or clause 3.3 above.
- 4.5.If you do not have an account with us, you must pay us when you place your order, or, if we have agreed this with you in Writing, when the equipment is delivered. Where you hold an account with us sums must be paid to us in accordance with the terms of the account held.
- 4.6.Where you dispute any amount that we have invoiced you, you must notify us of this within 21 days from date of the invoice. If you fail to do this, the invoice will be deemed to be correct unless you obtain information after this period which shows that this is not the case.
- 4.7.If payment is not made when due we may charge you interest on the amount unpaid, at the rate of 4 per cent per annum above Barclays Bank Plc's base rate until payment in full, to include any further costs incurred, is made.

5.Termination of Hire

- 5.1.If you:
 - 5.1.1.expressly or implied repudiate the Contract by refusing or threatening to refuse to comply with any of its provisions: or
 - 5.1.2. fail to comply with any of the provisions of the Contract and (in the case of a failure capable of being remedied) do not rectify such non-compliance within 14 working days of being served with written notice of such failure: or
 - 5.1.3. convene any meeting of creditors or pass a resolution for winding up or suffer a petition for winding up: or
 - 5.1.4. have an administrative receiver or receiver appointed over the whole or part of your assets or suffer the appointment of an administrator: or
 - 5.1.5. being an individual have a bankruptcy order made against you or compound with your creditors or come to any arrangements with any creditors:
 - 5.1.6. Then (and in any such case) we may, without prejudice to any other of our rights or remedies and without being liable to you for any loss or damage which may be occasioned, give written notice to you terminating this Agreement with immediate effect and repossess any or all of the Equipment the subject of this Contract or any other contract between you and us.

6.Delivery and location

- 6.1.If the Equipment is delivered or collected by us you will pay us the costs of collection or delivery. Where we quote collection or delivery charges, these are only in respect of the time required to load or unload alongside our vehicle at the address you have specified.
- 6.2.You will be responsible for ensuring that the Site is firm and level and there will be free unrestricted, appropriate, and safe access for our delivery vehicle and Equipment to be delivered, collected, serviced, loaded or unloaded alongside the delivery vehicle.
- 6.3.You will be liable for any costs or expenses to us arising from failure to provide such access. You will pay extra for any further time or attendance including any attempt by us to carry out delivery, collection or servicing in accordance with the Contract which is unsuccessful or delayed due to your acts or omissions.
- 6.4.Our driver shall be deemed to be acting under the instruction of you or your agents when on Site unless agreed otherwise in Writing.
- 6.5.Where we have agreed to position the Equipment in a specific location, you must have an authorised representative available at the time of delivery to instruct us regarding that position.
- 6.6.You will be liable to us for parking fines and penalties and any associated costs and expenses that we incur under the Contract by reason of the Site or location of the Equipment, including but without limitation, where we are required to stop in a 'no parking zone'.
- 6.7.Connection and disconnection of mains services for use with the Equipment on Site and the suitability of these services are your responsibility. You will ensure that any such connection and disconnection is carried out by appropriately qualified persons.
- 6.8.Equipment must not be removed from the Site without our written authority or from any Site we subsequently authorise.
- 6.9.You authorise us to enter any land or premises where we reasonably believe any Equipment to be, on reasonable notice, in order to make any necessary inspection, test, repair, service, replacement or repossession of it. You

shall make the Equipment available to us during reasonable working hours, for the purpose of inspection, repair, maintenance or replacement.

7. Use, Maintenance and repair

7.1. The Equipment must be:

- 7.1.1. properly maintained and kept in good order and condition at all times by you;
- 7.1.2. used in accordance with any relevant instructions, procedures, permissions, licenses, consents or statutory regulations;
- 7.1.3. properly supervised where the young, elderly or mentally or physically disabled (whether temporarily through drink or drugs or otherwise) are or are likely to use the Equipment and if you fail to abide by this term you will be responsible for making good any damage or loss to the Equipment and any third party's property which occurs as a result of this failure.

7.2. If the Equipment fails to work satisfactorily you must notify us immediately, ensure that it is not used until we have confirmed that it is fit for use, and must not attempt to repair it unless we agree to this in Writing.

7.3. The Equipment must be returned to us in the same condition as it was when it was delivered to you (except for fair wear and tear and damage resulting from inherent defects). You will be given 48 hours to view the Equipment prior to cleaning and/or repair after we have notified you of any breach of this clause. You are responsible for any costs incurred in cleaning or repairing the Equipment (including any lost hire fee revenue or costs of obtaining alternative equipment while the Equipment is out of action).

7.4. You must not use or allow the Equipment to be used after the termination of the hire period. We will be entitled to charge additional hire charges and any reasonable expenditure we incur resulting from any such unauthorised use.

7.5. You will not remove, deface, alter or cover up our name plate or mark on the Equipment which indicate that it is our property.

7.6. You will not remove, deface, alter or cover any notices giving warnings, information or instructions about the use of the Equipment.

8. Your responsibility for the Equipment and its insurance

8.1. You are responsible for the safety, safe keeping and return of the Equipment from the time of delivery by us until it is collected by or returned to us and we have issued an unqualified receipt for it. If you collect the Equipment, your responsibility commences at that point and finishes once you return it or we collect it and we have issued an unqualified receipt.

8.2. The Equipment shall be insured against all risks at a full new for old replacement value by you and our interest shall be noted on the policy. If there is a payment as a result of a claim under such policy then the payment is to be made to us, and will be held by you in a separate bank account on trust for us until this occurs.

8.3. In addition to being responsible for the replacement value you are also responsible for any lost hire charges and reasonable costs (e.g. from having to obtain Equipment to comply with other hire contracts) that we suffer as a result of the Equipment not being available for us to hire.

8.4. You must indemnify us against any liability which we incur which arises during a period when the Equipment is your responsibility save to the extent that it is caused by any negligence or breach of these Terms on our part. Details must be given to us of any incidents which could give rise to a claim relating to the Equipment.

8.5. It is your responsibility to ensure that all contamination is removed from the Equipment before it is returned or collected by us. In the event that you fail to comply with this provision, you will continue to pay us the hire charges until such time as the contamination is removed and the Equipment returned to us in a clean state.

9. Our and Your responsibility for testing and compliance with laws

9.1. We will ensure that all Equipment is safe for use on the date that it is delivered to (or collected by) you. We will also ensure that any necessary testing has taken place prior to delivery (or collection by you).

9.2. You are responsible for ensuring that any checks, testing and examinations of the Equipment required by Employment and Health & Safety legislation, and/or any operating instructions we provide are carried out after this. You will also be responsible for any liability incurred by us as a result of your failure to do this.

10. Smoke Free Law

10.1. For the purpose of the smoke free legislation and so far as it is relevant, you control and manage the Equipment under the Contract.

10.2. You must comply with the smoke free legislation.

10.3. You will indemnify us for any loss or damage caused to us by you failing to comply with the smoke free legislation.

11.Warranties and our liability

- 11.1.We warrant that the Equipment is in good working order.
- 11.2.Should any defect occur in the Equipment, other than one for which you are responsible, we will at our option either replace or repair the Equipment (at no charge to you) as soon as is practical. We shall not replace, repair or service any Equipment until any outstanding hire charges have been paid.
- 11.3.We shall not be liable to you for:
 - 11.3.1. any delays in availability or delivery (in circumstances where we have accepted responsibility for delivery) of Equipment caused by matters beyond our control; or
 - 11.3.2. any indirect or consequential losses, including loss of profit, caused by the use, failure or unsuitability of the Equipment; or
 - 11.3.3. any damage caused to any paving, ground surfaces, vehicles, building or other feature on Site, during delivery, servicing or collection, whilst acting under the instruction of you or your agents or where delivery is made without instruction in accordance with clause 6.4.

12.Distance Selling Regulations

- 12.1.The Consumer Protection (Distance Selling) Regulations 2000 may apply to the Contract if you are a consumer and the Contract was concluded by 'distance' (ie; not in person). The Regulations do not apply if you are a business or if the Contract was not concluded by 'distance' as defined within the Regulations.
- 12.2.If the Regulations apply to the Contract you are entitled to withdraw from the Contract at any time before the Equipment is delivered or within 7 working days from delivery of the Equipment and to a full credit or refund less any applicable delivery charges. The Equipment must be unused and 'as new' with it's original box and packaging including all manuals and accessories. If you have opened the box to examine the Equipment you must have done so without damaging or marking the product or packaging. The Equipment must not have been used or assembled. You have a duty of care whilst the Equipment is in your possession and as such we advise you to return the Equipment with its original packaging to ensure it is not damaged during transit to us. Goods received back incomplete or in a damaged or used condition will either be returned to you and the cost of delivery charged to your account or we reserve the right to levy a surcharge on such returned goods at a minimum 15% of the invoice price. You must notify us within 7 days from date of delivery and we will issue you with a Returns Authorisation Number. The Returns Authorisation Number will be valid for 14 days and it will be your responsibility to return the goods to us at your own cost and risk.

13.Other terms and limits on liability applying to Business Users

- 13.1.**PLEASE NOTE THIS CLAUSE DOES NOT APPLY WHEN YOU HIRE THIS EQUIPMENT AS A CONSUMER AND NOT FOR BUSINESS USE.**
- 13.2.Subject to clause 11.3, all warranties, representations, terms, conditions and duties implied by law relating to fitness, quality and/or adequacy are excluded to the fullest extent permitted by law.
- 13.3.We do not limit or exclude our liability for death or personal injury resulting from our negligence.
- 13.4.If we are found liable in respect of any loss or damages to your property the extent of our liability will not exceed the retail cost of replacement of the damaged property.
- 13.5.We will not have any liability to you for any:
 - 13.5.1. consequential losses (including any loss of profits and/or damage to goodwill);
 - 13.5.2. economic and/or other similar losses;
 - 13.5.3. special damages and indirect losses;
 - 13.5.4. business interruption, loss of business and/or opportunity;
 - 13.5.5. delay in availability or delivery (where we are responsible for delivery) of the Equipment.
- 13.6.Total liability to you under and/or arising in relation to any Contract shall not exceed 5 times the amount of the hire charges for the Equipment under the Contract or the sum of £1,000 which ever is the higher [if any liability of us to you would be met by any insurance that we hold then our liability shall be extended to the extent that such liability is met by such insurance].
- 13.7.Each of the limitations and/or the exclusions in this Contract shall be deemed to be repeated and apply as a separate provision for each of:
 - 13.7.1. Liability for breach of contract;
 - 13.7.2. Liability in tort (including our negligence);
 - 13.7.3. Liability for breach of statutory duty;

13.7.4. Except clause 12.6 above which shall apply only once in respect of all of these types of liability.

13.8. You will pay all sums due to us under the Contract without any set-off, deduction, counterclaim and/or any other withholding of money.

14. General

14.1. No waiver by us of any breach of the Contract by you shall be considered as a waiver of any subsequent breach of the same or any other provision.

14.2. If any provision of these Terms is held by any competent authority to be invalid or unenforceable in whole or in part the validity of the other provisions of these Terms and the remainder of the provision in question shall not be affected thereby.

14.3. The provisions of the Contracts (Rights of Third Parties Act) 1999 shall not apply to this Contract and a person who is not a party to this Contract shall have no right under that Act to enforce any term of the Contract.

14.4. Any dispute arising under or in connection with these Terms or the hire of the Equipment shall be subject to the Jurisdiction of the English Courts.

14.5. The Contract shall be governed by the laws of England.

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