

THORNCLIFFE BUILDING SUPPLIES LTD

Terms and Conditions of Hire

Before placing an order, the Hirer should read these Terms carefully as they contain important information about Thorncliffe Building Supplies Ltd and the Contract.

1. DEFINITIONS:

- a) "Owner" is the company, firm or persons letting the equipment on hire and includes their successors, assigns or personal representatives.
- b) "Hirer" is the company, firm or person, corporation, or public authority taking the Owner's equipment on hire and includes their successors or personal representative.
- c) "Order" is the individual orders for the hire of equipment placed by the Hirer from time to time in a branch, over the telephone or via email.
- d) "Contract" is the contract between the Owner and the Hirer in accordance with clause 2b.
- e) "Commencement Date" means the date on which the stated Contract is created in accordance with clause 2b.
- f) "Hire Period" is the period of hire of the Equipment as set out in the Contract, unless the Contract is terminated earlier in accordance with these Terms or extended by agreement between the Owner and the Hirer.
- g) "Charges" is the charges set out in the Contract or if no charges are detailed in the Contract, the Owners standard charges for the relevant equipment will be in force on the date the Owner issues a written acceptance of the Order to the Hirer.
- h) "Replacement Cost" is the cost of replacing with new any item of Equipment or part of it, including but not limited to cost of the item or part of it, any unpaid Charges that would otherwise have been paid by the Hirer were it not for such replacement and a reasonable administrative charge to be determined by the Owner covering the cost of administering the replacement.
- i) "Equipment" means plant machinery, equipment and accessories thereto which the Owner agrees to hire to the Hirer under this contract.
- j) "Site" means the address of Hirer or such other place specified by the Hirer at the time of the hire.
- k) A "Day" shall be 24 consecutive hours.
- l) A "Week" shall be 7 consecutive days.
- m) A "Working week" shall be the period from 7.00 AM on Monday to 3.30 PM on Friday, or such other starting time on Monday and finishing on Friday as the Hirer may adopt for the ordinary course of his business.
- n) A "Weekend" shall be the period from 3.30 PM on Friday to 7.30 AM on Monday.
- o) A "Month" shall be one calendar month.
- p) The "Hire" period means the period from when the equipment leaves the Owner's premises to when the equipment is received back at the Owner's premises.

2. FORMATION OF CONTRACT:

- a) Each Order placed by the Hirer will be an agreement by the Hirer to hire the Equipment on these Terms. The Hirer will ensure that each Order is correct and complete, and that the Equipment is suitable for the Hirer's requirements.
- b) A Contract will be formed between the Owner and the Hirer for the requirement of the Equipment set out in the Order, when the Owner issues a written acceptance (including by email) of the Order to the Hirer.
- c) If the Owner is unable to accept an Order for any reason, the Hirer will be contacted and there will be no charge for the equipment.
- d) The Contract will commence on the Commencement Date and will continue for the agreed Hire Period unless concluded earlier in accordance with these Terms.

3. EXTENT OF CONTRACT:

No terms other than those expressly contained herein shall apply to or form part of the contract.

4. MAXIMUM PERIOD OF CONTRACT (HIRES TO UNINCORPORATED BODIES):

If the Hirer is an individual, partnership or other unincorporated body the contract of hire will terminate no later than three months from the date of its commencement and the Hirer shall restore the Equipment to the Owner on or before the last day of the three month period, unless agreed previously with the Owner. If the hire item is not returned by the end of the three month period, the Owner will consider the Equipment in question as stolen and can start legal proceedings against the Hirer to recover the Equipment and any costs arising from implementing this action.

5. DELIVERY IN GOOD ORDER:

- a) Equipment supplied shall be in good working order and fit for the purpose for which equipment of that kind is normally used.
- b) The Owner does not warrant that the equipment supplied shall be fit for any special purpose.
- c) The Hirer shall satisfy himself as to the condition of the equipment supplied at the time of acceptance of the equipment by the Hirer, his agent or employee.
- d) Unless notice to the contrary is received by the Owner within 24 hours of the supply of the equipment, the equipment shall be deemed to be supplied in good working order, except for defects which could not have been discovered by reasonable examination.

6. TRANSPORTATION, LOADING AND UNLOADING:

- a) The hirer shall be responsible for the collection of the equipment from the Owner's premises and for delivering the equipment to the Owner's premises at the end of the hire period.
- b) When the Hirer requires the Owner to transport the equipment, the transportation shall be at the Hirer's expense.
- c) The Hirer shall be responsible for the loading and unloading at the time of collection from Owner's premises and at the time of delivery to the Owner's premises on the termination of the hire period.
- d) Any person supplied by the Owner to assist in the loading and unloading shall be deemed to be under the Hirer's control and shall comply with all the directions of the Hirer who alone shall be responsible for any damage caused to the equipment as a result of such loading and unloading.
- e) The Hirer is not responsible for any delays from an event outside of the Hirer's control. If the supply of the Equipment is delayed by events outside of the Hirer's control, the Owner will contact the Hirer and take steps to minimise the effect of the delay. If there is a risk of considerable delay the Hirer may contact the Owner to end the Contract and receive a refund for any Equipment paid for that has not been received.

7. UNAUTHORISED CHANGE OF SITE:

The equipment must not be moved from the site to which it was delivered or when the equipment is collected by the Hirer, the site specified by the Hirer, without the written authority of the Owner.

8. UNAUTHORISED RE-HIRING OF EQUIPMENT:

The equipment or any part thereof shall not be re-hired, sublet, or lent to any third party without the written consent of the Owner.

9. MAINTENANCE OPERATION AND USE OF EQUIPMENT:

- a) The Hirer shall at all times keep himself acquainted with the state and condition of the equipment and ensure that it remains safe, serviceable and clean.
- b) The Hirer shall not use or permit the use of the equipment for any purpose beyond its capacity or in a manner likely to result in excessive wear.
- c) The Hirer undertakes to use or permit the use of the equipment only in accordance with any relevant operating and safety instructions supplied with the equipment.
- d) The Hirer shall not make any alterations or modifications to the equipment.
- e) The Hirer acknowledges that the Hirer, his agent or employee has been instructed in the safe use and operation of the equipment supplied and undertakes to ensure that any other user of the equipment will also be accordingly instructed.
- f) Where the equipment is supplied with fuel, the Hirer shall return the Equipment with the same or greater amount of fuel. The Owner is entitled to charge the Hirer for any refueling costs.
- g) All electrical items must be retested by due date as displayed on test label.

10. FITTING OF ACCESSORIES:

- a) When the equipment requires the fitting or refitting of any accessory (which term includes but it is not confined to drills, wheels, discs and blades), it shall be the Hirer's responsibility to ensure that any such accessory is correctly fitted or refitted in a manner so as not to render the equipment unsafe to the user and that any legislation relating to the fitting or use of such accessory is complied with.
- b) The Hirer shall be responsible for any injury or damage to persons or property arising from the incorrect or unsafe fitting or use of any accessory.

11. ACCESS BY OWNER FOR SERVICING AND INSPECTION OF EQUIPMENT:

The Hirer shall at all reasonable times allow the Owner, his agent, employees and Insurers to have access to the equipment to inspect, adjust, repair, replace, deliver and collect the equipment.

12. BREAKDOWN OF EQUIPMENT:

- a) Any breakdown or unsatisfactory working of the equipment must be notified to the Owner immediately by the quickest means.
- b) No hire charge will be made to the Hirer from the time and date when notice is received by the Owner in respect of stoppage due to breakdown of the equipment caused by the development of a fault not discoverable by reasonable examination.
- c) The Owner accepts no liability or responsibility for any loss or damage arising from any stoppage due to breakdown of the equipment from any cause whatsoever.
- d) In the case of wheeled equipment, punctures and their repair shall be the responsibility of the Hirer and no refund of hire charges will be made by the Owner in respect of stoppage caused by punctures.
- e) Except for the repair of punctures, the Hirer shall not repair or attempt to repair equipment unless authorized to do so by the Owner.
- f) In the event of a breakdown in the equipment, which is not readily repairable, the Owner shall be entitled to substitute equipment of a similar type. If the Owner is not able to do so, the Hire shall be terminated as from the date of the notification of breakdown.
- g) Where breakdown of the equipment arises from a cause other than through the development of a fault not discoverable by reasonable examination, all costs incurred by the Owner in repairing the equipment, including transport costs, shall be chargeable to the Hirer.

13. NOTIFICATION OF ACCIDENTS:

If the equipment is involved in any accident resulting in damage to the equipment or other property or injury to any person, the Owner must be notified immediately.

14. HIRER'S RESPONSIBILITY FOR LOSS OF OR DAMAGE TO EQUIPMENT:

- a) During the continuance of the hire period, the Hirer shall be liable to the Owner for the cost of all loss or damage to the equipment from any cause whatsoever, except for fair wear or tear. This includes cleaning the Equipment following collection, to return the Equipment to a condition fit for hire.
- b) In the event of loss or damage, or cleaning to the equipment, hire charges shall continue until such time and date as the Hirer pays for the cost incurred by the Owner in respect of such loss or damage. Such costs and expenses shall be confirmed to the Hirer by the Owner, subject to supporting documentation.
- c) The Hirer shall pay the Owner the Replacement Cost in respect of lost or stolen Equipment. If the Equipment is deemed beyond economic repair the Hirer will continue to pay the Charges, until the Replacement Cost has been received by the Owner.
- d) Please note that it is the Hirer's responsibility to insure the equipment.

15. HIRER TO INDEMNIFY OWNER AGAINST THIRD PARTY CLAIMS:

The Hirer shall at all times indemnify the Owner in respect of all claims by any person whatsoever for injury to person or property caused by, or, in connection with, or arising out of, the use of the equipment, and in respect of all costs and charges in connection therewith.

16. CONSEQUENTIAL LOSS:

The Owner shall not be liable for any consequential loss or damage arising from this contract.

17. TERMINATION OF HIRE CONTRACT:

When the hire is for a fixed period, it shall terminate on the date that period expires. When the hire is not for a fixed period or when it is continued after the expiry of a fixed period, without any new period being agreed, either party may terminate the hire by giving the other 7 days' notice in writing.

18. RETURN EQUIPMENT ON COMPLETION OF HIRE:

- a) The Hirer shall be responsible for returning the equipment on completion of the hire in a condition equal to that as at the commencement of hire, fair wear and tear excepted.
- b) When the equipment is returned in an unclean condition, a charge shall be made for the cleaning and restoration of the equipment to its condition as at the commencement of the hire.
- c) When the equipment (or any part of the equipment) cannot be returned to the Owner on completion of the hire owing to the loss, destruction, or theft of the equipment (or such part), whether or not due to any fault of the Hirer, (his agent, or employee, the Hirer shall pay to the Owner the manufacturer's recommended selling price for that equipment (or part of the equipment)).
- d) It is the Hirer's responsibility to notify the Owner on completion of the hire.

19. PAYMENT OF HIRE CHARGES:

- a) The equipment shall be hired by day, by the week, by the month or for a weekend.
- b) All times, including Saturday, Sunday and Public Holidays falling within the hire period are chargeable.
- c) All hire charges are payable on demand.
- d) Hire charges shall continue until such time as the equipment is returned to the Owner, or until payment has been made by the Hirer as described in Clause 18(c).

20. DEPOSITS:

- a) A deposit or other payment may be required from the Hirer. At the time the Equipment is ordered, the Owner may require the Hirer to pay a deposit and/or require the Hirer to provide details of a valid credit or debit card to allow the owner to take a deposit.
- b) If the Hirer fails to make any payment of the Charges or any Additional Charges or any Replacement Cost or causes any loss or damage to the Equipment, the Owner shall be entitled to apply the Deposit in part or in whole against any such costs and by providing the Deposit the Hirer specifically consents to this.
- c) Unless the Owner is entitled to make a deduction from the Deposit in accordance with clause 20(b), the full amount of the Deposit will be returned to the Hirer at the end of the Hire Period.

21. CONSUMABLE ITEMS:

- a) Fuel, oil and grease shall, when supplied by the Owner, will be charged at net cost and when supplied by the Hirer, shall be of a grade and type specified by the Owner.
- b) The cost of re-sharpening drills, cutting edges and other tools, shall be met by the Hirer.
- c) Consumable items, including ear and eye protectors, supplied by the Owner to the Hirer for use with the hired equipment shall be deemed to have been sold to the Hirer at the time of supply, but the Owner may at his discretion refund to the Hirer the price of any such consumable items which have not been used and which are returned to the Owner in a suitable condition for taking back into stock.

22. OWNER'S NAME - PLATES:

The Hirer shall not remove, deface or cover up any name - plate or identification mark or number on the equipment, nor shall put any mark on the equipment which might indicate or suggest that the equipment is not property of the Owner.

23. HIRER NOT TO DISPOSE OF EQUIPMENT:

- a) The Hirer shall not sell, mortgage charge, pledge, part with possession of, or otherwise deal with the equipment except with the written consent of the Owner.
- b) The Hirer shall protect the equipment against distress, execution or seizure.
- c) The Hirer shall indemnify the Owner against all losses, damage, costs, charges and expense arising as a result of any failure to observe and perform the Terms and Conditions of the Clause, except in the event of Government requisition.

24. TERMINATION FOR BREACH OF CONTRACT:

- a) This contract of Hire shall immediately be terminated without any notice of other act on the part of the Owner if the Hirer:
 - i) Defaults in the payment of any sums due to the Owner for the hire of equipment or other charges; or
 - ii) Fails to observe and perform the Terms and Conditions of this Contract; or
 - iii) Suffers any distress or execution to be levied against him or makes or proposes to make any arrangement with his creditors or, being a Company, goes into liquidation (other than member's voluntary liquidation); or
 - iv) Does or causes to be done or permits or suffers any act or thing whereby the Owner's rights in the equipment may be prejudiced.
- b) If this Contract is terminated under this Clause, it shall be lawful for the Owner to retake possession of the equipment and, for that purpose, to enter into or upon any premises where the equipment may be.
- c) The termination of the Contract under this Clause shall not affect the right of the Owner to recover from the Hirer any moneys due under this Contract or damaged for breach of this Contract.
- d) The waiver by the Owner of any breach of any Term or Condition shall not prevent the subsequent enforcement of that Term or Condition and shall not be deemed a waiver of any subsequent breach.