
TOOL HIRE TERMS AND CONDITIONS (B2C)

BACKGROUND:

These Terms and Conditions shall apply:

- A. to the hire of all tools and equipment (“the Equipment”) from Avium trading as a partnership whose registered address is and whose main trading address is The Nursery Kingsdown Lane Swindon SN25 5DL(“the Company”)
- B. where the Customer is hiring the Equipment as a “Consumer” as defined in Clause 1 of these Terms and Conditions.

1. Definitions and Interpretation

1.1 In these Terms and Conditions, unless the context otherwise requires, the following expressions have the following meanings:

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| “ Business ” | means any business, trade, craft, or profession carried on by the Customer or any other person/organisation; |
| “ Consumer ” | means a “Consumer” as defined by the Consumer Rights Act 2015, that is to say an individual who hires the Equipment for his/her personal use and for purposes wholly or mainly outside the purposes of any Business; |
| “ Customer ” | means the customer who is hiring the Equipment subject to these Terms and Conditions; |
| “ Deposit ” | means the sum payable by the Customer under Clause 4 of these Terms and Conditions and as set out in the Hire Agreement; |
| “ Equipment ” | means the tools or equipment supplied on hire by the Company to the Customer subject to these Terms and Conditions; |
| “ Premises ” | means the Company’s premises from which the Customer will collect the Equipment and to which it will return it in accordance with Clause 6; |
| “ Price List ” | means the Company’s price list, current at the time of the start of the Hire term; |
| “ Hire ” | means the hire of the Equipment by the Customer subject to these Terms and Conditions; |
| “ Hire Agreement ” | means the agreement entered into by the Customer and the Company incorporating these Terms and Conditions which shall govern the Hire of the Equipment; and |
| “ Hire Fees ” | means the sum payable by the Customer for the Hire as determined under Clause 5 of these Terms and Conditions. |

1.2 Unless the context otherwise requires, each reference in these Terms and Conditions to:

- 1.2.1 "writing", and any similar expression, includes a reference to any communication effected by electronic or facsimile transmission or similar means;
- 1.2.2 a statute or a provision of a statute is a reference to that statute or provision as amended or re-enacted at the relevant time;
- 1.2.3 "these Terms and Conditions" is a reference to these Terms and Conditions and each of the Schedules as amended or supplemented at the relevant time;
- 1.2.4 a Clause or paragraph is a reference to a Clause of these Terms and Conditions (other than the Schedules) or a paragraph of the relevant Schedule; and
- 1.2.5 a "Party" or the "Parties" refer to the parties to these Terms and Conditions.
- 1.3 The headings used in these Terms and Conditions are for convenience only and shall have no effect upon the interpretation of these Terms and Conditions.
- 1.4 Words imparting the singular number shall include the plural and vice versa.
- 1.5 References to any gender shall include the other gender.

2. Information About The Company

- 2.1 Avium registered address is The Nursery Kingsdown Lane Swindon SN25 5DL and whose main trading address is. The Nursery Kingsdown Lane Swindon SN25 5DL

3. Hire Term

- 3.1 The agreed Hire term will be set out in the Hire Agreement.
- 3.2 If the Customer wishes to extend the Hire term they may do so at any time prior to the end of the Hire term. The Customer must contact the Company to arrange such an extension. Extensions may be made for up to 30 days subject always to the existence of prior reservations made by other customers. The Company shall use all reasonable endeavours to satisfy requests for extensions but cannot guarantee the availability of the Equipment to the Customer beyond the end of the pre-existing Hire term.
- 3.3 The Company reserves the right to recall the Equipment immediately at any time. In the event that the Company exercises this right the Customer will be reimbursed for any remaining in the Hire term or will be issued immediately with replacement Equipment of the same type or of the closest type thereto at no additional cost. If the Equipment is not returned to the Company on request the Customer shall be deemed to have authorised the Company to enter its premises and use any means necessary to recover the Equipment. The Customer shall be charged for any costs associated with such recovery.

4. Deposit

- 4.1 The Customer may be required to pay a refundable Deposit to the Company at the commencement of the Hire term, prior to delivery of the Equipment. The sum of the Deposit shall be set out in the Hire Agreement.
- 4.2 At the end of the Hire term the Company shall fully inspect the Equipment upon its return by the Customer. If the Equipment requires routine cleaning, sharpening and/or maintenance which is the result of normal wear and tear the Customer will receive the Deposit back in full. In the event that additional cleaning, sharpening and / or maintenance is required the Company shall retain the Deposit in full or in part as appropriate and shall provide the reasons for such retention to the Customer in writing, including all relevant calculations and pricing information.

5. Fees and Payment

- 5.1 The Hire Fees will be determined by reference to the length of the Hire term, the type and quantity of Equipment, the Price List and any additional items which may be included in the Hire, as set out in the Hire Agreement.
- 5.2 Payment shall be made in part or in full, as set out in the Hire Agreement, at the commencement of the Hire term. Payment may be made by cash, credit or Bank Transfer

6. Collection, Hire and Return

- 6.1 The Customer may collect the Equipment from the Premises at the start of the Hire term. The Customer may only collect the Equipment once all payments required under Clause 5 have been made and any insurance requirements set out in Clause 9 have been complied with.
- 6.2 The Company shall use all reasonable endeavours to ensure that the Equipment is ready for collection at the start of the Hire term.
- 6.3 In the event that the Company is unable to provide the Equipment at the start of the Hire term the Company shall deliver the Equipment to the Customer at the earliest possible date at the expense of the Company] **OR** [the Company will contact the Customer when the Equipment is available for collection]. The total Hire Fees payable by the Customer shall be adjusted accordingly to reflect the non-availability of the Equipment.
- 6.4 The Company is required by law to provide consumers with goods that are of satisfactory quality, fit for purpose, and in accordance with descriptions, samples, models and other pre-contract information provided by the Company. If the Customer discovers any damage (pre-existing) or fault with the Equipment during the Hire term, the Customer should inform the Company as soon as is reasonably possible. The Company will use all reasonable endeavours to provide a suitable replacement or, if a repair is possible without causing the Customer any inconvenience, the Company will repair the Equipment (or have it repaired). If the Company is unable to replace or repair the Equipment (or have it repaired), or if the Customer would prefer to reject the damaged or faulty Equipment, whether before or after a repair or replacement (if the replaced or repaired Equipment is still damaged or faulty), the Company will offer the Customer a refund equal to the remaining, unused

part of the Hire term. Any refund due to the Customer will be made as soon as is reasonably possible, and in any event within 14 calendar days of the date on which the Company agrees that the Customer is entitled to a refund. Refunds will be made using the same payment method originally used by the Customer unless the Customer specifically requests a different method. For more information on the Customer's legal rights and remedies as a consumer, it is recommended that the Customer contacts their local Citizens Advice Bureau or Trading Standards Office.

- 6.5 At the end of the Hire term, on the agreed date the Customer shall return the Equipment to the Premises at or before the time shown in the Hire Agreement.
- 6.6 If the Customer is late in returning the Equipment by more than 6hrs late the Company shall charge the Customer for an additional day's hire at the normal daily rate for that Equipment. The Hire term will be extended by one day. The provisions of this sub-Clause 6.6 shall continue to apply daily until the Equipment is returned.

7. Use and Care of the Equipment

- 7.1 The Customer may only use the Equipment for the normal purpose for which it is intended.
- 7.2 All Equipment must be used in accordance with any and all operation and safety instructions or similar documentation provided.
- 7.3 Certain items of Equipment may require specialist training prior to use. The Customer must ensure that such training is provided to those under its authority that will use the Equipment during the Hire term.
- 7.4 The Customer may not make any alterations or adjustments to the Equipment beyond those that are already possible within the range of adjustments specific to a given item.
- 7.5 The Customer may only affix or connect other items to the Equipment where such affixation does not exceed the design limitations of the Equipment and is not likely to damage it in any way.
- 7.6 The Customer shall at all times treat the Equipment with a reasonable level of care and shall ensure that it is kept clean, subject always to reasonable levels of wear and tear.
- 7.7 All Equipment which uses consumables of whatever nature must only be used with official consumables (that is, those produced or recommended by the manufacturer of that particular piece of Equipment) or such other products as authorised by the Company.
- 7.8 All Equipment which requires fuel or oil must only be used with the types specified by the manufacturer of that particular piece of equipment or such other type as authorised by the company.
- 7.9 All electrical equipment must only be used with the voltage specific to that piece of Equipment.

8. Maintenance

- 8.1 The Company shall maintain the Equipment to the standards specified by the relevant manufacturers. Only official parts (that is, those produced or

recommended by the manufacturer of that particular piece of Equipment) shall be used for maintenance and repair work. All Equipment will be fully inspected, cleaned and (where necessary) maintained prior to each Hire.

- 8.2 The Customer shall not attempt to make any repairs to the Equipment without the prior written consent of the Company. When the Company is contacted in this regard it shall have the option of replacing the Equipment, repairing the Equipment itself or granting the Customer permission to make the necessary repairs. The cost of such replacement or repairs shall be borne by either the Company or the Customer, the responsibility being determined by the reasons for the replacement or repairs.
- 8.3 If parts require replacement during the Hire term the Company shall have the option of supplying such parts to the Customer or supplying replacement Equipment or a suitable substitute (that is, Equipment capable of performing the same tasks as that which it replaces).
- 8.4 Any parts and / or substitutes provided under sub-Clause 8.3 shall be replaced free of charge by the Company provided that such replacement is necessitated by nothing more than normal wear and tear. Additional damage may result in the Customer being charged for the cost of replacement parts, associated labour, and / or the cost of providing substitute Equipment.

9. Insurance

- 9.1 The Company provides no standard insurance cover for the Equipment. The Customer shall have the following options:
 - 9.1.1 For an additional premium equivalent to 20% of the Hire Fees, a damage waiver shall be included in the Hire under which the Company shall waive any additional costs associated with accidental damage to the Equipment which may otherwise arise under these Terms and Conditions. If damage to Equipment is found to be deliberate, the cover provided under this Clause 9 shall be invalidated and the Customer shall be required to pay the full costs of repair or replacement.
 - 9.1.2 In the case of smaller items of Equipment the Customer's existing contents insurance may provide cover while the Equipment is on the insured property. It shall be the Customer's responsibility to verify this with their insurers. In the case of larger items of equipment, whether covered by the Customer's existing insurance or otherwise, the Company shall, at its discretion, require proof of insurance prior to releasing the relevant Equipment to the Customer.
- 9.2 The waiver provided for in sub-Clause 9.1.1 shall not cover the loss or theft of the equipment. Responsibility for any such loss or theft shall lie solely with the Customer.

10. Liability

- 10.1 The Company will not be liable for any personal injury or damage to property which results from the improper use of the Equipment.
- 10.2 The Company shall be responsible for any foreseeable loss or damage that the Customer may suffer only as a result of the Company's breach of these Terms and Conditions or as a result of the Company's negligence. Loss or damage is foreseeable only if it is an obvious consequence of the Company's

breach or negligence or if it is contemplated by the Customer and the Company when the Hire Agreement is formed. The Company will not be responsible for any loss or damage that is not foreseeable.

- 10.3 The Company's total liability under these Terms and Conditions shall be limited to the value of the contract between the Company and the Customer, that is, the total Hire Fees payable by the Customer.
- 10.4 Nothing in these Terms and Conditions seeks to exclude or limit the Company's liability for death or personal injury caused by its negligence (including that of its employees, agents or sub-contractors); or for fraud or fraudulent misrepresentation.
- 10.5 Nothing in these Terms and Conditions seeks to exclude or limit the Company's liability with respect to the Customer's rights as a consumer. For more information on the Customer's legal rights and remedies as a consumer, it is recommended that the Customer contacts their local Citizens Advice Bureau or Trading Standards Office.

11. How We use your personal information (Data Protection)

- 11.1 All personal information that the Company may use will be collected, processed, and held in accordance with the provisions of EU Regulation 2016/679 General Data Protection Regulation ("GDPR") and the Customer's rights under the GDPR.
- 11.2 For complete details of the Company's collection, processing, storage, and retention of personal data including, but not limited to, the purpose(s) for which personal data is used, the legal basis or bases for using it, details of the Customer's rights and how to exercise them, and personal data sharing (where applicable), please refer to the Company's Privacy Notice available from The Nursery Kingsdown Lane Swindon SN25 5DL

12. Termination

- 12.1 The Company shall be entitled to terminate the Hire Agreement in the event that:
 - 12.1.1 the Customer is in breach of these Terms and Conditions;
 - 12.1.2 the Customer has had their personal belongings confiscated in order to satisfy debts; or
 - 12.1.3 the Customer has a receiving order made against them.
- 12.2 In the event of termination for any of the above reasons:
 - 12.2.1 all payments required under the Hire Agreement shall become due and immediately payable; and
 - 12.2.2 the Company shall have the immediate right to request the immediate return of the Equipment or repossess the Equipment and may charge the Customer for any reasonable costs involved in such repossession.

13. Events Outside of the Company's Control (Force Majeure)

The Company shall not be liable for any failure or delay in performing its obligations

where that failure or delay results from any cause that is beyond its reasonable control. Such causes include, but are not limited to: power failure, internet service provider failure, strikes, lock-outs or other industrial action by third parties, riots and other civil unrest, fire, explosion, flood, storms, earthquakes, subsidence, acts of terrorism (threatened or actual), acts of war (declared, undeclared, threatened, actual or preparations for war), epidemic or other natural disaster, or any other event that is beyond the Company's reasonable control.

14. Communication and Contact Details

The Customer may contact the Company in person at the Company's branch, by telephone at 01793 729999 or by email at enquiries@avium-gm.co.uk

15. Complaints and Feedback

15.1 The Company always welcomes feedback from its customers and, whilst the Company always uses all reasonable endeavours to ensure that its customers' experience is a positive one, the Company nevertheless welcomes the opportunity to resolve any complaints.

15.2 All complaints are handled in accordance with the Company's complaints handling policy and procedure, available from The Nursery Kingsdown Lane Swindon SN25 5DL

15.3 If the Customer wishes to complain about any aspect of its dealings with the Company, including, but not limited to, these Terms and Conditions, the Hire Agreement, or the Equipment, please contact the Company in one of the following ways:

15.3.1 In writing, addressed to Luke Whiteside Partner Avium Tool Hire Kingsdown Lane Swindon SN25 5DL

15.3.2 By email, addressed to; lukew@avium-gm.co.uk

15.3.3 Using the Company's complaints form, following the instructions included with the form;

15.3.4 By contacting the Company by telephone on 01793 729999

16. Other Important Terms

16.1 The Company may transfer (assign) its obligations and rights under these Terms and Conditions (and under the Hire Agreement, as applicable) to a third party (this may happen, for example, if the Company sells its business). If this occurs the Customer will be informed by the Company. The Customer's rights under these Terms and Conditions will not be affected and the Company's obligations under these Terms will be transferred to the third party who will remain bound by them.

16.2 The Customer may not transfer (assign) their obligations and rights under these Terms and Conditions (and under the Hire Agreement, as applicable) without the Company's express written permission.

16.3 The Hire Agreement is between the Customer and the Company. It is not intended to benefit any other person or third party in any way and no such person or party will be entitled to enforce any provision of these Terms and

Conditions.

- 16.4 If any of the provisions of these Terms and Conditions are found to be unlawful, invalid or otherwise unenforceable by any court or other authority, that / those provision(s) shall be deemed severed from the remainder of these Terms and Conditions. The remainder of these Terms and Conditions shall be valid and enforceable.
- 16.5 No failure or delay by the Company in exercising any of its rights under these Terms and Conditions means that it has waived that right, and no waiver by the Company of a breach of any provision of these Terms and Conditions means that it will waive any subsequent breach of the same or any other provision.

17. Governing Law and Jurisdiction

- 17.1 These Terms and Conditions, the Contract, and the relationship between you and Us (whether contractual or otherwise) shall be governed by, and construed in accordance with the law of England & Wales.
- 17.2 As a consumer, you will benefit from any mandatory provisions of the law in your country of residence. Nothing in Sub-Clause 17.1 above takes away or reduces your rights as a consumer to rely on those provisions.
- 17.3 Any dispute, controversy, proceedings or claim between you and Us relating to these Terms and Conditions, the Contract, or the relationship between you and Us (whether contractual or otherwise) shall be subject to the jurisdiction of the courts of England, Wales, Scotland, or Northern Ireland, as determined by your residency.

[SCHEDULE

<<insert completed Privacy Notice>>]