

General rental terms and conditions of the Kiesel Group companies (hereinafter referred to as “Kiesel”)

1. Scope of the general rental terms and conditions

1.1. These terms and conditions apply to Kiesel GmbH and all affiliated companies as defined in § 15 of the German Stock Corporation Act (AktG), hereinafter collectively referred to as “Kiesel”.

1.2. The following general rental terms and conditions shall be the sole basis for any contract and all related agreements between Kiesel and the lessee. They shall remain exclusively applicable even if the lessee confirms the contract while attaching their own terms and conditions.

1.3. Any differing terms and conditions of the lessee are hereby expressly rejected. No further objection shall be required even if Kiesel, being aware of the lessee’s differing terms, hands over the rental item without reservation.

1.4. Any amendments to these rental terms and conditions shall be communicated to the lessee. Such amendments shall become part of the contract unless the lessee objects within one month of becoming aware of the change.

1.5. These rental terms and conditions apply only to agreements with natural or legal persons, or partnerships with legal capacity, acting in the course of their commercial or self-employed professional activity (entrepreneurs within the meaning of § 14 of the German Civil Code (BGB)).

2. Handover of the rental item, place of performance, costs

2.1. Kiesel is obliged to grant the lessee use of the rental item in return for payment of the agreed rental fee.

2.2. The place of performance for all mutual obligations arising from this rental agreement is Kiesel's registered office.

2.3. Kiesel shall make the rental item available for collection in proper working order and condition, along with the necessary documentation. If expressly agreed in writing, Kiesel will arrange shipment of the rental item.

2.4. The lessee shall collect the rental item at their own cost and risk, or – where agreed - it will be shipped at the lessee's expense. Upon termination of the rental agreement, the lessee must return the rental item to Kiesel's premises at their own cost and risk.

2.5. If the lessee delays collection, shipment (where agreed), or acceptance of the rental item, they shall remain liable for payment of the agreed rental fee. Default shall begin on the day following the contractually agreed rental start date, without the need for a reminder. Upon handover, the technical and visual condition of the rental item and the number of operating hours to date shall be recorded in a handover report. Any identified defects shall be documented in the report. The lessee may not assert any claims against Kiesel for such defects unless they were recorded in the handover report along with an explicit request for their rectification.

2.6. The handover report must be signed by the lessee as confirmation.

2.7. The rental item shall remain the sole property of Kiesel at all times.

3. Defects in the rental item, repairs

3.1. The lessee must notify Kiesel in writing without undue delay upon discovering any defects. Kiesel shall not be in default of remedying the defect unless it has received such written notice from the lessee.

3.2. Kiesel shall, at its own expense, rectify any reported defects (excluding minor repairs in accordance with clause 5.1). This does not apply if the defect was caused by the lessee, is due to negligence on the part of the lessee, or falls within the lessee's area of responsibility.

3.3. Kiesel shall be entitled to inspect the rental item at any time, either directly or through an authorised representative.

3.4. The lessee must, without undue delay, give Kiesel the opportunity to remedy the defect. In particular, the lessee is obliged to grant Kiesel access to the rental item.

3.5. The rectification of a defect by the lessee or a third party is only permitted with Kiesel's prior written consent. Once such written consent has been given, Kiesel shall bear the costs of the rectification.

3.6. Kiesel shall be entitled to provide the lessee with a rental item of equivalent functional value.

4. Use of the rental item, operating costs, maintenance, subletting

4.1. The lessee is obliged to treat the rental item with due care and diligence, to use it only as intended, and to comply with the manufacturer's instructions. In particular, the lessee must protect the rental item from any kind of misuse or overuse.

4.2. The lessee must keep the rental item in proper working order and safe condition throughout the rental period. All operating and ancillary costs – including costs for lubricants, hydraulic fluids, antifreeze and fuel, as well as wear and tear resulting from operation – shall be borne by the lessee for the duration of the rental period. If the rental item is returned containing less fuel than at the time of handover, Kiesel shall be entitled to charge the lessee for the calculated shortfall.

4.3. The lessee must properly care for, maintain and service the rental item. In doing so, the lessee must follow the manufacturer's instructions.

4.4. The lessee must comply with the inspection intervals prescribed by the manufacturer and must have the inspections carried out by Kiesel in accordance with those specifications.

4.5. Any expenses incurred by the lessee in fulfilling their maintenance, servicing or care obligations shall not be reimbursed by Kiesel. This includes costs for restoring the equipment to its original condition due to wear and tear. Clause 4.4 applies separately to inspection costs.

4.6. The lessee shall strictly comply with all applicable accident prevention, occupational safety and road traffic regulations. The lessee may only allow properly trained and instructed personnel to operate the rental item.

4.7. The lessee is authorised to use the rental item only within the territory of the Federal Republic of Germany. Use of the rental item abroad requires Kiesel's prior written consent. Kiesel reserves the right to revoke such consent if a travel warning is issued by the Federal Foreign Office for the country concerned, if political or social unrest is imminent or occurring there, or if the country is considered to have a high crime rate.

4.8. Upon request by Kiesel, the lessee is obliged to provide written information at any time regarding the location and use of the rental item. If the rental item is to be used for a special application or exposed to a harsh environment (e.g. salts, potash, underground mining, slag handling, demolition work, underwater applications, nature conservation areas or similar), the lessee must inform Kiesel in writing beforehand. In such cases, Kiesel reserves the right to adjust the terms of the rental agreement. The lessee shall permit Kiesel to access the rental item at any time in order to verify its presence and condition.

4.9. The lessee is prohibited from modifying or altering the rental item, including its technical systems, and from adding or removing accessories.

4.10. The lessee is not permitted to lend, sublet – whether for commercial or private purposes – or otherwise transfer the rental item to third parties.

4.11. The lessee is obliged to take appropriate measures to protect the rental item against damage and theft.

4.12. Where the intended use of the rental item is subject to specific permits or training, the lessee must ensure that it is operated only by duly authorised and properly trained personnel. The lessee must verify this before handing over the rental item.

4.13. The rental item is generally not approved for road use and does not have an official permit under § 29 (3) of the German Road Traffic Regulations (StVO) for excessive use of public roads. If road approval or a permit pursuant to § 29 (3) StVO is required for the lessee's intended use, Kiesel shall apply for it following consultation with the lessee. All associated costs shall be borne by the lessee. Until such approval has been granted, the rental item may not be used on public roads. The lessee shall indemnify Kiesel, in its capacity as the registered keeper, against any claims by public authorities arising from unauthorised use of the rental item.

5. Obligations and liability of the lessee in the event of damage, loss or intervention by third parties

5.1. The lessee shall bear the cost of minor repairs where the cost per repair does not exceed EUR 350.00 net. The lessee's obligation to cover the cost of minor repairs is limited to a total annual amount of EUR 1,000.00 net. This obligation does not apply to repairs for which Kiesel is responsible.

5.2. The lessee shall not be entitled to reimbursement from Kiesel for any expenses incurred in the course of fulfilling their maintenance or repair obligations.

5.3. In the event of an accident or any other incident resulting in damage to the rental item – particularly in cases of theft, attempted theft, vandalism or force majeure – the lessee must, without undue delay, take all necessary measures to protect Kiesel's interests. The lessee's liability risks associated with the use of the rental item are generally not covered by insurance. Liability insurance cover exists only in exceptional cases, namely where it is required by law. In particular, this does not apply to self-propelled work machines with a maximum speed of 20 km/h or less. If no liability insurance cover is in place, the lessee must, at their own expense, take out liability insurance against risks arising from their use of the rental item. Failure to do so shall render the lessee liable to Kiesel for any resulting damages. The lessee is also required to notify Kiesel and their insurer without delay in accordance with clause 11.1, to confirm such notification in writing, to prepare an incident report, to obtain a police report where possible, and to provide Kiesel with all information and documentation necessary to pursue legal claims. The lessee's minimum liability shall be determined in accordance with clause 11, provided the rental item was insured.

5.4. The lessee shall immediately notify Kiesel in writing of any legal or factual threats to the rental item – in particular, seizures, confiscations or other third-party claims – and shall inform the third party concerned in writing that the rental item is the property of Kiesel.

5.5. If the lessee is solely or jointly at fault for an accident, defect or any other damage to the rental item, and the resulting repair lasts longer than the originally agreed rental period, the lessee shall compensate Kiesel for the resulting damages for the entire period, i.e. from the end of the agreed rental period until the actual return of the rental item. For each day of the delay in returning the rental item, the lessee shall pay Kiesel 75% of the agreed daily rental rate. This obligation shall not apply if the lessee can prove that Kiesel has incurred no loss or a significantly lower loss.

5.6. If maintenance or repair measures become necessary due to damage caused by excessive force, improper operation or similar circumstances for which the lessee is responsible, Kiesel shall carry out the required work on behalf of and at the expense of the lessee. The same applies to any tyre and glass damage attributable to the lessee.
6. Rental Price, Offsetting, Due Date and Security Assignment

6.1. The calculation of the rental price is based on a daily use of 8 working hours within a 5-day work week. Weekend work, additional working hours, and operations under challenging conditions must be reported to Kiesel; such services are not included in the rental price and will be invoiced separately.

6.2. If the pricing is based on a fixed (minimum) rental period and a reduced rental rate is granted on that basis, such reduced rate shall only apply if the agreed rental period is fully utilized. If the rental agreement is terminated earlier in accordance with Clause 8, Kiesel shall be entitled to retrospectively recalculate the rental fee based on the actual rental period, applying the standard rates applicable to shorter rental durations (e.g. daily or weekly rates).

6.3. The rental fee is payable in advance at the start of the agreed rental period. If a rental period of more than one month has been agreed, the rental fee shall be paid monthly in advance, at the latest by the third working day of each month. Any amounts due, particularly rental charges, will – where applicable – be booked to the current account maintained under the retention of title arrangement agreed between the parties for their deliveries.

6.4. By way of security for all claims arising under the rental agreement, the lessee hereby assigns to Kiesel their claims against the client for whom the rental item is used, up to the amount of the agreed rental fee, less any deposits already received. Kiesel hereby accepts the assignment. The lessee remains authorised to collect these claims in their own name but on behalf of Kiesel, for as long as the security purpose remains unfulfilled. Once the purpose has been fulfilled, Kiesel shall reassign the claims to the lessee.

6.5. If the value of the existing securities exceeds the secured claims by more than 10%, Kiesel shall, at the lessee's request, release securities of the lessee's choice up to this threshold.
7. Warranty, liability of the lessor, and prohibition of assignment

7.1. If Kiesel is in default with the provision or shipment of the rental item due to ordinary negligence, the lessee may claim compensation for each working day only in an amount corresponding to the typical foreseeable damage. This foreseeable damage is limited to five times the daily rental fee.

7.2. The lessee shall not be entitled to a reduced rental fee due to defects in the rental item. This does not affect the lessee's right to reclaim overpaid rental fees under the law of unjust enrichment.

7.3. Kiesel shall not be liable for any loss of profit or business interruption suffered by the lessee or any third party as a result of a defect.

7.4. Kiesel shall not be liable for any damages resulting from the lessee's failure to properly maintain or service the rental item.

7.5. Except as otherwise provided, Kiesel shall bear no liability for damages resulting from a defect in the rental item or any other breach of contract by Kiesel.

7.6. Any exclusion or limitation of Kiesel's liability shall not apply in cases involving injury to life, body or health. Nor shall it apply to damage caused intentionally or by gross negligence by Kiesel, its legal representatives or vicarious agents, or in the event of a breach of essential contractual obligations. Essential obligations are those which are fundamental to the proper performance of the contract and on which the lessee regularly relies and is entitled to rely (cardinal obligations).

7.7. The transfer of any warranty claims is only valid if approved in writing by Kiesel.
8. Termination of the rental agreement, notice periods and conditions for early termination

8.1. Where the rental agreement is concluded for a fixed term, it shall end automatically upon expiry of the agreed rental period.

8.2. A fixed-term rental agreement is not subject to ordinary termination.

8.3. A rental agreement concluded for a fixed or indefinite period shall automatically terminate, without the need for notice, on the date an application is filed for the opening of insolvency proceedings over the lessee's assets.

8.4. If the rental agreement is concluded for an indefinite period and a minimum rental period has been agreed, ordinary termination is excluded during the minimum period. After expiry of the minimum period, either party may terminate the agreement with three working days' notice. If no minimum period has been agreed, the rental agreement may be terminated by either party as follows:
 - on any day with effect from the end of the following day, if the rent is calculated on a daily basis
 - on any day with effect from the end of the second following day, if the rent is calculated weekly
 - with one week's notice, if the rent is calculated monthly

8.5. Without prejudice to the parties' statutory rights of termination, Kiesel shall be entitled to terminate the agreement without notice for good cause, in particular where
 - 8.5.1. the lessee is more than 14 calendar days in arrears with a due payment, a bill of exchange issued by the lessee is dishonoured, or the lessee's financial circumstances deteriorate significantly
 - 8.5.2. the lessee, despite a prior request and reminder, fails to fulfil its contractual obligation to provide details of the location and use of the rental item (clause 4.8)
 - 8.5.3. the lessee refuses to grant Kiesel access to the rental item to verify its presence or condition (clause 4.8), despite having received a prior request to do so
 - 8.5.4. the lessee delays collection or acceptance of the rental item by more than three days
 - 8.5.5. the lessee breaches their contractual maintenance or repair obligations
 - 8.5.6. the lessee breaches any other contractual obligation, whereupon it would be unreasonable to expect Kiesel to continue the agreement. This includes, in particular, improper use of the rental item, failure to prevent overuse of – or excessive strain on – the rental item, relocation of the rental item without Kiesel's prior written approval, or its unauthorised subletting or transfer to a third party

8.6. The lessee shall have the right to terminate the agreement without notice if the rental item cannot be used for more than three days for reasons attributable to Kiesel.
9. Return of the rental item, waiver of possession claims

9.1. The lessee is obliged to return the rental item in working order, cleaned and with a full fuel tank, along with all accessories, keys and documents handed over by Kiesel, or – where agreed – to make it available for collection.

9.2. The Lessee is obliged to notify Kiesel of the intended return of the rental item in a timely manner, at least three (3) business days prior to the end of the rental period. This applies both to returns organized by the customer and to returns carried out by a freight forwarder commissioned by Kiesel. In the case of a transport requiring individual authorization and to be arranged by Kiesel, the return must be notified at least fifteen (15) business days prior to the end of the rental period. The return must take place during Kiesel's regular business hours and sufficiently in advance to allow Kiesel to inspect the rental item on the same day.

9.3. If the rental agreement ends upon expiry of the agreed rental period, by ordinary termination or as the result of a condition subsequent, the rental item must be returned to Kiesel on the day the rental agreement ends. Default shall begin on the day following the termination of the rental agreement, without the need for a reminder.

9.4. If the rental agreement is terminated without notice for good cause, the rental item must be returned to Kiesel without undue delay, and at the latest on the day following termination. Default shall begin at the end of that day, without the need for a reminder.

9.5. If the lessee delays the return or provision of the rental item, this shall not be deemed an extension of the rental agreement. Unless otherwise agreed in writing, Kiesel shall not be deemed to have accepted the late return.

9.6. If the lessee fails to return the rental item on time after the end of the rental agreement, Kiesel may claim the agreed daily rental charge on a pro rata basis as compensation for the duration of the retention. This does not affect Kiesel's right to assert additional claims for damages.

9.7. In the event of a delay in returning or providing access to the rental item, Kiesel may claim compensation for the duration of the delay. Upon termination of the rental agreement, the lessee shall acknowledge Kiesel's exclusive right of possession and shall not assert any claims against Kiesel relating to possession of the rental item.
10. Assignment, set-off, right of retention

10.1. Any assignment by the lessee of claims arising under this contract shall be valid only with Kiesel's prior written consent.

10.2. The lessee may only offset claims against Kiesel if such claims are undisputed or have been established in law. The lessee's rights to restitution based on unjust enrichment shall remain unaffected.

10.3. In view of the typically high value of the rental item, the lessee shall have no right of retention in respect of the rental item. This does not apply in cases where the lessee's counterclaims are acknowledged or have been legally established.
11. Machinery breakdown and comprehensive insurance, insurance excess, increased insurance excess for demolition work

11.1. Kiesel has taken out machinery breakdown and comprehensive insurance cover for the rental item (ABMG2011 – version MA 7-23). The applicable insurance terms will be provided to the lessee upon request. Insurance premiums will be charged separately in addition to the rental fee. Where the lessee provides their own insurance cover, valid proof of insurance must be submitted before the start of the rental period. Until such proof is received, the rental item shall be insured through Kiesel, and the applicable premiums shall be charged on a daily basis. In the event of a claim, the lessee shall promptly submit all required notifications and declarations to both Kiesel and the insurer and comply with the obligations set out in clause 5.3.

11.2. The lessee shall bear the following insurance excess per claim, based on the size of the machine:
 - a) 0 to 9 tonnes: EUR 1,750 per claim
 - b) 9 to 40 tonnes: EUR 3,500 per claim
 - c) 40 tonnes and above: EUR 7,500 per claim
 - c) Attachments: EUR 500 per claim

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- 11.3. In the event of theft of the rental item, the lessee shall be liable to Kiesel for the insurance excess Kiesel is required to bear. This excess is 25% of the current value of the rental item, subject to a minimum of the applicable excess specified in clause 11.2. Loose items such as buckets, shovels or other attachments must be replaced by the lessee at their current market value, provided the lessee is liable to compensate Kiesel for the loss. Kiesel reserves the right to claim further damages if the lessee has facilitated the theft through gross negligence or intentional misconduct.
- 11.4. Where machines are used for demolition work, the applicable insurance excess shall be doubled due to the typically increased risk of damage and stress on the rental item. Demolition work includes all activities involving hydraulic hammers, shears, processors and sorting grabs, as well as the use of standard equipment on or in demolition sites.
12. Telematics
- 12.1. Various manufacturers collect machine-related, non-personal data via a telematics system, either directly or through commissioned third parties. This data is stored and processed within the system and may be analysed by Kiesel and the respective manufacturers.
- 12.2. By concluding this contract, the customer declares that it is aware of this data collection.
13. Severability clause, written form, ancillary agreements
- 13.1. Should any provision of this contract be or become invalid or unenforceable after conclusion of the contract, this shall not affect the validity of the remaining provisions or the contract as a whole. A valid and enforceable provision shall take the place of the invalid or unenforceable one, reflecting as closely as possible the commercial intent the parties pursued when they agreed to the original provision. The same shall apply upon discovery of any contractual omissions or loopholes.
- 13.2. Amendments, modifications and other ancillary agreements must be made in writing to be effective. The same shall apply to any amendment of this written-form requirement itself.
- 13.3. No ancillary agreements exist in relation to this contract.
14. Jurisdiction, applicable law, place of performance
- 14.1. If the customer is a merchant, a legal entity under public law or a special fund under public law, the exclusive place of jurisdiction for all disputes arising directly or indirectly from this contractual relationship shall be Ravensburg.
- 14.2. Ravensburg shall also be the exclusive place of jurisdiction if the customer has no general place of jurisdiction in Germany, relocates their residence or habitual place of abode abroad after the conclusion of the contract, or if their residence or habitual place of abode is unknown at the time the legal action is brought.
- 14.3. These general rental terms and conditions are governed exclusively by the laws of the Federal Republic of Germany.