

General Terms and Conditions for the Rental of Construction Machinery, Construction Equipment and Accessories of Kraemer Baumaschinen GmbH & Co. KG

1. Scope

- 1.1. These general terms and conditions apply to the business area of construction machinery rental - i.e. to the rental of construction machinery for a specific time period - by Kraemer Baumaschinen GmbH & Co. KG (hereinafter referred to as Kraemer) to companies within the meaning of § 14 BGB [German Civil Code] (hereinafter referred to as Lessee). For the construction machinery sales and the repair of construction machinery, as well as spare parts trading, specific general terms and conditions apply, which only apply supplementally to this.
- 1.2. Conflicting conditions of the Customer shall also not apply if Kraemer has not explicitly objected to them.
- 1.3. For ongoing business relationships, the inclusion of the GTC – Clause 1.1 applies - also in the event that Kraemer has not explicitly referred to the GTC during the course of the relationships.

2. Rental prices / collateral

- 2.1. The rent arises from the current rental price list at the time of the rental contract/handover document or from the order confirmation. The minimum rental period is one day.
- 2.2. Insofar as loading and unloading, transport, assembly, conversion, fastening, supply with fuel, cleaning, repair or waste disposal by Kraemer are necessary or contractually agreed, these services shall be remunerated by the Lessee according to the rates that are customary in the industry.
- 2.3. Insofar as the Lessee uses the equipment contrary to contract, Kraemer - notwithstanding other rights - shall be authorised to demand an adequate surcharge on the rent. This specifically applies – notwithstanding other claims - within the context of use pursuant to Clause 4.4 of this GTC.
- 2.4. The base rent, as well as the operation rent is stated without the respective applicable statutory value-added tax.
- 2.5. The total rent falls due for payment weekly in arrears - insofar as the rental period exceeds one week. Otherwise, the rent shall fall due when the rental object is returned. Any costs for conversions, assemblies, transports etc. can be demanded by Kraemer prior to handover of the rental object.
- 2.6. Furthermore, Kraemer is authorised to demand a security deposit for the total rent for a month, prior to handover of the rental object, plus the excess – see Clause 9 - to secure all claims to which Kraemer is entitled from the rental relationship. In addition to the actual rent, the insurance premium is taken into account for calculating the security deposit. In addition to this, Kraemer can demand that written direct debit mandate is sent prior to handover of the rental object.
- 2.7. Kraemer can also demand costs for conversion and assembly of the rental object, as well as the remuneration for additional services within the meaning of Clause. 2.2 to Clause 2.3 in advance – prior to handover and conversion.
- 2.8. Invoices issued by Kraemer are payable immediately and without any deductions. 10 days after invoicing, the customer shall enter into default without any further reminder, if Kraemer has pointed this out in the invoice.

3. Start of the rental period / acceptance of the equipment

- 3.1. The rental period shall begin on the date that is specified as the starting date in the rental contract. Where no explicit date is specified, the rental period shall begin upon conclusion of the contract.
- 3.2. If the Lessee does not collect the rental object at the start of the rental period, it shall enter into acceptance default without any further verbal or actual offer from Kraemer.
- 3.3. Unless expressly agreed otherwise in the rental contract, the equipment will be made available at the depot of the head office of Kraemer in Rheda-Wiedenbrück. Transport and loading shall be carried out by the Lessee.
- 3.4. The handover shall furthermore take place with the complete supplying of the fuel and lubricant tank.
- 3.5. Upon handover, a handover record will be prepared by both contracting parties, in which the condition of the rental object is documented. Upon handover, the Lessee shall immediately inspect the rental object for any defects and immediately complain about these, if applicable. The trial run and briefing will take place upon handover.
- 3.6. Insofar as and as long as the customer fails to fulfil the demands of Kraemer from Clause 2.6 and 2.7, Kraemer shall not enter into debtor default. Insofar as the device is not made available at the envisaged point in time, the customer can exercise its rights from § 281 BGB [German Civil Code] (damages in place of performance) and §323 BGB (withdrawal), in any case, only after the explicit setting of an adequate grace period of no less than 3 working days.

4. Handling during the rental period / obligations

- 4.1. If a defect appears during commissioning of the equipment or during operation, Kraemer must be notified immediately.
- 4.2. During the rental period, the Lessee shall ensure sufficient servicing and maintenance at its own expense. It shall specifically ensure a sufficient supply of fuel and lubricants.
The Lessee is not authorised to make changes to the rental object or remove the markings that have been applied by Kraemer or by the manufacturer without Kraemer's prior written consent.
- 4.3. The Lessee is not permitted to assign rights to the equipment (e.g. rent, lending) or from this contract to a third party.
If a third party enforces rights to the equipment through seizure, garnishment or similar, the Lessee is obligated to immediately notify Kraemer in writing and notify the third party in writing about the existence of the rental relationship. The Lessee shall immediately notify Kraemer of any defects. Kraemer also has no obligation to render damages within the context of the warranty for defects. This liability exemption does not apply to the extent that a defect is based on malice aforesaid or gross negligence by Kraemer or the rental object is missing a guaranteed characteristic or if damage to life, health or limb exists. Due to the anti-theft device installed in the rental objects, the Lessee shall notify Kraemer if it leaves the contractually defined place of use with the equipment. The notification must take place in good time, such that Kraemer is provided with one hour of processing time during regular business opening times. Together with the notification, the Lessee must notify the new location of use. In any case, use outside of Germany is only permitted after prior written consent.

- 4.4. The Lessee is not authorised to use the rental object for purposes other than the contractually agreed purpose. This specifically applies to the following uses, insofar as this purpose is not expressly an integral part of the contract:
 - Use on water construction sites
 - Use on demolition sites, provided that a demolition grab is not the subject matter of the rental contract
 - Use in a quarry
 - Use with hydraulic hammers, provided that this is not the subject matter of the rental contract
 - Use with aggressive media, e.g. use in lime
- 4.5. The Lessee is not authorised to make changes to the rental object.
- 4.6. The Lessee shall be liable for its assigned legal agents in accordance with the statutory provisions - § 278 BGB.

5. End of the rental period

- 5.1. Insofar as the rental is concluded for a specific term, the rental contract shall end after this date. Insofar as complete return does not take place on this date, the rental period will extend accordingly until complete return.
- 5.2. If a return date is not envisaged or if the rental contract is in the extension pursuant to Clause 5.1 S 2, a cancellation is permitted in application of § 580a III 1 BGB, i.e. at the end of the day following receipt of the cancellation.
- 5.3. In any case, both contracting parties are authorised to cancel the contract without notice for good cause prior to its contractual end date. Good cause specifically exists for Kraemer, if
 - a third party enforces rights to the equipment,
 - the Lessee falls into bankruptcy, or
 - the Lessee uses the rental object contrary to contract, or
 - fails to fulfil its duty of proper handling and care of the rental object pursuant to Clause 4 in spite of a warning, or
 - the Lessee fails to fulfil its payment obligations on time, particularly regarding rent and the security deposit, or enters into acceptance default.
 - the Lessee makes changes to the rental object.Good cause specifically exists for the Lessee, if the rental object is not made available in spite of a warning and setting of a grace period.
- 5.4. Insofar as the rental has been concluded for an indefinite period, the rental contract can be cancelled with a notice period of 2 weeks to the end of a week. Insofar as the rent is calculated by months, a cancellation notice period of 1 month to the month-end applies.
- 5.5. At the end of the regular rental period, the Lessee shall return the equipment with all necessary parts for its commissioning. The Lessee shall return the equipment to Kraemer in the condition the corresponds to the delivery condition of the equipment in consideration of the reduction in value resulting from the contractual rental use. The Lessee is not entitled to a right of retention to the surrendered equipment.
- 5.6. If the equipment is returned in a condition that does not correspond to the regulation in Clause 5.5, this condition will be created at the Lessee's expense without prior setting of a grace period. This particularly applies in the case of damage to the rental object and fuel and lubricant stocks that have not been refilled, as well as any necessary cleaning/decontamination activities.
- 5.7. Unless expressly agreed otherwise in the rental contract, the return shall take place at the Kraemer depot. In the event that the complete return does not take place at Kraemer depot by the end of the rental period, Kraemer shall be authorised to collect the equipment at the Lessee's expense. Clause 2.2 applies with regard to costs.

6. Decommissioning / interruption of the rental period / "release" notification

- 6.1. Kraemer is authorised to decommission the rental equipment in the following cases:
 - Breach of duties and obligations under Clause 4
 - Existence of an important reason within the meaning of Clause 5.3
 - End of the rental period according to Clause 5.1S1, Clause 5.3, or Clause 5.4
 - Breach of the return duty pursuant to Clause 5.5
- 6.2. The time of decommissioning does not count as an interruption of the rental period.
The customer shall not be entitled to any contractual right to interruption of the rental period - release notification. The Lessee shall bear the risk of e.g. weather-related field of application of the machine. Discrepancies shall be agreed in writing.

7. Inspection right and examination of the equipment

- Upon collection at the start of rental and upon return of the rental object for termination of the rental relationship, a final examination of the rental object shall be performed jointly by both parties. The result of these shall be documented in a protocol in each case, which shall be signed. In the event that the customer returns the rental object outside of business hours or if a joint examination cannot be performed for other reasons, Kraemer shall be authorised to prepare the return protocol independently and thereby document the condition of the machine. The burden of proof against this protocol lies with the customer.
- 7.1. Furthermore, the Lessee shall be authorised to examine the equipment itself prior to collection and return or have it examined by an authorised representative. The Lessee shall bear the costs of such an examination.
 - 7.2. The lessor is authorised at any time to inspect the equipment or have it inspected by an authorised representative.
 - 7.3. The lessor is authorised to examine the rented equipment itself at any time after prior consultation with the Lessee regarding the time of the examination or have it examined by an authorised representative. The Lessee undertakes to simplify the examination by Kraemer in every way. The costs of the examination shall be borne by Kraemer.

**General Terms and Conditions for the Rental
of Construction Machinery, Construction Equipment and Accessories
of Kraemer Baumaschinen GmbH & Co. KG**

8. Liability limitation

- 8.1. Kraemer shall only be liable - insofar as the liability requires culpability on its own merits - for malice aforethought and gross negligence. This shall not apply, if a significant contractual obligation is breached. This shall also not apply if damages are claimed due to injury to life, limb or health.

9. Insurance

- 9.1. Upon conclusion of the rental contract, the Lessee has the option to take out insurance for the rental object itself or to select the amount of the excess, in the case of insurance through Kraemer. For insurance by the Lessee, Kraemer must be provided with relevant evidence (e.g. copy of the insurance policy).
- 9.2. Insofar as the Lessee has made the duty to insure the subject matter of the rental contract, Kraemer shall ensure that the rental object is insured against the following risks in its favour: Losses due to theft; damage due to fire, lightning strike and explosion.
- 9.3. The amount agreed in the rental certificate for the insurance duty shall be remunerated in addition to the total rent.
- 9.4. With the exception of vehicles that are licensed for road traffic, liability insurance shall NOT be taken out for the rental equipment. If the Lessee requires such insurance, it shall arrange for this itself.

10. Final provision / data protection / GPS

- 10.1. The legal jurisdiction for all agreements and disputes is Rheda-Wiedenbrück as the registered office of Kraemer.
- 10.2. Changes to a contract must be in written form, as well as any change to this written form clause. A document that is signed and sent by telefax fulfils this contractual written form requirement.
- 10.3. If the provisions should be or become invalid, this shall not affect the validity of the remaining provisions. The missing or invalid provision shall be replaced by the provision that comes closest to the intention of the contracting parties, otherwise the legal provision.
- 10.4. Kraemer is the responsible office within the meaning of the Data Protection Act. The Lessee's personal data shall only be collected, processed or used for purpose of contract formation, performance and termination. Advertising use shall only take place for the purpose of own advertising, including recommendation advertising. Sending to third parties shall only take place insofar as this is necessary for performance of the contract.
- 10.5. The Lessee can object to any use of its data for the purpose of advertising, market research or opinion research at any time. The objection shall be addressed by post to Kraemer Baumaschinen GmbH & Co. KG, Ferdinand-Braun-Str. 3, D-33378 Rheda-Wiedenbrück or by e-mail to: info@kraemer24.com.
- 10.6. Kraemer points out that the rental equipment is fitted with GPS-supported anti-theft devices.