



## RENTAL TERMS AND CONDITIONS

**1. DEFINITIONS:** "Porta Kleen" means Pro Kleen Industrial Services, Inc. from whom the "Customer" (as identified on the attached Equipment Schedule) has rented Equipment. "Equipment" means any one or more items identified as such in this Agreement, and shall include any accessories, attachments or other similar items. The Equipment Schedule and the Rental Agreement Terms and Conditions are collectively referred to as the "Agreement".

**2. WARRANTIES, LIMITATIONS OF WARRANTIES AND DISCLAIMERS:** Porta Kleen disclaims all representations and warranties, express or implied, with respect to the Equipment, its durability, condition, merchantability, or fitness for any particular purpose. Customer acknowledges acceptance of the Equipment on an "as is, where is" basis, with "all faults" and without any recourse whatsoever against Porta Kleen. Porta Kleen's liability and Customer's exclusive remedy in any cause of action whether in contract, tort, breach of warranty or otherwise, arising out of performance of the work is expressly limited to the replacement of the Equipment, products, supplies, or materials used in connection therewith upon their return to Porta Kleen or, at Porta Kleen's option, to the allowance to Customer of credit for the cost of such items.

**3. PAYMENT:** All rentals shall be paid in full per the requirements stated in the Agreement. In the event Customer disputes any portion of any invoice, Customer shall give Porta Kleen written notice of such disputed portion within ten (10) days after Customer's receipt of such invoice and shall pay to Porta Kleen the undisputed portion of the invoice without delay. Once any disputed portion is settled, Customer shall pay the settled amount, if any, within the original payment timeframe, or if such original timeframe has already elapsed then payment shall be due immediately. If Customer fails to pay any invoiced amounts when due, interest will accrue on each unpaid amount at the rate of 10% per annum, or the maximum amount allowed by law if less, from the date due until paid according to the provisions of this Agreement. Interest shall not be charged on any disputed invoice item that is finally resolved in Customer's favor. If paying with a credit card, Customer shall pay a service fee equal to the greater of (i) 2.5% or (ii) as specified on the Equipment Schedule.

**4. RENTAL PERIOD:** Rental charges commence when the Equipment is delivered to Customer and end when the Equipment is returned to Porta Kleen ("Rental Period").

**5. ACCESS TO FACILITIES; PERMITS:** The quoted price is based on open access to all specified Equipment locations for placement, pumping, and removal. Failure to provide access will void guarantee of placement, pumping, or removal as scheduled. Customer will obtain, at its expense, all governmental licenses, permits, and approvals that may be necessary for Porta Kleen to perform the work.

**6. DELIVERY AND SETUP; FAILURE TO DELIVER:** The pricing includes a setup time of two hours at the time of delivery ("Included Setup Time"). If the setup takes longer than 2 hours for any reason other than the fault of Porta Kleen, then Customer will be charged \$65 per hour per person for each additional hour or portion thereof. If Porta Kleen is unable to set up the Equipment at the time of delivery or if the Customer requests a change of location after delivery, then Customer is responsible for all costs Porta Kleen incurs to return to the site on another day to set up or relocate the Equipment, plus a ten percent rescheduling fee. Prior to delivery, the Customer will provide Porta Kleen with detailed setup information (including, but not limited to, distance to water supply, distance to dump site, etc.). If this information is not correct, the Customer will be charged for extra time on site and the cost of



purchasing additional materials needed for setup. Customer releases and discharges Porta Kleen from any and all liability or damages (including consequential and special damages) which might be caused by Porta Kleen's failure or inability to deliver Equipment by a specified date or time.

**7. SITE LOCATION:** Customer chooses the site where the Equipment is to be set up and accepts all responsibility in connection with that choice of location. The pricing is based on: easy access to site, firm and level ground, and a dry location. If during the course of the rental, rain occurs and the ground becomes unstable causing the tractor or trailer to become stuck, Customer will be responsible for additional charges to have the Equipment removed. Porta Kleen is not responsible for any damage caused to property when it follows the Customer's direction on where to drive to set up the Equipment, except to the extent such damages are caused by Porta Kleen's sole negligence.

**8. RECEIPT AND INSPECTION OF THE EQUIPMENT:** Customer acknowledges that Customer has inspected the Equipment prior to taking possession thereof, finds it in good working order and repair, and suitable for Customer's needs.

**9. USE OF EQUIPMENT:** Customer will not move, and will not allow anyone to move, the Equipment. Customer agrees, at Customer's sole expense, to comply with all municipal, state and federal laws, ordinances and regulations (including OSHA) which may apply to the use of the Equipment. Customer acknowledges that Porta Kleen has no responsibility, but has the right to inspect the Equipment and observe the use of the Equipment while it is in Customer's possession.

**10. RETURN OF THE EQUIPMENT:** The Equipment must be returned to Porta Kleen in the condition and repair as when delivered to the Customer, subject to reasonable wear and tear.

**11. ALTERATIONS OF EQUIPMENT:** Customer will make no attachments or alterations to the Equipment without prior written consent from Porta Kleen; otherwise, Customer will be charged for labor and materials to put the Equipment back into its original form.

**12. RISK OF LOSS:** Customer is liable for all damages to, or loss of, the Equipment during the Rental Period, including, but not limited to, damages or loss caused by fire, theft, accidents, and vandalism, except to the extent the damage is caused by Porta Kleen. In the case of loss or destruction of the Equipment, inability or failure to return same to Porta Kleen for any reason whatsoever, Customer will pay Porta Kleen the then full replacement value of the Equipment. If the Equipment is returned in a damaged or excessively worn condition, Customer shall pay Porta Kleen the cost of repair on the Equipment. All repairs must be performed by authorized Porta Kleen personnel. The intent of this Section 12 is a recognition that Customer has control of the Equipment without supervision by Porta Kleen and, as such, Customer is responsible for keeping the Equipment in the same condition the Equipment was in when delivered to Customer less normal wear and tear.

**13. INDEMNITY AND HOLD HARMLESS:** Customer acknowledges and assumes all risks inherent in the operation and use of the Equipment by the Customer, or associated with the Equipment, and will take all necessary precautions to protect all persons and property from injury, illness, or damage while in possession of the Equipment. Porta Kleen shall not be responsible to the Customer or any other party, and Customer releases Porta Kleen, for loss, damage, injury or illness (including any loss of profits, business interruption or other incidental, indirect, special, punitive, or consequential damages) caused



by, resulting from, or in any way connected with the Equipment, its operation or use, any defect with respect thereto, or a breach of Porta Kleen's obligations herein. To the fullest extent permitted by law, Customer indemnifies, releases, holds Porta Kleen harmless and at Porta Kleen's request, defends Porta Kleen (with counsel approved by Porta Kleen), from and against any and all liability, claims, fines, forfeitures, seizures, confiscations, penalties, contamination and damages of any kind (including attorneys' fees) for any and all damages, injuries, illnesses or death to persons or property arising from the use, maintenance, repair, instruction, operation, possessions, ownership or rental of the Equipment, however the cause. Customer's indemnity obligations shall survive the expiration or termination of this Agreement. If any part of this Section 13 is determined invalid by a court of competent jurisdiction, Customer agrees that this clause shall be enforceable to the fullest extent permitted by law. Customer shall notify Porta Kleen of any and all such proceedings. Customer shall notify Porta Kleen immediately of an accident or collision involving the Equipment. Customer will furnish Porta Kleen a detailed written report of such accident or collision. In the event a claim is made against Porta Kleen by an employee of Customer, Customer agrees that it will indemnify Porta Kleen to the same extent as if the claim were made by a non-employee of Customer, and expressly waives any defense or immunity it may have under any applicable Workers' Compensation Laws or any other statute or judicial decision, disallowing or limiting such indemnification and consents to a cause of action for indemnity.

**14. COMPLIANCE WITH LAW:** Porta Kleen and Customer agree to comply with all applicable federal, state and local laws and ordinances and all lawful orders, rules or regulations of any constituted authority, relative to this Agreement; provided, however, that if any such law, ordinance, order, rule or regulation requires the expenditure of funds for compliance, Customer shall be responsible for the payment of such funds.

**15. FORCE MAJEURE:** Except for the obligation to pay, neither party shall be liable for its failure to perform hereunder due to contingencies beyond its reasonable control, including but not limited to strikes, riots, war, fire, acts of God, breakdown of equipment, and compliance with any law, regulation or order of a governmental body.

**16. TITLE:** This Agreement is not a contract of sale and, as such, title to Equipment shall at all times remain with Porta Kleen. Customer shall keep the Equipment free and clear of all mechanics and other liens and encumbrances.

**17. DEFAULT:** Should Customer in any way fail to make payment or perform, observe or keep any provision of this Agreement, Porta Kleen may at its option do any one or more of the following: a) terminate this Agreement without notice; b) declare all charges immediately due and payable and commence legal action thereof; c) take possession of the Equipment, holding the Customer liable for all rental and other charges; and d) pursue any other remedies available by law. Customer shall pay Porta Kleen all costs of recovery of payment, including legal fees, interest, etc.

**18. REPOSSESSION:** In the event of any actual or anticipated breach by Customer, Porta Kleen's employees or agents may, without notice or legal process, go upon the property where the Equipment is located and take all action necessary to repossess the Equipment. Customer waives any right of action and claims for trespass, damages and losses, physical or pecuniary, caused thereby, and shall pay all costs and expenses incurred by Porta Kleen in retaking the Equipment.



**19. TAXES:** Federal, state, or local indirect taxes, including but not limited to sales and/or use taxes, VATA taxes, GST taxes, transfer taxes or any similar tax are not included in the rates set forth herein. Customer assumes full responsibility for the payment of these taxes but is not responsible for payment of any payroll, workers' compensation or other taxes paid regarding Porta Kleen's internal operations.

**20. SEVERABILITY:** The provisions of this Agreement are severable, and if any clause or provisions hereof shall be held invalid in whole or in part in any jurisdiction, then such invalidity or unenforceability shall affect only such clause or provision, or part thereof, in such jurisdiction and shall not in any manner affect such clause or provision in any other jurisdiction, or any other clause or provision in this Agreement in any jurisdiction. Any such clause or provision held invalid or unenforceable, in whole or in part, to the extent permitted by law, shall be restricted in applicability or reformed to the minimum extent required for such clause or provision to be enforceable.

**21. CANCELLATION:** Customer shall pay a deposit to Porta Kleen. \$100 of the initial deposit is non-refundable; thereafter, the following schedule is used to determine the refund of any deposit based on the number of calendar days from the time of cancellation to the scheduled delivery date:

Number of Days	Percent Refunded
30 Days or more	100% minus \$100
21 to 29 Days	75%
14 to 20 Days	50%
8 to 13 Days	25%
0 to 7 Days	0%

**22. GOVERNING LAW:** The federal and state courts in Ohio (Franklin County) shall have exclusive jurisdiction over all matters relating to this Agreement. Trial by jury is waived. Service of process may be effected by certified mail, return receipt requested. Porta Kleen shall be entitled to decrees of specific performance (without posting bond or other security) in addition to such other remedies as may be available.

**23. ENTIRE AGREEMENT:** This Agreement represents the entire agreement between the Customer and Porta Kleen. Customer accepts this Agreement (including unqualified acceptance of these terms) by taking delivery of the Equipment, paying the deposit, or by signing this Agreement. There are no oral or other representations or agreements not included herein. None of Porta Kleen's rights or Customer's rights may be changed and no extension of the terms of this Agreement may be made except in writing, signed by both Porta Kleen and the Customer. The use of Customer's purchase order number on this Agreement is for the Customer's convenience only. This Agreement supersedes any purchase order or other Customer provisions of terms and conditions whether sent to or received prior, or subsequent to this Agreement. Both parties agree that a facsimile or electronic version of this Agreement will hold the same force and effect as a signed original.



**24. CONFIDENTIALITY:** The parties hereto covenant and agree each with the other that any trade and other secret processes, information, data, or designs given, disclosed, or supplied by one to the other will at all times thereafter be kept confidential by such other party and such other party will not at any time thereafter disclose any such trade or other secrets, processes, information, data, and designs to any person, firm, or corporation whomsoever or whatsoever, except to the extent that the same is or are (a) part of the public domain; (b) in the prior possession or knowledge of the receiving party; (c) obtained by the receiving party from third parties as a matter of right and without restrictions as to disclosure; or (d) required to be disclosed to any federal, state or local court or agency, in which case, notice shall be given as soon as practicable to allow a party to dispute the required disclosure in such court or agency.

**25. OTHER PROVISIONS:** 1) Porta Kleen reserves the right to make Equipment substitutions of equal or better quality. 2) Porta Kleen may subcontract some or all of its work when necessary. 3) Customer agrees to pay all costs of collection, court, attorney's fees and other expenses incurred by Porta Kleen in the collection of any charges due under this Agreement or in the enforcement of its terms. 4) The failure of either party to exercise its rights on one occasion shall not be deemed to be a waiver of the right to exercise those rights in the future.

**25. Customer Responsibility**

1. Customer is responsible for refilling the propane shower tanks during rental and before returning the shower facility unless otherwise noted in this Agreement.
2. Interior cleaning and restocking of supplies is not included in the cost of the rental. Customers are responsible for cleaning and restocking their rented facility during and after the Rental Period unless otherwise noted in this Agreement.
3. All restroom, laundry and shower facility rentals require the Customer to provide the following items:
  - Certificate of Insurance for Property Damage
  - If necessary, electric supply and connection (all necessary electrical outlets per unit specifications noted in power requirements)
  - If necessary, water spigot access (water access meeting unit specifications listed in the water requirements).

I have read and accept the details of the terms and conditions of this Agreement. I acknowledge receipt of a copy of this Agreement. The individual signing this Agreement represents and warrants that he/she is of legal age and has the authority to sign this Agreement as or for the Customer.

Approved by: \_\_\_\_\_

Date: \_\_\_\_\_

Connect with us



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