

General Terms and Conditions of Egli Swisstech Deutschland GmbH

All deliveries and services (i.e. the lease and sale of machines and equipment, as well as the performance of assembly and repair services) are made by us exclusively on the basis of the following General Terms and Conditions (GTCs).

I. General provisions

§ 1 General – Scope

1. Our General Terms and Conditions apply exclusively, we shall not accept any conditions which are contrary to, or deviate from, our General Terms and Conditions, unless we have explicitly agreed to their validity in writing. Our Terms and Conditions also apply exclusively if we perform deliveries or services for the customer without reservation, in knowledge of conditions of the customer which are contrary to, or deviate from, our General Terms and Conditions.
2. They also apply for all future leases and sales, as well as assembly and repair services for the customer.
3. Our customers are exclusively traders. A trader is a natural or legal entity or a legal partnership, which acts, upon the conclusion of the legal transaction with us, by performing their commercial or independent professional activities. We perform no services and make no supplies to consumers.

§ 2 Offer, order and conclusion of contract

1. Our bids, quotes, technical drawings and technical descriptions are non-binding. They are merely requests to the customers to make an offer themselves.
2. With his order, the customer makes an offer to conclude a contract with us.
3. We are not obliged to accept the offer. We are authorised to accept the offer within ten working days after receipt of the offer, by sending our order confirmation.
4. Our order confirmation contains the contents of the contract and the respective scope of services.
5. The customer is not permitted, without our written approval, to reproduce, modify and/or disclose our illustrations, diagrams, calculations and any other documents to third parties. We reserve our right of ownership and copyrights.

§ 3 Customer's right of offsetting and retention

The customer can only offset our claims with counter-claims from the same contractual relationship or only with uncontested or legally-established counter-claims. The customer is only permitted to assert a right of retention or right to refuse performance if the customer's right is based on the same contractual relationship.

II. Lease provisions (§§ 4 – 16)

For the lease of machinery and equipment from us (the "Lessor") to our customer ("the Lessee"), the following applies in addition to parts I and V of these GTCs:

§ 4 General obligations of the Lessee

1. The Lessee shall only use the lease object as intended, carefully observe the applicable accident prevention and health and safety provisions, as well as the road traffic regulations, pay the lease in accordance with the agreement, handle the lease object properly and hand it back upon the expiry of the lease period in a clean condition.
2. The Lessee shall notify the Lessor of the respective location or place of use of the lease object.

§ 5 General obligations of the Lessor

1. The Lessor shall hand over the lease object to the Lessee for the agreed lease term and in operational condition with the necessary documentation, or shall hand it over to a person authorised by the Lessee to receive the lease object.
2. The Lessee is permitted to withdraw from the lease agreement once a suitable deadline for the hand-over of the lease object set after the agreed start of the lease period has expired without success.

§ 6 Defects existing upon the hand-over of the lease object

1. The Lessee is permitted to inspect the lease object in good time prior to the start of the lease and to provide notification of any defects. The costs of an examination shall be borne by the Lessee.
2. All defects to the lease object recognisable upon hand-over, and which reduce the suitability for the contractually intended use to a considerable extent, have to be notified by the Lessee to the Lessor immediately, in writing, after acceptance. If the Lessee fails to provide this notification, the lease object is deemed to be approved in view of this defect. This applies correspondingly if the Lessee does not provide the Lessor with written notification of defects, which existed but were not detectable upon hand-over in accordance with clause 1, immediately after their detection.
3. The Lessor can, at his discretion, either remove a defect which has been indicated in good time as per art. 6, para. 2, or provide the Lessee with a functionally equivalent lease object. During the repair of the lease object by the Lessor, the Lessee is exempt from paying the lease.
4. The Lessee can withdraw from the lease agreement if the Lessor lets a suitable deadline to rectify the defect, set by the Lessee (as per art. 6, para. 3) pass culpably without effect, or the rectification of defect fails.

§ 7 Working hours, lease, additional costs, payment and right of collection in the event of payment default

1. The calculation of the lease is based on the normal use of the lease object for up to 8 hours a day, on the basis of a 5-day week (Monday to Friday) and up to 22 working days per month.
2. Any operation time which exceeds the period stated in art. 7, para. 1, weekend operation or difficult application conditions are charged extra and shall be notified immediately by the Lessee to the Lessor. If the Lessee uses the lease object for more than 8 hours per day, then the Lessee shall pay an extra fee, on top of the lease calculated as per art. 7, para. 1, for each new hour or part thereof, of 1/8th of the daily lease. If the lease object is used more than 5 days a week, the Lessee shall pay a surcharge amounting to the daily lease for each additional day of usage.
3. The agreed lease does not comprise the costs for the transportation to and from the machine's site of operation (including loading and unloading), packaging, necessary assembly and disassembly, the provision of operating materials and/or operating personnel, insurance policies concluded by the Lessor or similar. These extra costs are always to be paid by the Lessee in addition to the agreed lease.
4. If the lease object is transported by the Lessor or a freight forwarder contracted by the Lessor to the Lessee's location or another agreed location (e.g. a construction site of the Lessee) and/or transported from there back to the Lessor by the Lessor or a freight forwarder contracted by the Lessor, the Lessee shall pay the costs for the transportation (including the loading and unloading and packaging), in addition to the agreed lease.
5. The legal VAT rate shall be charged separately by the Lessor and stated separately on the lease invoice, and shall therefore always be paid additionally by the Lessee.
6. If the Lessee is in default of payment of an amount, which the Lessor has demanded in writing, by more than 14 calendar days, the Lessor can pick up the lease object after prior announcement, without appealing to the courts, at the expense of the Lessee and use the lease object in another way. The Lessee hereby permits the Lessor access to the lease object for the purpose of collection. Furthermore, the contract partners agree that the Lessor shall not be in violation of the sanctity of the premises or rights of ownership as a consequence of the collection of the lease object. The claims, to which the Lessor is entitled based on this lease agreement, also remain in place after collection of the lease object, although the amount which the Lessor generated or could have generated during the agreed lease period by leasing it differently, after deducting the costs associated with the recollection and new lease, shall be deducted from the Lessor's claims.

§ 8 Interruption clause

1. If the Lessee interrupts the use of the lease object for at least two or more successive working days, the Lessee can notify the Lessor accordingly.
2. The lease term agreed for a particular period of time is not extended by the duration of the interruption.
3. The Lessee shall notify the Lessor, immediately and in writing, about the start, intended duration and end of the interruption. At the request of the Lessor, the Lessee shall provide evidence of the interruption.

4. For the duration of the interruption, although at the earliest from the moment the interruption notification as per art. 8, para. 3, has been received, the Lessee shall pay the percentage, as agreed on the first page of the lease agreement, of the lease price due for the normal use of the lease object (see art. 7, para. 1, of these lease conditions); unless the contract partners have agreed otherwise, the trade-standard percentage of 50% shall apply.

§ 8 a Downtime clause

1. If work ceases at the sites for which the Lessee has leased the object, due to conditions which are neither the fault of the Lessee or its client (e.g. frost, flooding, strikes, domestic disorder, acts of war or official decrees) for at least ten successive days, the time from the eleventh calendar days until the removal of the afore-mentioned conditions is deemed to be the downtime period.
2. A lease period agreed for a particular time is extended by the downtime period.
3. For the duration of the downtime, the Lessee shall pay the percentage, as agreed on the first page of the lease agreement, of the lease price due for the normal use of the lease object (see art. 7, para. 1, of these lease conditions); unless the contract partners have agreed otherwise, the trade-standard percentage of 50% shall apply.
4. The Lessee shall notify the Lessor, immediately and in writing, about the start and end of the downtime, and shall verify it upon request.

§ 9 Maintenance obligation of the Lessee

1. The Lessee is obliged
 - a) to protect the lease object from any kind of overuse,
 - b) to maintain and care for the lease object properly at the Lessee's own expense and
 - c) to notify the Lessor of necessary inspection and maintenance work in good time and to let the Lessor perform the maintenance. The incurred costs shall be borne by the Lessor if the Lessee and his auxiliary personnel have verifiably observed due care.
2. The Lessor is permitted to view the lease object at any time and to examine it after prior consultation with the Lessee or to have another party examine it on the Lessor's behalf. The Lessee shall facilitate the examination for the Lessor in any way possible. The costs for the examination shall be borne by the Lessor.

§ 10 End of the lease period and return of the lease object

1. The Lessee shall notify the Lessor sufficiently in advance about the intended return of the lease object.
2. The lease period ends upon the expiry of the contractual lease term, although not before the lease object arrives, with all the parts necessary for commissioning, in proper and contractual condition, at the storage location of the Lessor or another agreed destination.
3. The Lessee shall return the lease object in operational and cleaned condition, or make it available for collection. If the Lessor assumes return transportation, the Lessee shall pay the transportation costs (including loading, unloading and packaging) in addition to the agreed lease.

4. Return delivery by the Lessee shall be done during normal working hours in such time that the Lessor is able to examine the lease object on the same day.

§ 11 Violation of the maintenance obligation

1. If the lease object is returned in a condition, which makes it clear that the Lessee has not met his maintenance obligation specified in art. 9, para. 1, of these lease conditions, the Lessee shall be obliged to pay compensation amounting to the lease price until the end of the repair work which had been omitted in breach of the contract.
2. The Lessee shall be notified of the extent of the defects and damage to the lease object the Lessee has caused, and shall be given the opportunity to verify it. An estimate of the costs for the maintenance work required for the rectification of the defect shall be specified by the Lessor to the Lessee before the start of the repair work, where possible.
3. The proper return of the lease object is deemed to be recognised by the Lessor unless complaints are made about detectable defects, given the on-time delivery as per art. 10, para. 4, of these lease conditions, immediately and any other defects are notified within 14 calendar days after arrival at the destination.

§ 12 Further obligations of the Lessee

1. The Lessee is not allowed to transfer the lease object to third parties, or to grant third parties any kind of rights to the lease object. The Lessee is also not permitted to assign rights from the lease agreement.
2. The Lessee shall notify the Lessor immediately in writing if a third party asserts rights on the lease object due to confiscation, garnishment or similar. Furthermore, the Lessee shall notify the third party immediately in writing of the Lessor's ownership of the lease object.
3. The Lessee always shall take suitable measure to protect the lease object from theft and vandalism.
4. The Lessee shall notify the Lessor of all accidents, thefts and cases of vandalism and wait for the Lessor's instructions, as well as call the police.
5. The Lessee shall compensate the Lessor for all damage resulting from culpable violations of the conditions in art. 12, para. 1 to para. 4, of these lease conditions.

§ 13 Liability restriction of the Lessor

Insofar as the liability of the Lessor is not dealt with separately in these lease conditions, the Lessee is only entitled to compensation claims against the Lessor in the event of

- a) gross negligence by the Lessor,
- b) a culpable violation of key contractual obligations hindering the achievement of the contractual purpose with regards to the predictable, typical contractual damage upon the conclusion of the contract,
- c) in the event of damage due to the injury to life, limb or health due to a negligent violation of a key contractual obligation by the Lessor or a breach of duty due to gross negligence or wilful intent by one of the Lessee's legal representatives or vicarious agents, as well as
- d) in the event that the Lessor is liable, according to the Product Liability Act, for personal injury or material damage on privately used items.

In all other cases the liability of the Lessor is excluded.

§ 14 Termination

1.
 - a) The lease agreement, concluded for a definite term, cannot be terminated by either contract partner.
 - b) The same applies to the minimum lease within the framework of a lease agreement with an indefinite term. After the expiry of the minimum lease period, both contract partners can terminate the lease agreement, concluded for an indefinite term, observing the following notice periods:
 - If the lease is measured in days, on each day to the end of the following day;
 - If the lease is measured by longer time intervals, at the latest on the third day before the day on which the lease agreement is due to end.
 - c) Lease contract for indefinite periods of time without a minimum lease period can be terminated by both contractual partners, observing the following notice periods:
 - If the lease is measured in days, on each day to the end of the following day;
 - If the lease is measured by longer time intervals, at the latest on the third day before the day on which the lease agreement is due to end.
2. In case of good cause for termination of the agreement, the contract partners are authorised to terminate the agreement without notice. In particular the Lessor is permitted to terminate the lease agreement for good cause if
 - a) the Lessee is in default with the payment of an amount, for which a written demand has been issued, by more than 14 calendar days after the due date,
 - b) after the conclusion of the agreement, the Lessor realises that his claim for the payment of the lease price is endangered by a lack of capacity of the Lessee,

- c) bills of exchange of the Lessee are protested or if cheques of the Lessee cannot be cashed,
 - d) the Lessee does not use the lease object as intended, or moves it to another location, without the consent of the Lessor,
 - e) the Lessee violates the provisions of art. 9, para. 1, or art. 12, para. 1 to 4, of this lease agreement, or
 - f) the Lessee transfers the lease object to a third party.
3. If the Lessor terminates the lease agreement for good cause, the provisions of art. 7, para. 6, as well as art. 10 and 11 apply accordingly.

§ 15 Loss of the lease object, theft

The Lessee shall provide the Lessor with compensation if the Lessee is unable to return the lease object due to loss, theft, burglary or robbery.

§ 16 Insurance

- 1. The lease object is not insured by the Lessor.
- 2. The Lessee shall insure the lease object during the term of the lease agreement, on the basis of the general conditions for machinery and comprehensive insurance for mobile or transportable equipment (ABMG 92).
- 3. Furthermore, the Lessee shall insure the lease object sufficiently against loss, vandalism, theft, burglary and robbery.
- 4. The costs of the insurance as per art. 16 shall be borne by the Lessee in addition to the agreed lease, any off-setting or deduction is excluded.

III. Provisions for purchase (art. 17 – 21)

For the sale of machinery and equipment by us (the "Seller") to our customers (the "Buyer"), the following applies in addition to parts I and V of these GTCs:

§ 17 Prices – Payment terms

- 1. Unless otherwise specified in the order confirmation, our prices are quoted ex works, plus the legal VAT and excluding packaging which is invoiced separately.
- 2. The deduction of an early payment discount requires a special written agreement.
- 3. Unless otherwise specified in the order confirmation, the purchase price is due immediately, without deduction.

§ 18 Delivery time

1. The delivery time specified by us shall start once all technical queries have been settled.
2. The compliance with our delivery obligation also requires the on-time and proper fulfillment of the Buyer's obligation.
3. If the Buyer is late with the acceptance or culpably violates any other obligations to cooperate, we shall be permitted to demand compensation for any damage incurred, including any extra expenses. The risk of accidental loss or worsening of the condition of the purchased item is transferred to the Buyer at the moment the Buyer has accepted the item, or the Buyer is late with his other obligations to cooperate.
4. We are liable according to the legal provisions if the underlying purchase agreement is a fixed transaction in accordance with art. 286, para. 2, no. 4 of the BGB (German Civil Code) or art. 376 HGB (German Commercial Code). We are also liable in accordance with legal provisions if the Buyer is entitled to claim that, as a result of a delivery default which is our fault, the Buyer's interest in the further execution of the contract has ceased to exist.
5. Furthermore, we are liable according to the legal provisions if the delivery delay is due to a contract violation caused by us through wilful intent or gross negligence; if the fault lies with our representatives or vicarious agents it shall be attributed to us. If the delivery delay is not due to a contractual violation which is our fault, our liability for compensation is limited to the foreseeable, typical damage.
6. We are also liable according to the legal provision if the delivery delay caused by us is based on the culpable violation of a key contractual obligation; in this case, however, the liability for compensation is limited to the foreseeable, typical damage.

§ 19 Transfer of risk

Unless otherwise specified in the order confirmation, delivery "ex-works" is agreed.

§ 20 Liability for defects

1. Claims for defects by the Buyer require that the Buyer has met his investigation and notification obligations properly, which are due according to art. 377, HGB (German Commercial Code).
2. If the purchased item shows a defect, the Buyer is permitted to subsequent performance, at the Buyer's discretion, in the form of a rectification of the defect or delivery of a new non-defect item. In the event of a rectification of defect, we shall bear all the expenditure necessary for the rectification of the defect, in particular transport, travel, working and material expenses, provided they are not increased because the purchased item is at a different location to the place of performance.
3. If the supplementary performance fails, the Buyer shall be permitted, at his discretion, to demand withdrawal from contract or reduction of price.
4. We are liable according to the legal provisions if the Buyer asserts claims for damages, which are due to wilful intent or gross negligence on our part or on the part of our representatives or vicarious agents. Provided we are not accused of a wilful violation of contract, our liability for compensation is limited to the foreseeable, typical damage.

5. We are also liable according to the legal provisions if we wilfully violate a key contractual obligation; in this case, however, the liability for compensation is limited to the foreseeable, typical damage.
6. If the Buyer is entitled to a compensation claim instead of performance, our liability is also limited, within the scope of para. 3, to compensation for foreseeable, typical damage.
7. Liability due to a culpable injury to life, limb or health remains unaffected; this also applies to the mandatory liability according to the Product Liability Act.
8. In all other cases, liability is excluded.
9. The limitation period for defect claims is 12 months from the transfer of risk. The limitation as per art. 438, paragraph 1, para. 2b, BGB (German Civil Code) remains unaffected by this.
10. If our liability for compensation is excluded or limited, this also applies with regards to the personal liability for compensation of our employees, contractors, representatives and vicarious agents.
11. We sell used machinery without providing any warranty. Guaranteed characteristics of new and used machines are only the characteristics which we have confirmed as such in writing to the Buyer.

§ 21 Reservation of title

1. We reserve the ownership of the purchased item, until the receipt of all payments from the business relationship with the Buyer.
2. In the event of behaviour by the Buyer which is in breach of contract, in particular in the event of a default in payment, we are entitled to take back the purchased item after the unsuccessful expiry of a suitable deadline for performance. The Buyer shall surrender the purchased item. The retrieval of the purchased item by us does not represent a withdrawal from the contract, unless we have expressly declared withdrawal in writing. The option of withdrawing from the contract according to the legal provisions remains unaffected by our request for surrender. The garnishment of the purchased item by us also does not represent a withdrawal from the contract. After retrieving the purchased item we are permitted to use it, the profit from this utilisation shall be offset against the liabilities of the Buyer – minus suitable utilisation costs.
3. The Buyer shall handle the purchased item with care, and in particular to insure the purchased item sufficiently, at the Buyer's own expense, against fire, water and theft damage at the new value. If maintenance and inspection work is necessary, the Buyer shall perform them in good time and at his own expense.
4. In the event of garnishment or other interventions by third parties, the Buyer shall notify us immediately in writing, so that we can file a lawsuit as per art. 771, ZPO (Code of Civil Procedure). If the third party is unable to refund to us the court and out-of-court costs of a lawsuit as per art. 771, ZPO, the Buyer is liable for the loss we incur. The Buyer is not permitted to make a garnishment or assignment as security to third parties.
5. The Buyer is permitted to re-sell the purchased item in a normal business transaction. The Buyer hereby assigns to us, by way of security, all his future claims against his customers from resale, including all ancillary rights – including any balance claims – without the need

for any further specific declarations. This assignment is valid regardless of whether the purchased item is resold without or after processing. The assignment is valid up to the amount corresponding to the price of the purchased item invoiced to the Buyer (total invoiced amount, including VAT). The Buyer shall still be authorised to collect this claim after the assignment. Our authorisation to collect the claim ourselves shall remain unaffected by this. We shall, however, not collect the claim if the Buyer has met his payment obligations from the collected profits, is not in default of payment and, in particular, there is no application for the initiation of bankruptcy or insolvency proceedings, and no suspension of payments. However, if this is the case, we can demand that the Buyer notifies us of the assigned claims and their debtors, provides us with all the details required for collection, hands out the associated documentation and notifies the debtor (third party) of the assignment.

6. Processing or transformation of the purchased item by the Buyer is always performed for us. If the purchased item is processed together with other objects which do not belong to us, we acquire the co-ownership of the new item at the ratio of the value of the purchased item (final invoiced amount, including VAT) to the other processed objects at the time of processing. For the item created by the processing, the same applies as for the purchased item delivered subject to retention of title.
7. If the purchased item is inseparably mixed with other objects which do not belong to us, we acquire the co-ownership of the new item at the ratio of the value of the purchased item (final invoiced amount, including VAT) to the other mixed objects at the time of the mixing. If the mixture is done in a way that the item of the Buyer shall be seen as the main item, it is deemed to be agreed that the Buyer shall transfer co-ownership to us pro-rata. The Buyer shall preserve the sole or co-ownership for the new item on our behalf.
8. If the realisable value of all security interests we are entitled to exceeds the amount of all secured claims by more than 10%, we shall release a corresponding share of the security interest at the Buyer's request which corresponds to the amount of excess. We can freely choose which of the various security interests to release.

IV. Provisions for assembly and repair services (art. 22 – 27)

For our ("contractor") assembly and repair services for the customer ("client"), the following applies in addition to parts I and V of these GTCs.

§ 22 General provisions

The use of our personnel for the performance of assembly, repairs, inspections and similar work is done exclusively – with the exception of assembly and repair services which we shall perform within the scope of warranty or defect liability – on behalf of, and at the risk and liability of the client. No liability shall be assumed for auxiliary staff provided by the client.

§ 23 Pricing

Remuneration is based on material costs and time expenditure. The hourly rates valid on the day of performance shall apply; travel and maintenance times are deemed to be working time and are invoiced using the valid hourly rates. For overtime, work at night, on Sundays and public holidays, our valid surcharges will be charged. Travel expenses (for transport by vehicle, train or plane) as well as daily and accommodation allowances of the assembly personnel are calculated separately.

§ 24 Cooperation of the client

The client shall support our staff with the performance of site services at the client's own expense. In particular the client shall provide the necessary hoisting devices, equipment, auxiliary staff, material, electrical energy etc. on time and free-of-charge before the assembly personnel arrive, and even in the event that the assembly is included in the price of the individual supplies and services, or a fixed price has been agreed for the assembly. The client shall take all the necessary precautions to protect people and items at the workplace.

§ 25 Assembly deadline

All details about deadlines and assembly deadlines are free and non-binding.

§ 26 Acceptance

The client shall accept the assembly, as soon as the client has been notified that assembly has been completed and a test has been performed by the contractor.

§ 27 Liability for defects

The contractor is liable, after the end of the assembly, for defects if they occur within 30 days of the end of assembly. Defects have to be reported immediately by the contractor, otherwise no liability can be assumed. Liability is limited to the rectification of the defect, excluding all other claims of the client.

V. General final provisions

§ 28 (Partial) invalidity

If individual provisions of this agreement, or parts thereof, are or become fully or partially invalid or are incomplete, this shall not affect the validity of the remainder of the agreement and the other provisions.

§ 29 Changes and supplements to the agreement

The content of the agreement and the scope of the respective service obligations are based on our order confirmation.

Any changes, supplements or side agreements shall be made in written form.

§ 30 Applicable law, place of jurisdiction

1. The law of the Federal Republic of Germany shall apply. The provisions of the UN Convention on Contracts for the International Sale of Goods shall not apply.
2. If our customer is a trader, the place of jurisdiction shall be our registered address, although we shall also be permitted to file a lawsuit at the general place of jurisdiction of the customer.

As of: 04.11.2016