

General Terms of Sales and Delivery

A. General provisions

1 Scope of application

These terms and conditions regulate the legal relationship between Gilgen Door Systems AG (hereinafter referred to as «Gilgen») and the customer with respect to

- a) the supply of products (hereinafter referred to as «products»),
- b) the mounting/installation, commissioning and test operation of products (hereinafter referred to as «services»),
- c) supervision of mounting/installation procedures, unless otherwise agreed or to be agreed, and
- d) the carrying-out of maintenance, repair and modification work, and subsequent recommissioning (hereinafter referred to as «servicing tasks»).

2 Conclusion of the agreement

2.1 This agreement between Gilgen and the customer (hereinafter collectively referred to as «the parties») shall come into effect:

- a) with the receipt of written notification from Gilgen, confirming that it accepts the corresponding order or request to carry out a task (order confirmation), or
- b) upon acceptance of the servicing tasks concerned.

2.2 Quotations that do not include an acceptance deadline are non-binding.

2.3 These terms and conditions shall be binding if defined as such in the quotation or in the order confirmation. Diverging terms and conditions on the part of the customer shall only be valid if they have been accepted explicitly and in writing by Gilgen.

3 Items included

- 3.1 The goods and services supplied by Gilgen are fully specified in the order confirmation or maintenance agreement, and - if applicable - in their corresponding accompanying documents. Gilgen reserves the right to make modifications that result in improvements, provided they do not result in an increase in price.
- 3.2 In the case of servicing tasks, the range of items included may also be based on the worksheets of the servicing personnel concerned.

4 Deadline extensions

An agreed and binding delivery or completion deadline may reasonably be extended

- a) if information required by Gilgen for fulfilment of the agreement or the completion of tasks is not supplied in time, or if the customer subsequently carries out changes that result in a delay in the supply of deliveries or services or the completion of servicing tasks, or
- b) if the customer fails to fulfil its contractual obligations, with particular reference but not limited to those arising from clauses 21 and 30, or the terms and conditions of payment established in clause 5, or if its own suppliers fail to deliver or complete work on time, or
- c) in the event of circumstances not attributable to Gilgen, including but not limited to epidemics, mobilisation, war, civil strife, acts of terrorism, riots or sabotage, whether threatened or initiated; along with labour disputes, accidents, late or missing deliveries of required materials, action or omission on the part of public authorities or state bodies, unforeseeable transport-related incidents, fire, explosion or natural catastrophe.

5 Payment terms

- 5.1 The customer's payments shall be settled at the head office of Gilgen in accordance with the agreed terms and without deductions of any kind (discounts, expenses, taxes, social security contributions, levies, fees, customs duties, etc.). The payment obligation shall be considered fulfilled once the sum concerned is freely available to Gilgen in Switzerland and in Swiss francs. If payment in another currency has been agreed, the payment obligation shall

be considered fulfilled once the sum concerned is freely available to Gilgen in Switzerland and in the agreed currency.

- 5.2 Taxes, levies, fees and similar charges incurred by Gilgen in connection with the agreement or the service tasks concerned shall be borne by the customer.
- 5.3 Unless otherwise agreed, the customer shall settle all invoices within thirty days of their corresponding date of issue. Gilgen shall be entitled to demand partial or full prepayment of the estimated final amount.
- 5.4 Unless otherwise agreed, the combined price of goods and services shall be settled in instalments, as follows:
 - a) One third as a down payment, immediately after receipt of order confirmation by the customer,
 - b) One third immediately after receipt of the invoice and before ex-works despatch,
 - c) The remainder within 30 days of confirmed ex-works despatch.

- 5.5 If the down payment, the annual fee for service contracts or the guarantees to be provided upon entering into the agreement are not settled as contractually established, Gilgen shall be entitled to stand by the agreement or withdraw from it, with the right reserved to seek compensation for loss and damage in either case.

If the customer falls behind with payments for any reason, or if Gilgen has serious fears, due to any event occurring after entering into the agreement, that the customer will not settle payment in a full or timely manner, Gilgen shall be entitled, without prejudice to its existing legal rights, to suspend further application of the agreement and withhold any deliveries that might be ready for dispatch, until new terms of payment and delivery have been agreed and Gilgen has received sufficient guarantees to the effect. If such agreement cannot be reached within a reasonable time, or if Gilgen does not receive sufficient guarantees, it shall be entitled to withdraw from the agreement and demand compensation for loss and damage.

- 5.6 Payment deadlines shall be observed even if transport, delivery, mounting, commissioning or acceptance of deliveries or services is delayed or prevented for reasons not attributable to Gilgen, or if only unimportant items are missing or minor reworking is necessary to an extent that does not prevent the use of the delivery concerned.
- 5.7 The customer shall not withhold or reduce payments as a result of complaints, claims or counterclaims that have not been recognised by Gilgen. Payments shall be settled even if mounting or servicing tasks are delayed or prevented for reasons not attributable to Gilgen.
- 5.8 If a payment deadline is exceeded, interest on delayed payment shall be charged at 6.5%, without any need for specific reminders and without prejudice to any other rights. The settlement of interest on delayed payment shall not waive the contractual obligation to pay. Gilgen shall furthermore be entitled to charge the customer an administration fee of CHF 20.00 for each reminder issued.

6 Non-performance, defective performance and delay

- 6.1 In all cases of non-performance or defective performance not expressly regulated in these terms and conditions, with particular reference to those where Gilgen is unable, on whatever grounds, to deliver goods or services in a timely manner in such a way that punctual completion is unlikely, thereby leading to breach of contract on Gilgen's part; or if goods or services are delivered in breach of contract due to error or omission on the part of Gilgen, the customer undertakes to grant, in writing and subject to withdrawal from the agreement in the event of continued non-performance, a reasonable period of grace to allow Gilgen to deliver the goods or services concerned. If Gilgen still fails to perform after the expiry of this period of grace, the customer may, with respect to goods or services that have been delivered in breach of contract or if such breach of contract is clearly likely to occur, withdraw from the agreement and demand the refund of corresponding partial payments already made.
- 6.2 In the event of a case regulated by the terms of clause 6.1, all and any claims for loss and damage on the part of the customer and the exclusion of further

liability shall be subject to the provisions of clauses 8, 18, 29 and 36 accordingly. The corresponding claim for loss and damage shall be limited to 10% of the contractually agreed price of the goods or services giving rise to withdrawal from the agreement.

- 6.3 The customer shall be entitled to claim for loss and damage due to the delayed delivery of goods or services to the extent that such delay is demonstrably attributable to Gilgen and the customer can prove that the delay has led to loss and damage on its part. This right to claim for loss and damage shall not apply if the customer receives a replacement delivery. No claim for loss and damage shall be made during the first two weeks of delay. Compensation for delay shall be calculated at a rate of 0.5% for each week or part thereof, up to a maximum of 5%. The percentage rate for compensation shall be calculated,
- in the event of late delivery, using the contractual price of the affected part of that delayed delivery;
 - once the maximum amount of compensation for delay has been reached, the customer shall grant Gilgen, in writing, a reasonable period of grace. If this extended deadline is still not met, on grounds attributable to Gilgen, the customer shall be entitled to refuse the delayed part of the delivery concerned. If partial acceptance is not economically viable, the customer shall be entitled to cancel the agreement and demand a refund of money already paid, subject to the return of the corresponding deliveries;
 - in the case of non-goods items and services supplied by Gilgen, the price shall correspond to the part of the system that could not be put into operation due to the delay concerned. All and any further claims and rights regarding delay, with particular reference to claims for loss and damage, are hereby excluded.

7 Contractual termination by Gilgen

In the event of unforeseen circumstances which substantially change the economic viability or character of the goods or services to be delivered by Gilgen, or which considerably affect the operations or work to be carried out by Gilgen, or if any of the above subsequently proves to be impossible to deliver, the agreement shall be amended accordingly. If this is then not economically viable, Gilgen shall be entitled to withdraw from the agreement in whole or in part.

All and any claims for loss and damage on the part of the customer as a result of such cancellation are hereby excluded. Gilgen shall notify the customer immediately of the nature of the circumstances giving rise to any intention to exercise its right to withdraw, even if an extension of the delivery or mounting deadline has already been agreed with the customer.

8 Limits on liability

- 8.1 Gilgen shall be liable to the customer for all and any material loss and damage that might be caused by its employees when preparing mounting tasks, carrying out work or servicing, or when rectifying defects of any kind. Gilgen's overall liability shall however be restricted to the contractually agreed remuneration (value of the order concerned) or, in the case of servicing tasks, to the contractually agreed annual flat-rate amount, subject in all cases to a maximum limit of CHF 5,000,000 (five million Swiss francs). In the event of personal injury, the liability established in law shall apply. Unless wilful misrepresentation or gross negligence has occurred, Gilgen's liability to the customer for all and any indirect loss and damage such as lost production, foregone profit, prevention of use, missed orders, financial loss or loss and damage as a result of a delayed or interrupted mounting work, including contractual losses or consequential loss and damage, is hereby excluded. This provision likewise excludes all and any further claims by the customer on whatever legal grounds, with particular reference to compensation claims for loss and damage of any kind.
- 8.2 The customer shall be liable for all and any loss and damage caused by its employees. This shall apply even if the employees concerned are working under Gilgen's control or supervision, unless it can be proven that instructions given, errors of omission or levels of supervision constitute gross negligence leading to loss or damage. The customer shall be liable for loss and damage caused by defects in the tools, equipment and/or materials provided by the customer. This shall apply even if Gilgen's employees use such items without complaint, unless the deficiencies concerned are reasonably detectable.
- 8.3 All and any cases of breach of contract and their legal consequences, along with any claims that might be made by the customer on whatever grounds, are covered in full and absolutely by these terms and conditions. The agreement excludes in particular all and any claims for loss and damage, reduction,

cancellation or withdrawal that are not expressly mentioned.

- 8.4 If persons are injured or third-party property is damaged by act or omission on the part of the customer or its appointed agents or representatives, thereby resulting in claims against Gilgen, Gilgen shall have a right of recourse against the customer.

9 Plans, technical documents and computer programs

- 9.1 Each party shall retain full rights to all plans and technical documents that it might have supplied to the other party. The receiving party acknowledges these rights and undertakes, unless it has first obtained written consent to the contrary, not to allow any third party or parties to access the documents concerned whether in whole or in part, or use them in any way other than that agreed.
- 9.2 Brochures and catalogues are non-legally-binding, unless otherwise agreed. Details included in plans and technical documents are only legally binding if they are specifically identified as such.

B. Special conditions applying to the supply of products

10 Special regulations and protective devices

- 10.1 The customer shall notify Gilgen in writing, by no later than the time of ordering, of the regulations and standards that apply to the deliveries concerned and their operation, and of the corresponding health and safety rules.
- 10.2 Unless there is written agreement to the contrary, deliveries and services shall conform to the regulations and standards in force at the customer's registered place of business, as notified to Gilgen under the terms of clause 10.1. Additional or alternative safety devices are to be supplied to the extent that there is specific agreement to the effect.

11 Prices

- 11.1 Unless otherwise agreed, all prices are understood to be net and ex-works, excluding packing, and are quoted in Swiss francs without deductions of any kind.
- 11.2 If carriage-paid delivery to the construction site has been agreed, the fixed price for transport shall be based on the shortest and the most easily usable route by road, while assuming unobstructed and unrestricted access at all times for vehicles weighing up to 40 metric tons. If these conditions are not fulfilled, Gilgen reserves the right to bill the customer for all and any additional costs that might arise. All additional costs, including but not limited to freight, special transport, the operation of cranes, insurance and any permits or certificates that might be required for construction, import or other purposes, shall be the responsibility of the customer. The customer shall likewise be responsible for all and any expenses, taxes, levies, fees, customs duties and similar charges imposed in connection with the agreement, and shall refund Gilgen accordingly, against presentation the corresponding evidence, if Gilgen becomes liable for such payments.
- 11.3 Gilgen reserves the right to amend prices if wage rates or the costs of raw materials change between the date of issue of the quotation and completion of the contractually agreed work or services. If this occurs, prices shall be amended in accordance with the sliding-scale formula included in Appendix 1. Prices shall likewise be subject to reasonable amendment if
- the delivery deadline is subsequently extended due to any of the grounds listed in clause 4, or
 - the type or scope of the agreed deliveries are substantially modified, or
 - materials or the manner of completion undergo changes because documents provided by the customer do not conform to actual circumstances or are incomplete.

12 Reservation of title

- 12.1 Gilgen shall retain legal title to all items delivered until payment has been settled in full and in accordance with the agreement.
- 12.2 The customer undertakes to cooperate with all and any measures that might be required in order to protect Gilgen's property and authorises Gilgen in particular, upon entering into this agreement, to arrange, at the customer's expense, for the registration or reservation of ownership in public registries and similar bodies in accordance with the relevant national laws, while fulfilling all formalities in this respect.
- 12.3 The customer undertakes to arrange, at its own expense and throughout the period of retention of title, for the proper safekeeping of the goods supplied, and to take out insurance, with Gilgen as the beneficiary, against theft, breakage, fire, water damage and other risks. The customer shall furthermore take all measures required to ensure that Gilgen's rights to legal title are not

cancelled or impaired in any way.

13 Delivery time

- 13.1 Delivery time shall be counted from the moment in which the agreement is concluded in writing, all signed plans are in the possession of Gilgen; all official formalities such as import, export, transit and payment approvals have been completed; all payments and guarantees due at the time of ordering have been settled, and all key technical issues have been clarified.
- 13.2 Compliance with delivery times shall be subject to the customer having fulfilled its contractual obligations.
- 13.3 If a particular date is agreed on instead of a delivery period, it shall be treated as the final day of such a delivery period. Clauses 13.1, 13.2, 4 and 6.3 shall apply in a similar way.
- 13.4 If deliveries are delayed, the customer shall have no right to claim other than as clearly specified in this clause 13 and clause 6.3. This restriction shall not apply in the event of unlawful intent or gross negligence on the part of Gilgen, but it shall apply to illegal intent or gross negligence on the part of its employees, legal agents or representatives.

14 Packing

Packing materials, which will be invoiced separately by Gilgen, are not returnable unless they are identified as the property of Gilgen; in which case the customer must return them carriage paid to the point of origin.

15 Transfer of usage rights and risk

- 15.1 Usage rights and risk shall be transferred to the customer by no later than the moment in which the delivery concerned is supplied ex-works.
- 15.2 If despatch is delayed at the customer's request or for other reasons not attributable to Gilgen, risk shall be transferred to the customer on the date originally scheduled for ex-works delivery. As of this moment, the products concerned shall be stored, and insured if required, at the customer's expense and risk.

16 Despatch, transport and insurance

- 16.1 Gilgen is to be notified in a timely manner of any special requests with regard to despatch and transport. Transport takes place at the customer's expense and risk.
- 16.2 Claims regarding despatch or transport shall be submitted by the customer, immediately upon receipt of the shipment or delivery documents concerned, to the carrier most recently involved.
- 16.3 The customer shall be responsible for insuring the goods against damage of any kind.
- 16.4 If packing materials need to be suitable for sea freight purposes, the customer must make this clear at the time of ordering. The additional costs arising in this respect shall be invoiced separately.

17 Inspection of deliveries

- 17.1 Gilgen shall subject deliveries to the usual inspections before they are despatched. If the customer requires further inspections, these are to be agreed separately in writing and paid for by the customer.
- 17.2 The customer shall inspect all deliveries upon arrival and notify Gilgen immediately and in writing of any defects that might be detected. If this is not done, the delivery shall be deemed to have been accepted.
- 17.3 Gilgen shall then rectify the defects concerned as quickly as possible and in accordance with clause 17.2, subject to the customer having facilitated the corresponding opportunity. Once the defect has been rectified, acceptance testing shall be carried out at the customer's or Gilgen's request in accordance with clauses 27.3 and 27.4.
- 17.4 The customer shall have no right to claim, in the event of defects of any kind, other than as clearly specified in clause 18.

18 Warranty, liability for defects

- 18.1 Warranty period (guarantee)
- The components supplied are guaranteed for a period of 24 months. This shall be counted from the moment of ex-works delivery or, if Gilgen is also engaged to carry out installation, from the moment in which this is completed. If despatch, acceptance or installation are delayed for reasons not attributable to Gilgen, the warranty shall expire no later than 24 months after notification of readiness for despatch. The warranty on replaced or repaired parts shall begin again and remain valid for 12 months, counted from the date of despatch of the replacement parts.
- The warranty shall expire prematurely if the customer or a third party carries out unauthorised modifications or repairs or if, in the event of a defect arising, the customer fails to take all the immediate measures required to limit

possible damage and/or does not give Gilgen proper opportunity to remedy the defect concerned.

18.2 Liability for defects relating to material, design and workmanship

Gilgen undertakes to repair, or at its discretion to replace, as quickly as possible and at the customer's written request, all parts of deliveries supplied by Gilgen which are found to be defective or unusable due to poor materials, incorrect construction or design or defective workmanship, up to the expiry date of the corresponding warranty period. The dismantling of defective components and the installation of replacement parts shall be carried out at the customer's expense. Replaced components shall become Gilgen's property unless it has specifically waived its rights in this respect. Gilgen shall meet the costs of repairs carried out on its premises. If repair cannot be carried out on Gilgen's premises, the resulting costs that exceed the normal expenses arising from transport, labour, travel and accommodation are to be met by the customer.

18.3 Liability for guaranteed characteristics

Guaranteed characteristics are limited to those that are expressly referred to as such in the order confirmation or specifications. This assurance shall remain in force until the warranty expires. If the parties agree to acceptance testing, this guarantee shall be considered fulfilled once such testing confirms the presence of the characteristics concerned.

If the guaranteed characteristics are not present, or are present only in part, the customer shall be entitled to demand immediate rectification by Gilgen. The customer must however afford Gilgen the required time and opportunity to do so. If the repair fails, or is only partly successful, the customer shall be entitled to claim the agreed compensation for the loss and damage concerned or, if there is no agreement to the effect, to demand a reasonable reduction in the price. If the defect concerned is of such a nature that it cannot be rectified within a reasonable time, and the items or services supplied for the purpose of this agreement no longer perform or do not perform as intended in all respects, the customer shall be entitled to refuse to accept the defective item and, if partial acceptance is not economically viable, to withdraw from the agreement. Gilgen shall only be obliged to refund the amounts paid for the items affected by such contractual termination.

18.4 Liability for defects: exclusions

Gilgen's liability and warranty obligations shall exclude defects and damages that are not demonstrably attributable to poor materials, faulty design or construction or deficient workmanship, e.g. as a result of natural wear and tear, inadequate maintenance, disregard of operating instructions, excessive operational demands, the use of unsuitable operating materials, the effects of chemical or electrolytic influences as well as any other factors not attributable to Gilgen. The liability and warranty obligations likewise do not include consumables.

18.5 Items supplied by subcontractors

In the case of goods and services supplied by subcontractors specified by the customer, Gilgen shall only accept warranty obligations that correspond to those of the subcontractors concerned.

18.6 Exclusion of warranty claims

The customer shall have no right to make warranty claims for defects in materials, design, construction or workmanship other than as clearly specified in clauses 18.1 to 18.5.

18.7 Liability for secondary obligations

Gilgen shall only be liable for customer claims arising from incorrect advice and similar issues, or for loss and damage arising from secondary obligations of any kind, if they involve illegal intent or gross negligence.

19 Mounting/installation work

If Gilgen is also engaged to carry out or supervise mounting and installation work, the corresponding special terms of clause C shall apply.

C. Special terms applying to mounting/installation work and/or supervision

20 Gilgen's obligations

Gilgen undertakes to arrange for these tasks to be carried out by specialist staff or a suitably qualified third party, which shall likewise be included under «Gilgen» for the purpose of these conditions.

21 The customer's obligations

- 21.1 The customer shall notify Gilgen in writing, by no later than the time of ordering, of the regulations and standards that apply to the mounting/installation work concerned and to subsequent operation; and also of the accident-prevention and health and safety rules that are in force on the construction site.

21.2 The customer undertakes, at its own expense and under its own responsibility, to carry out all on-site and other preparation work in accordance with the corresponding professional standards and any Gilgen-supplied documents that might apply.

21.3 The customer shall make all effort to ensure that work begins on time, and that it is completed without hindrance or interruption. Gilgen's operatives must only be called in when all preparation work has been carried out. The customer undertakes to ensure that Gilgen's personnel obtain, in a timely manner, all the entry and exit visas, residence and work permits and any other authorisations that might be required. The customer furthermore undertakes to ensure that Gilgen obtains, likewise in a timely manner, all the authorisations that might be required for the import and export of tools, equipment and material. The customer shall meet all costs in this respect.

The customer shall immediately return, to a place designated by Gilgen, all tools and equipment supplied by Gilgen. The customer shall meet the corresponding shipping costs, unless they are included in the price.

Legal title to tools that the customer has purchased from Gilgen, and which have then been used by Gilgen in the course of mounting/installation work, shall be transferred to the customer upon completion of the tasks concerned. Unless there are instructions to the contrary, these items shall be kept available at the site of installation at the customer's risk.

Tools that the customer has made available to Gilgen on loan shall be returned upon completion of the tasks concerned. Unless there are instructions to the contrary, these items shall be made available to the customer at the site of installation and kept there at the customer's risk.

The customer shall deploy its future operating staff at the mounting and installation stage, so that the persons concerned can familiarise themselves with Gilgen's methods and technology. Gilgen may provide these members of staff with technical training, subject to specific agreement to the effect.

21.4 The customer undertakes to apply, at its own expense, the required accident-prevention measures. It undertakes in particular to notify Gilgen specifically and in writing of all and any regulations that are to be observed by Gilgen and any third parties or subcontractors that might be involved. Gilgen reserves the right to refuse or suspend work if the safety of its staff cannot be guaranteed.

The customer undertakes to provide appropriate support if any member of Gilgen's personnel should fall ill or suffer an accident or other extraordinary emergency.

21.5 Material awaiting installation must be stored in a way that protects it from damage and outside influences. The customer shall inspect these materials, before work begins and in the presence of Gilgen employees, for completeness and possible signs of damage. The customer shall be responsible, at its expense, for the replacement or repair of material that is lost or suffers damage during storage.

21.6 The customer is responsible for ensuring that transport routes to the place of installation are in a usable state, that the area where work is to take place is in a suitable condition, that access to the area is unhindered, and that all the rights and permits necessary for such access have been obtained.

21.7 The customer shall provide, at its own expense and in accordance with Gilgen's instructions and/or installation schedule, the following items: Provision of the required electrical power and lighting, including wiring up to, and sockets at, the place of installation; heating, compressed air, water, steam and other operating consumables, etc.

The customer is responsible for providing suitably heated and/or air-conditioned, lockable common rooms and changing areas, including suitable bathroom facilities, for use by members of Gilgen's staff. The customer shall also provide lockable rooms for the dry storage of materials and equipment. All the above rooms must be in the immediate vicinity of the working area.

21.8 If the customer fails to meet its obligations in this respect, or does so only in part, Gilgen reserves the right to supply such facilities itself or obtain them from a third party. The resulting costs will be charged the customer. The customer shall hold Gilgen harmless for all and any third-party claims.

21.9 If members of Gilgen's staff should be endangered, by no fault of Gilgen, or suffer serious hindrance when attempting to carry out their work, Gilgen reserves the right to order the repatriation of the persons concerned. If this should occur, or if members of staff are detained after the completion of their work, the corresponding hourly and/or daily rates shall be billed to the customer as waiting time, along with all and any travel, accommodation, displacement and/or other expenses that might apply. The same shall apply to other downtime not attributable to Gilgen, including but not limited to local holidays at the place of installation.

22 Work carried out on the customer's instructions

The customer shall not, unless it has written authorisation from Gilgen to do so, order Gilgen's staff to carry out work not subject to contractual agreement. Even if Gilgen does supply such authorisation, it shall not accept liability of any kind for the work concerned. Gilgen shall likewise accept no liability whatsoever for work carried out on the customer's instructions without specific authorisation from Gilgen.

23 Working hours

23.1 The normal working week is generally divided into five working days. Normal working time shall be billed even if, for reasons not attributable to Gilgen, the actual working time is shorter.

The work schedules of Gilgen's personnel shall be adapted to the customer's operational circumstances and local conditions. A normal working day runs from 7 am until 5 pm

23.2 Overtime worked outside these periods shall be billed subject to the following supplements:

Monday to Friday	5 pm to 8 pm	25%
Monday to Friday	8 pm to 7 am	50%
Saturday	all day	50%
Sundays and generally observed public holidays		100%

24 Travel time and other periods regarded as work

24.1 Travel time and a reasonable, contractually established period for preparation upon arrival shall be considered working hours under the terms of clause 23. The term «travel time» shall include:

- the time taken to travel to and from the place of installation;
- the time required to move into local accommodation and deal with any official registration/departure requirements that might apply

24.2 If suitable accommodation and/or dining facilities cannot be found less than half-an-hour away from place of work, the extra time required for daily travel to and from the accommodation and/or dining facilities concerned shall be billed as working hours.

All expenses incurred in this respect, along with the costs of suitable transportation or a hire car, shall be borne by the customer.

24.3 If Gilgen's employees are prevented, for reasons not attributable to Gilgen, from carrying out their work, or if they are detained for any reason after their work is complete, Gilgen shall be entitled to bill the corresponding waiting time as working hours. All and any other costs arising in this respect shall likewise be borne by the customer. The same shall apply to other downtime not attributable to Gilgen, including but not limited to local holidays at the place of installation.

25 Types of pricing

25.1 Basis

Gilgen's services shall be billed at the rates in force at the moment in which the mounting/installation work concerned is carried out, on the basis of time and expense (by results / scale), unless a fixed price has been agreed.

25.2 Work based on results

Gilgen's services shall be billed as follows:

a) Labour costs

The customer shall confirm, by its signature on the corresponding timesheets, the working hours of the Gilgen employees concerned. If the customer fails, without good reason, to certify these working hours, or to do so in a timely manner, or to have the timesheets signed by a party authorised for the purpose, billing shall be based on the records kept by the Gilgen employees concerned.

b) Costs of tools and equipment

Gilgen shall provide its employees with the hand tools normally required to carry out the work concerned. The provision of all other tools, equipment, measuring instruments and items of test apparatus shall be billed to the customer. The period of usage shall be calculated from the day on which the item concerned leaves Gilgen's premises until the day it is returned to the same premises.

The customer shall be billed for the replacement cost of all and any tools and items of equipment that are retained on site.

Transport and insurance costs, along with all and any expenses, taxes, levies, fees, customs duties and similar payments arising from the import and export of tools and equipment, shall be borne by the customer.

c) Costs of consumables and small items of material

Consumables and incidental items supplied by Gilgen are to be charged at cost.

d) Travel expenses

The costs of return travel to and from, and of travel within, the destination

country, using a means of transport chosen at Gilgen's discretion, along with necessary additional expenses, including but not limited to insurance, freight charges, customs duties, baggage handling, passport and visa fees; the issue of entry, residence and work permits; medical examination upon departure or arrival and inoculations of Gilgen employees, shall be billed to the customer at cost.

Unless special conditions require the use of a different class of travel, billing shall be as follows:

- For flights in business class
- For travel by train and ship in first class
- Mileage (expressed in kilometres) for use of a personal vehicle (Appendix 2) or car-rental costs incurred.

e) Accommodation (deplacement) costs

The customer undertakes to provide each member of Gilgen's staff with appropriate individual accommodation at or near the place of installation. This accommodation must be clean, of suitable quality and equipped with heating and/or air-conditioning. The deplacement expenses listed in Appendix 3 shall be billed to the customer in order to cover those accommodation costs and expenses that are not met directly by the customer, along with extra expenses such as drinks, laundry charges, etc.

Gilgen reserves the right to amend these rates if living costs increase in the period leading up to the start of work, or if the specified deplacement rates prove to be insufficient.

The customer may settle these deplacement expenses by direct payment to the Gilgen employees concerned, subject to corresponding written agreement with Gilgen. Unless otherwise agreed, deplacement expenses are to be settled in advance for periods of 14 days.

f) Travel for home leave

Gilgen employees engaged for long periods of time shall be entitled to home leave.

The periods of deployment giving rise to such entitlement to home leave are specified in Appendix 4. The customer shall meet the costs of return travel from the place of installation to Gilgen's registered place of business and back.

The time required for such return travel and the corresponding deplacement expenses shall be billed in accordance with clauses 24 and 25.2 e).

If the local conditions in force at the place of installation permit, Gilgen employees may, at their discretion, waive their right to home leave and choose to be accompanied by a spouse or life partner. The customer shall meet the corresponding travel costs.

g) Costs in the event of illness or accident

The customer undertakes to provide suitable expert medical care and attention in the event of any member of Gilgen's staff falling ill or suffering an accident. This shall not affect Gilgen's right to repatriate its personnel at any time. The customer shall furthermore continue to meet the corresponding deplacement expenses for a period of ten days counted from the date on which treatment begins.

If the recovery of the sick or injured person concerned is expected to take longer than ten days, Gilgen shall at its own expense arrange for a suitable substitute.

25.3 Work carried out at flat-rate prices

The flat-rate price shall cover the services to be supplied by Gilgen, set out in writing. It assumes that the work concerned can be carried out without hindrance and that preparatory work and ancillary services to be provided by the customer are completed in a timely manner.

The customer shall meet all costs arising from additional expenses incurred by Gilgen without action or omission on its part, and from subsequent amendments to the character or scope of the agreed tasks, or as a result of waiting time, extra work or additional travel. These items shall be billed in accordance with clause 25.

26 Completion deadlines

26.1 Gilgen shall only be legally bound to work-completion deadlines that it has confirmed in writing. The countdown to the deadline shall begin as soon as all the prerequisites for starting work have been fulfilled; and the deadline shall be considered met if the items mounted or installed are then ready for acceptance.

26.2 The completion deadline shall likewise be considered fulfilled even if certain parts are missing or further work is still required, provided operation for the intended purpose is permitted and not prevented.

27 Acceptance of mounting/installation work

27.1 Mounting/installation work shall be ready for acceptance once the products concerned have been installed. This provision shall also apply if the products

are mounted/installed, but circumstances not attributable to Gilgen prevent them from being put into operation.

27.2 As soon as the customer has been notified of readiness for acceptance, the customer shall immediately inspect the installation in the presence of the person in charge, or his deputy, and submit to Gilgen, without delay, a written report of any defects that might be found. If this is not done, the mounting/installation work shall be deemed to be accepted.

27.3 The carrying-out of inspection for acceptance purposes and the definition of the corresponding conditions shall require separate agreement to the effect. Unless otherwise agreed, the following shall apply:

- a) Gilgen shall notify the customer in good time before the acceptance inspection is to be carried out, indicating that it can be done in its presence or that of its representative.
- b) An acceptance report is to be drawn up, to be signed by the customer and Gilgen or by their respective representatives. This shall indicate that (i) acceptance has been carried out, or that (ii) acceptance has been confirmed subject to reservations, or that (iii) the customer has refused to confirm acceptance. In cases (ii) and (iii), full details of the defects or shortcomings concerned are to be included in the report. The commissioning report shall be treated as an acceptance report.

The customer shall not reject acceptance or refuse to sign the acceptance report if there are only minor defects; particularly if these defects do not affect, to any appreciable extent, the proper functioning of the goods or services concerned. Gilgen shall immediately rectify defects of this nature.

- c) If there are major anomalies with respect to the contractual specifications, or serious defects, the customer shall give Gilgen reasonable time and opportunity to rectify the items concerned. The acceptance inspection shall then be repeated.

If there are still major anomalies with respect to the contractual specifications, or serious defects, the customer may demand that Gilgen apply a price reduction, pay compensation or settle in any other way that might previously have been agreed to by the contracting parties. However, if the defects concerned are of such a nature that they cannot be rectified within a reasonable time, and the items or services supplied for the purpose of this agreement no longer perform or do not perform as intended in all respects, the customer shall be entitled to refuse to accept the defective item and, if partial acceptance is not economically viable, to withdraw from the agreement. Gilgen shall only be obliged to refund the amounts paid for the items affected by such contractual termination.

27.4 Acceptance shall also be deemed to have taken place,

- a) if the acceptance inspection cannot be carried out, for reasons not attributable to Gilgen, on the scheduled date;
- b) if the customer refuses acceptance without being entitled to do so;
- c) if the customer refuses to sign an acceptance report drawn up in accordance with clause 27.3;
- d) as soon as the customer starts to use Gilgen's goods or services.

28 Transfer of risk

The customer shall bear all risk arising from or in connection with the materials to be mounted and installed in the course of work, and for the tools, equipment and materials that it supplies. Gilgen shall retain its right to the agreed remuneration even if mounting/installation work is prevented, whether in whole or in part, by the total or partial destruction of the items awaiting installation.

29 Warranty on products supplied with mounting/installation services

29.1 Gilgen guarantees, for a period of 24 months counted from completion of the work concerned, the expert delivery, with due care and attention, of its services in accordance with the provisions set out below.

If work is interrupted for any of the reasons listed in clause 4, the warranty on work carried out before the interruption began shall be counted from no later than three months from the start of the interruption concerned.

The warranty shall in any case expire three years after the agreed starting date of the mounting/installation work concerned.

29.2 Defective mounting/installation work detected during the warranty period shall be rectified free of charge. Gilgen must however be informed immediately and in writing of all and any such defects as soon as they are discovered.

Gilgen shall only accept warranty liability for defects arising in the course of work carried out by the customer's employees or by third parties under Gilgen's supervision if it can be demonstrated that the defects concerned are attributable to gross negligence on the part of Gilgen's personnel when issuing instructions or carrying out such supervision.

29.3 The warranty shall be voided if the customer or a third party carries out modi-

fications or repairs without Gilgen's written consent, or if the customer fails to take immediate and suitable steps to mitigate loss and damage.

- 29.4 Gilgen's warranty liability for repair work carried out under the terms of that warranty shall remain unchanged, although it shall not extend beyond the original warranty period.
- 29.5 All further claims and rights regarding defects, other than those covered by clauses 29.1 to 29.4, are hereby excluded.

D. Special conditions applying to servicing work

30 The customer's rights and obligations

- 30.1 The customer undertakes to notify Gilgen regarding all and any anomalies, damage or defects requiring repair which it might detect, along with details of any inspection work that might be required.
- 30.2 In the case of systems not manufactured by Gilgen, the technical documentation provided with such items is to be made available to Gilgen as required. If Gilgen requires additional technical documentation in this respect, the customer undertakes to obtain it from the manufacturer, insofar as this is possible.
- 30.3 Gilgen's personnel shall be afforded all access that might be required when carrying out servicing work on the customer's premises. They shall also be provided with appropriate lifting gear and the equipment required to reach the item concerned, along with suitable workshop facilities.
- 30.4 If work involves systems not manufactured by Gilgen, the customer shall ensure the timely provision of any spare parts that might be required by Gilgen's staff, unless such items are to be supplied by Gilgen under the terms of the order confirmation.
- 30.5 The customer shall be responsible, subject to Gilgen's instructions, for the corresponding dismantling work and transport.
- 30.6 The customer undertakes to apply, at its own expense, the required accident-prevention measures. It undertakes in particular to notify Gilgen specifically and in writing of all and any regulations that are to be observed by Gilgen and any third parties or subcontractors that might be involved.

31 Gilgen's rights and obligations

- 31.1 Gilgen undertakes to arrange for servicing tasks to be carried out by specialist staff or a suitably qualified third party, which shall likewise be included under «Gilgen» for the purpose of these conditions.
- 31.2 Gilgen shall examine the item concerned to determine the materials and the amount of labour required for servicing purposes. If this reveals a need for additional items that go beyond the agreed scope of servicing work, suitable agreement shall be reached with the customer before proceeding.
- 31.3 The servicing work shall be carried out, at Gilgen's discretion, either on the customer's premises or at the Gilgen factory.
- 31.4 Gilgen reserves the right to refuse or suspend servicing work if the safety of its staff cannot be guaranteed or if the customer fails to fulfil any of its obligations.
- 31.5 Gilgen shall notify the customer regarding the servicing work concerned. Gilgen may do so verbally after the work concerned has been carried out or, at the customer's request, issue notification in writing. The customer shall allow Gilgen sufficient time to draw up the report concerned.

32 Formal warning

The inspection findings and Gilgen's verbal or written statements to the customer or its representative regarding the status, operation, safety and usability of the item being serviced, along with any misgivings that might be expressed in the same manner regarding the customer's arrangements, instructions or measures applied, or which express objection to prevailing conditions, shall be considered a formal warning that releases Gilgen from his liability in this respect.

33 Implementation schedule

- 33.1 All indications regarding implementation schedules are estimates, and are therefore not legally binding.
- 33.2 All and any agreement on a binding implementation schedule requires that the scope of the servicing work concerned can be established in advance.
- 33.3 Completion deadlines for planned servicing work shall be regarded as a declaration of intent. They shall not become binding until corresponding agreement has been reached between the customer and the Gilgen employee involved. All further procedures must be contractually agreed in writing.
- 33.4 The completion deadline shall be considered fulfilled even if certain parts are

missing or further work is still required, provided recovered operation for the intended purpose is permitted and not prevented.

34 Pricing rates and additional costs

- 34.1 Unless otherwise agreed, servicing work shall be billed in accordance with the time and material required, as per Gilgen's corresponding rates. This provision shall likewise apply to all technical documents, inspection reports, expert assessments, analyses of instrument readings and tests carried out in connection with the order. The cost of materials shall also include expenses arising from the use of special tools and equipment, along with their corresponding consumables and incidental items. Travel time and a reasonable, contractually established period for preparation upon arrival shall be considered working hours under the terms of clause 23. The customer shall confirm, by its signature on the corresponding reports, the items and services supplied by the Gilgen employees concerned. If the customer fails, without good reason, to certify these working hours, or to do so in a timely manner, or to have the timesheets signed by a party authorised for the purpose, billing shall be based on the records kept by the Gilgen employees concerned.
- 34.2 The costs of travel and transport, and hotel and placement expenses, along with additional expenses, shall be billed to the customer separately.

35 Legal title, assumption of risk and insurance

- 35.1 Unless there is agreement to the contrary, replaced parts are the property of Gilgen.
- 35.2 The customer shall bear the risk of total or partial loss and damage to the item concerned while work is being carried out, even if such work takes place on Gilgen's premises, and also during any transport or storage that might be required.
- 35.3 The customer shall be responsible for insuring the goods against damage of any kind.
- 35.4 The customer shall likewise be responsible for the proper disposal, in accordance with environmental regulations, of waste consumables (oils, gases, dust, etc.) generated in the course of servicing work.

36 Warranty for service work

- 36.1 Gilgen guarantees, for a period of 12 months counted from the completion of the servicing work concerned, its expert completion with due care and attention, subject to the conditions set out below. Gilgen provides a 12-month warranty for spare parts incorporated into an existing system by Gilgen or the customer. The Gilgen warranty on remote controls and other portable devices is of 24 months' duration. If work is interrupted for any of the reasons listed in clause 4, the warranty on work carried out before the interruption began shall be counted from no later than three months from the start of the interruption concerned.
- 36.2 If the item on which work is carried out, or parts thereof, or spare parts supplied or installed under the terms of the agreement prove, during the period covered by the warranty, to be damaged or unusable, and this can demonstrably be attributed to defective workmanship or poor material on Gilgen's part, Gilgen shall, within a reasonable time and at its discretion, repair or replace the items concerned. This requires that defects detected during the warranty period are immediately reported in writing. Gilgen shall only accept warranty liability for defects arising in the course of work carried out by the customer's employees or by third parties under Gilgen's supervision if it can be demonstrated that the defects concerned are attributable to gross negligence on the part of Gilgen's personnel when issuing instructions or carrying out such supervision.
- 36.3 The warranty shall be voided if the customer or a third party carries out modifications or repairs without Gilgen's written consent, or fails to install spare parts correctly, or fails to handle such spare parts or equipment correctly; or if the customer fails to take immediate and suitable steps to mitigate loss and damage.
- 36.4 Gilgen's warranty liability for components repaired under the terms of the warranty shall remain unchanged, although it shall not extend beyond the original warranty period.
- 36.5 All further claims and rights regarding defects, other than those covered by clauses 36.1 to 36.4, are hereby excluded.

37 Contractual duration of maintenance agreements

Unless otherwise established, the agreement shall initially remain in force for one year from its date of conclusion. It shall then be extended for a further year, provided it has not been cancelled in writing, subject to three months' notice from the end of the month in which notification is issued.

E. Common final considerations

38 Safeguard clause

In the event of an individual provision or provisions proving to be invalid, this shall have no effect on the validity of any other provision. The parties undertake to re-word the ineffective clause in such a manner that preserves, as far as possible, its original economic purpose.

39 Requirement for written form

All agreements between, and statements with legal force, issued by the parties to the agreement, along with amendments to the agreement itself, must be in writing in order to be valid. Text communications transferred by electronic means shall be accepted as the equivalent of written statements, subject to special agreement between the parties.

40 Legal jurisdiction and law to be applied

40.1 Legal jurisdiction for the customer and Gilgen shall correspond to Gilgen's registered place of business. Gilgen nevertheless reserves the right, in the event of legal action, to bring such action in a competent court of law at the customer's registered place of business.

40.2 This agreement is governed exclusively by the substantive laws of Switzerland, and specifically excludes the provisos of the United Nations Vienna Convention on Contracts for the International Sale of Goods (CISG).

41 Appendices

The following appendices form an integral part of these General Terms of Delivery. In the event of any conflict, the appendices shall take precedence over the General Terms of Delivery.

Appendix 1: Price Adjustment Formula

Price Adjustment Formula
issued by Swissmem

$$P = P_0 \left(a + b \frac{Lm}{Lo} + c \frac{Mm}{Mo} \right)$$

P = _____ Selling price on date of delivery
 P₀ = _____ Selling price by tender
 a = _____ Coefficient of fixed part of costs (e.g. = 0,1)¹
 b = _____ Coefficient of part varying with wage index (e.g. = 0,6)¹
 c = _____ Coefficient of part varying with material index (e.g. = 0,3)¹
 Lo = _____ Wage index² of Swissmem, Zurich, on date of tender
 Lm = _____ Average of all wage indices²
 - from date of order acknowledgement to completion in accordance with contract* or
 - during period of manufacture, i.e. from _____ to _____*
 Mo = _____ Mean of price indices³ of principal material in category «metals and metal products» required for
 manufacture, related to their proportion of value of goods on date of tender
 Mm= _____ Average of mean values of all price indices³ of principal materials in category «metals and metal
 products» required for manufacture, related to their proportion of value of goods at time of delivery
 - from date of order acknowledgement to completion in accordance with contract* or
 - from date of order acknowledgement to date by which supplier had obtained most of these materials,
 i.e. from _____ to _____*

¹ a + b + c must always total 1.

² Since the wage index is only worked out by Swissmem quarterly, the index for the past quarter shall be inserted in each case.

³ Fractions of the official producer price index in Switzerland calculated and published monthly. (If the year serving as a basis for determination of the index is changed by the authority concerned, the supplier is entitled to re-calculate the changes in prices in accordance with the new index values.)

* Delete where inapplicable.

Appendix 2: Mileage claims for use of a vehicle

Mileage claims (expressed in kilometers) for use of a vehicle (calculation approach 2015)
The following amount is charged to the ordering party for using a vehicle owned by Gilgen:

- Passenger car	0.85 CHF / km
- Service vehicle	1.50 CHF / km
- Van class 3500kg	2.20 CHF / km

Appendix 3: Displacement rates charged for interventions by Gilgen employees

Coverage of costs for board and lodging (calculation approach 2015)
Unless otherwise agreed, the following costs will be invoiced to the ordering party:

- Daily allowance without lodging:	90.00 CHF
- Hotel & breakfast acc. to actual expense	+15%

Appendix 4: Home leave in the course of long postings

An assignment of more than 3 weeks is deemed to be a prolonged stay.