

## manroland sheetfed GmbH

### General Terms and Conditions for Service Contracts

- I. General  
These conditions shall apply to any type of work which represents a work beyond an onetime service, especially continuous servicing, maintenance, inspection and repair work as well as analysis and advisory services (hereinafter referred to as "Service Work") which are to be provided as part of a long term service contract by manroland sheetfed GmbH (hereinafter referred to as "manroland") including the related deliveries of parts and software (hereinafter referred to as "Servicing" together with the Service Work), unless otherwise agreed in writing. For work that is requested separately in addition to the Service Work the *Conditions for Repair and other Contract Work* shall apply.
- II. Quotation and Conclusion of contracts
- All quotations are subject to confirmation.
  - Technical particulars, marketing materials and details on weight, performance, operating cost etc. shall not be binding, unless expressly agreed in writing. manroland shall retain ownership of and copyright in quotations, estimates, drawings and other documents; they shall not be disclosed to third parties and shall be returned immediately if so requested or if no order is placed.
  - These conditions shall also be deemed to have been accepted by the client if accepts the services of manroland or if it provides services (e.g. payment) itself.
  - Other terms and conditions shall not become part of the contract without the written agreement of manroland even if they conflict with these terms and conditions unless the parties expressly agree to the contrary.
- III. Scope of Services
- With regard to the scope of services, only the service contract/written confirmation from manroland shall be binding. manroland undertakes on the basis of the service contract/order confirmation and on the basis of these terms within the period stated in the service contract /order confirmation the services listed in detail in the service contract /order confirmation for the goods to be serviced at the agreed Servicing location.
  - manroland shall decide at its discretion the manner in which the services will be performed unless otherwise agreed in writing.
  - All public charges (taxes, customs duties, fees etc.) payable outside the Federal Republic of Germany as a result of or in connection with the completion of the service contract shall be paid by the client.
  - Deliveries and services that go beyond Servicing are charged separately. For such services the applicable *Conditions for Repair and other Contract Work* and for deliveries the *General conditions of Delivery for Spare Parts, Wear Parts Operating Supplies and Consumables* apply.
  - If remote diagnostic services are included in the scope of services the "*General Terms and Conditions for TelePresence Contracts*" shall apply exclusively to such services.
  - The client shall promptly inform manroland and the personnel assigned to carry out the work about legal or other regulations applicable at the place where the service work is to be carried out.
- IV. Services not included
- The following services and deliveries are not part of the Servicing, unless otherwise stated in the agreed description of services:
- Continuous care and cleaning of the machines (if recommended or required by the manufacturer, daily);
  - Maintenance of the machines pursuant to the maintenance and operating instructions and the material required, other than maintenance which has been contractually agreed with manroland;
  - Servicing in cases of machine breakages;
  - Care, improvements, upgrades, updates, modifications and modernisation of the machine (parts, software and services);
  - Relocation of the machine;
  - Production - related minor repairs and fault elimination in agreement with manroland, e.g. exchange of parts (e.g. drive belts, actuators, lamps);
  - Production – related wear and tear parts, e.g. drive belts, v-belts, gripper pads, transport belts, ink form rollers;
  - Consumables, e.g. blankets, plates, packing sheets, foils, cylinder covers, fountain solutions additives and their installation;
  - Damage due to improper treatment or use, improper operation, inadequate or incorrect maintenance by the client or third parties, improper storage, excessive use, the use of inappropriate operating equipment, defective construction work or foundations, inappropriate building ground or chemical, electro-chemical or electrical influences;
  - Eliminating faults caused by equipment of other than the machine which is the subject of the contract;
  - Remedying damage or contamination for which either manroland is not responsible or caused by machine operation, such as fire, water, accident, acts of third parties, vandalism, war, riot, theft and acts of God as well as making good damage caused by deliberate or negligent action by the client, its employees or third parties;
  - Consulting services for use or application software, marketing, network expansion or alterations, connection to another computer system or training;
  - Damage due to the installation of non-original parts by the client or third parties instructed by the client or damage caused by products, operating resources or production materials such as ink, paper etc. provided by the client;
  - Damage caused by breach of the duty to notify pursuant to clause VII.1;
  - Lubricants and other operating materials;
  - Cases that are or could be covered by machine insurance;
  - Essential preservation work or inspections that occur before decommissioning, storing or selling the machine;
- V. Prices and payment terms
- The price for the Servicing by manroland is determined exclusively by the manroland service contract/order confirmation. The price is fixed and includes all work which is to be provided as part of the scope of the services unless otherwise expressly contractually agreed.
2. If additional work for manroland is created as a result of the client not fulfilling its obligations under this contract, manroland is entitled to invoice this work additionally on the basis of manroland's normal terms. These terms for service contracts apply to carrying out such additional work. Furthermore the then valid hourly rates of manroland shall be charged.
3. If salary, material or other costs that are relevant to performing the contract change manroland can increase the agreed fixed price as appropriate by giving three months' prior notice. The increase may not exceed 5% of the sum that is due pro rata to the remaining contract period.
4. The payments are to be made without any deductions to the manroland account after receipt of the invoice. VAT shall be payable upon receipt of the invoice and for advance payments pro rata to the agreed payment dates. Any agreement to accept bills of exchange is subject to the cash payment of their face value being received. Any amendment to the invoice by manroland and any complaint by the client in relation to the invoice must be made in writing no later than four weeks after receipt of the invoice.
5. A right of set off or retention can only be claimed for undisputed or counterclaims determined by the courts.
6. In the event of non-payment by the due date without prejudice to any other legal claims interest of 7% per annum above the then applicable European Central Bank Minimum Bid Rate for main refinancing transactions plus any VAT will be claimed without any separate reminder being required.
- VI. Service Time
- The Servicing, unless otherwise expressly agreed in this contract, will be provided within the normal business hours of manroland. If the Servicing is requested outside normal business hours this requires the agreement of manroland. If additional costs (payment of lump sum on engagement, night-work, overtime and travel costs etc.) are incurred due to work outside normal business hours these will be invoiced separately unless otherwise contractually agreed.
  - An appointment for providing the Servicing will be individually agreed in advance by the client and manroland. There is no right to require the work to be carried out by a particular deadline. If it is not possible for the client for the work to be carried out by the agreed time, the client must inform manroland in writing at least 5 days beforehand. If the appointment is not cancelled in time, the client must pay all additional costs, in particular waiting times, additional travel, hotel and salary costs etc. separately. The same applies if the machine is not available by the agreed time in order to carry out the work. If the affected service workers can be used elsewhere, the additional costs to be borne by the client will be reduced.
  - Should the Servicing be delayed – including cases where there is already a given delay – in the event of force majeure, (including epidemics, war, civil war or circumstances that are similar to war or civil war, or such impending circumstances) or due to employment disputes, especially strikes and

lockouts, or due to circumstances for which manroland is not responsible, the service can be carried out within an appropriate period after the end of the relevant events as long as these events affected the timely performance of the Servicing. manroland must inform the client of the occurrence and expected duration of such events in important cases. The Servicing will be delayed as appropriate if the client is in arrears with its payment or other contractual obligations.

4. If the provision of the Servicing is delayed for reasons for which the client is not responsible or for reasons other than those set out in clause VI.2 and VI.3, the service must be performed within an appropriate period set by the client. If the Servicing is not carried out within such appropriate period and the client incurs loss due to the delay, claims for damages related to such loss will be limited to 5% of the price for one calendar year. The limit of liability will not apply in the case of wilful misconduct of officers, employees or agents of manroland. Other claims are determined exclusively pursuant to clause XI (Liability) of these conditions.

#### VII. Client cooperation

1. The client is obliged to inform manroland in writing and in good time of the status of the measuring devices (e.g. operating hours counter or sheet counter, as agreed upon) at the intervals stated in the order confirmation, as long as these intervals are agreed for the provision of the service. These notifications are essential so that the Servicing can be provided by manroland as set out in the contract. The client is also obliged to inform manroland of any failure in the measuring devices. The operating hours or the amount of sheets printed by the time of the exchange of the counter must be recorded by the client manually. If the completion of an interval (counter reading) is notified late for inspections that take place periodically (by exceeding the times stated in the order confirmation by more than 10%) the client is obliged to pay for all expenses and costs incurred as a result. In addition, manroland may terminate the contract pursuant to clause IX.1.
2. The client will make the machine available to manroland for the necessary duration required for the Service Work.
3. If the delivery of spare parts and repairs are part of the scope of services, the client must inform manroland without delay if any faults, unusual noises or anything similar occur. The client must describe the faults, noises or changes as precisely as possible in the notification.
4. The client will prepare the machine for carrying out the Service Work. In particular it will undertake the necessary cleaning and other necessary preparatory work.
5. The client must undertake the measures required to protect people and property at the installation location. Furthermore it must instruct manroland and the service staff of manroland about the legal and operational safety regulations to be observed by service staff.
6. The client grants the service staff unrestricted access to the machines stated in the order and the place where the machines, related systems and equipment are located. The client (or a company instructed by it at its expense) will clean and maintain the machine pursuant to the manufacturer's requirements to the extent not covered by the contract. The client will document this, for example in the TelePresence maintenance manager.
7. The client will make available to manroland free of charge the power, water, compressed air, gas, lifting devices (the

latter if available to the client) and other necessary resources as well as all the required connections, printing materials, printing plates, rubber blankets, ink, filters and lubricants as it requires to carry out the work.

8. The client must not undertake any revisions, additions or other changes without the prior written approval of manroland.
9. The client will at its own expense make all necessary assistance available to carry out the Service Work. The precise scope is set out in the service contract/order confirmation.
10. If spare parts are delivered as part of the service to be provided the client is obliged to store and manage them properly.
11. The client must before commencement of the work make a security copy of the production data stored on a data carrier which is independent from the machine.

#### VIII. Client's termination right

1. The client can terminate this contract without notice if:
  - a. it is wholly impossible for manroland to carry out the service contract
  - b. manroland is delayed from providing the contractual services (clause VI) and the client has set an appropriate deadline and expressly stated that it will withdraw from or terminate the service contract after the end of such deadline if manroland does not adhere to it through its own default.
2. Claims for damages on termination are regulated exclusively by clause XI.

#### IX. Right of termination by manroland

Without prejudice to its other legal or contractual claims, manroland may terminate the service contract without notice if:

1. the client has not informed manroland of the intervals after which the service work is due in time (as per clause VII.1); or
2. the machine has been moved to a location other than that stated in the order; or
3. the client has not complied with its contractual obligations, in particular providing plant and undertaking preliminary work within the set period as requested; or
4. insolvency of the client is threatened; or
5. the contractual payments have not been paid after a reminder and notification of termination.

#### X. Claims for Defects

1. Defective Service Work  
manroland will carry out the Service Work with the skilled labour made available to it. manroland will remedy and/or remove faults in the Service Work without charge. manroland will carry out any Service Work that has not been undertaken.
2. Defective parts  
If spare parts and repairs are within the scope of services, manroland will at its option either repair or redeliver parts to replace those which were defective at the time it installed them in the machine without charge. The liability for defective parts does not apply to natural wear or to parts that are subject to premature usage as a result of their material condition or utilisation; it also does not apply to damage resulting from improper storage, treatment or use of inappropriate operating equipment, inadequate construction work or foundations, unsuitable building ground, chemical, electrochemical or electrical influences.
3. Software defects  
If spare parts and repairs are within the scope of services manroland will, at its option either repair or redeliver manroland software to replace that which was defective at the time it was installed by manroland into the machine. Only those

defects are to be regarded as software defects which produce a defective machine performance and which occur within the contractually agreed application conditions of the machine. In this regard the client is aware and agrees that according to the current state of technology it is not possible to completely exclude all errors in data processing programs under all usage conditions. manroland will not be responsible for claims for defects which arise due to changes made to the software that were not authorised by manroland or defects which arise due to intervention into the software by persons who have not been authorised by manroland.

#### 4. Legal

If the Servicing results in the infringement of intellectual property rights or copyright, manroland will make every effort to provide the client with the right to continue using such rights or to modify the deliveries or Servicing in an appropriate way for the client so that the intellectual property rights or copyrights are no longer infringed. If neither is commercially possible or reasonable manroland will build back the machine to the status it had before the Servicing. In addition manroland will indemnify the client against claims by third parties not disputed by manroland or that have been legally proven. These claims only exist if:

- a. the client immediately informs manroland of intellectual property and copyright infringements that have been claimed;
- b. the client supports manroland appropriately in defending claims or facilitates manroland with the implementation of the modification measures pursuant to this clause 4;
- c. manroland retains the right to take all steps needed to defend the claim, including out of court settlement,
- d. the defect is not based on an action by the client; and
- e. the legal infringement was not caused by the client changing the goods supplied itself or using them in a manner in breach of the contract.

#### 5. Conditions of breach

The client can only make a claim against manroland if it has immediately upon discovery notified manroland of the defect and no attempted improvements were made without the agreement of manroland. Only in urgent cases that endanger the safety of the business and to prevent a disproportionate loss does the client have the right to remedy the defect itself or allow third parties to do so. Furthermore there is no warranty for defects that are caused by the client installing parts from third parties without the consent of manroland, allowing third parties to install them or working on the machine or allowing third parties to work on the machine, or not fulfilling its contractual obligations arising from the service contract including under these terms.

#### 6. Support by the client

In order to undertake the required improvement or exchange work the client must support manroland at its own cost, in particular making the necessary time and opportunity available, and at its own expense provide such assistance, apparatus and operating equipment and carry out ancillary work if such work is part of its obligations within the scope of the service contract.

#### 7. Additional client rights

Other rights of the client are set out in clauses VIII (Termination) and XI (Liability) – excluding the right to obtain a price reduction.

#### XI. Liability

1. manroland is obliged to remedy free of charge all damage to machines that are the

subject of the service contract and which are caused by and are the fault of manroland or its service personnel. This also applies in the case of damage for which there is evidence that it was caused directly to the machine by defective service work (clause X.1), defective parts (clause X.2) or defective software (clause X.3). The client is however obliged to undertake appropriate measures to mitigate and reduce damage caused by defective software. In particular the client must make backup copies at appropriate intervals, if necessary on a daily basis.

2. The client may not make any claims for damage (to the extent there is no wilful misconduct of officers, employees or agents of manroland) nor non-contractual rights or claims in connection with the Servicing, including resulting from inadequate or incomplete advice, in addition to the claims and rights contained in these terms. This exclusion of liability does not however apply:
  - a. wilful misconduct or gross negligence by employees of managerial status or wilful misconduct by those acting on behalf of manroland;
  - b. to infringement of material contractual duties due to its negligence;
  - c. to injury to life, body or health;
  - d. to fraudulent concealment of defects;
  - e. in the context of a guarantee; a guarantee is only considered to have been given if this is expressly stated as such in the contract or in these terms;
  - f. if and to the extent that there is liability for damage to people or personal property pursuant to the German product liability law; or
  - g. if the liability insurance of manroland covers the damage. The liability insurance is subject to the general terms and conditions of the insurers.
3. To the extent manroland is liable for gross negligence or the violation of material contractual duties under sections XI.2. a) and b), the damages relating to financial loss, e.g. breakdown in production, loss of production, lost data or loss of profits, are limited by the general principles of good faith including but not limited to cases of a disproportion between the price of the service to be provided compared to the level of damage. The liability pursuant to sections XI.2 c) to g) shall remain unaffected here from.

#### XII. Limitation Period

The rights and claims of the client arising out of this contract in respect of defects shall lapse after 12 months from performance of the contract and 12 months from delivery in respect of defective parts. In all other cases, especially where there is wilful misconduct or fraudulent concealment of defects, the legal limitation periods apply.

#### XIII. Assignment of contractual rights

1. The client may not, without the prior written approval of manroland, assign its rights arising out of the service contract to third parties.
2. manroland may assign the service contract in full or in part to third parties provided that its obligations owed to the client will be adhered to and not adversely affected. Assignment may be possible in particular where this is to specialist companies and sub-contractors whose products are components of the machine (e.g.: dryer, blanket wash-up device, dry sprayer, fountain solution refrigerator).

#### XIV. Partial Invalidity

If a part of this contract is invalid it does not affect the validity of the remainder to the extent that such invalidity does not adversely affect the

material elements of the contract.

#### XV. Jurisdiction

1. The exclusive place of jurisdiction for all disputes arising out of the contract - including actions based on bills of exchange, cheques and documents - shall be Offenbach/Main. However, manroland may also bring an action at the client's place of business.
2. In the event that arbitration proceedings have been agreed with a client whose place of business is not in the Federal Republic of Germany, any disputes arising out of the contract or in respect of its validity shall be finally settled, to the exclusion of normal legal proceedings, under the rules of arbitration of the International Chamber of Commerce, by a court of arbitration appointed under the rules of the International Chamber of Commerce in Paris. The seat of arbitration will be Offenbach/Main.

#### XVI. Applicable law

The contractual relations shall be governed by German law to the exclusion of the UN Convention on Contracts for the International Sale of Goods.

#### XVII. Written form

Amendments and supplements to this contract must be made in writing to be legally binding. The same shall apply to the amendment or waiver of this clause.