

U.S. and Canada Service Agreement for Printers

Terms and Conditions

- 1. General.** These general terms and conditions shall apply to all service provided to Customer by Xerox. Additional terms and conditions governing particular service options or programs may be set forth on a supplement provided by Xerox to Customer ("Supplement"). Customer's submission of a purchase order or acceptance of service shall be deemed acceptance of these General Terms and Conditions and those set forth on applicable Supplements to the exclusion of any additional or different terms or conditions on Customer's purchase order, even if such order is expressly made conditional on Xerox's assent to such additional or different terms.
- 2. Agents.** Xerox may appoint third parties to act as its agents in performance of its service obligations under this Service Agreement. All references herein to Xerox shall be deemed to include such agents of Xerox.
- 3. Fees.** Fees for service shall be as stated in the quotation and shall apply only to the products specified therein.
- 4. Term.** The effective date of the initial term of service coverage shall be as shown on the invoice to Customer.
- 5. Invoices and Payment.** Customer shall pay amounts invoiced within 30 days from the date of invoice. Xerox may withhold service if Customer fails to make any payment when due.
- 6. Taxes.** Service fees are exclusive of all state/provincial and local sales, use, excise, privilege and similar taxes. Such taxes shall be paid by the Customer, unless a valid exemption certificate is furnished by Customer.
- 7. Indemnity.** Xerox shall indemnify and hold Customer harmless from and against any claim of injury or damage to property to the extent it is caused by the negligent or wrongful acts or omissions of Xerox while on Customer's premises.

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8. **Confidentiality.** Xerox recognizes that during the performance of service hereunder, Xerox may be exposed to information of a confidential nature relating to the business of Customer. Xerox agrees to hold such information in confidence for Customer to the same extent Xerox provides for its own information and not to disclose such information to any other party without the prior written consent of Customer.
9. **LIMITATION OF LIABILITY.** IN NO EVENT SHALL XEROX BE LIABLE FOR ANY INDIRECT, SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES ARISING OUT OF SERVICE PROVIDED HEREUNDER, EVEN IF XEROX HAS ADVANCE NOTICE OF THE POSSIBILITY OF SUCH DAMAGES.
10. **Waiver.** Failure of either party to enforce any provision of this Agreement shall not be deemed a waiver of future enforcement of that or any other provision.
11. **Assignment.** Customer may not assign or otherwise transfer its rights or obligations under this Agreement without the prior written consent of Xerox.
12. **Governing Law.** For products located in the United States, this Agreement shall be governed by the laws of the State of Oregon. For products located in Canada, this Agreement shall be governed by the laws of the Province of Ontario.
13. **Lawyer's Fees.** If litigation or collection is commenced to enforce any provision of this Agreement, the prevailing party shall be entitled to recover reasonable costs, including lawyer fees and collection costs.
14. **Replacement Parts.** In the maintenance of any product, Xerox may use new, or equivalent to new, parts or assemblies for equal or improved quality. All defective parts and assemblies become the property of Xerox. Xerox, at its option, may request the return of these parts.
15. **Coverage Eligibility.** Products that have been continuously covered by a Tektronix or a Xerox Product Warranty or a Tektronix or a Xerox Service Agreement are eligible for immediate coverage under this Agreement. Other products will be eligible for coverage only if they meet Xerox's specifications. At Customer's request, Xerox may bring the product up to specification at Xerox's then current rates for parts, labor and travel so that the product will be eligible for coverage.
16. **Telephone Support and Remote Diagnosis.** To ensure that the product is repaired as quickly and efficiently as possible, Customer must first work cooperatively with Telephone Support to try to repair the product. If the product contains features that enable Xerox to diagnose and repair problems with the product remotely, Xerox may request that Customer allow such remote access to the product.
- 17.1. **Exclusion of Customer Replaceable Consumables for Phaser Products.** This Service Agreement does not cover Customer Replaceable Consumables (CRC) for Phaser products. The Customer Replaceable Consumables for each product are listed in the user manual for the product.
- 17.2. **Exclusion of Consumables/Maintenance Items for Non-Phaser Products.** This Service Agreement does not cover consumables/maintenance items such as laser print cartridges, maintenance kits, and finisher staple cartridges for non-Phaser products. The consumables/maintenance items for each product are listed in the user manual for the product.
18. **Coverage for Customer Replaceable Units for Phaser Products.** This Service Agreement does cover Customer Replaceable Units (CRU) for Phaser products. The CRUs for each product are listed in the user manual for the product.

When a CRU is determined by Xerox or its authorized service representative to be defective, a free replacement unit will be shipped to the Customer for replacement. The return process will be handled according to the current Xerox procedure. Failure to follow this procedure will result in the Customer being billed full list price for the CRU.

19. Limitations.

I. Xerox shall not be obligated under this Agreement to:

1. Repair damage resulting from attempts by personnel other than Xerox representative to install, repair or service the product unless directed by a Xerox representative;
2. Repair any damage, malfunction, or degradation of performance resulting from improper use or connection to incompatible equipment or memory;
3. Provide any application software support or service involving application hardware;
4. Repair any damage, malfunction, or degradation of performance caused by the use of non-Tektronix/Xerox supplies or consumables, or Tektronix/Xerox supplies not specified for use with the particular product.
5. Perform user maintenance or cleaning or to repair damage, malfunction, or degradation of performance resulting from failure to perform user maintenance and cleaning as prescribed in published product materials.
6. Repair damage, malfunction, or degradation of performance resulting from use of the product in an environment not meeting the operating specifications set forth in the user manual;
7. Repair any accessories; or
8. Service any product after the limit of its duty cycle has been reached, if applicable.

II. Any service identified in the preceding section and provided by Xerox at Customer's request shall be invoiced to Customer at Xerox's then current rates for parts, labor and travel.

- 20. Enhancements or Upgrades.** Software or firmware enhancements or upgrades are not provided under this Agreement, but may be purchased separately upon their release.
- 21. Software and Firmware Updates.** Updates may be required to correct performance problems and will be provided under this Agreement where deemed applicable by Xerox. Xerox will only maintain support for software and firmware releases that are at the latest and next to latest revision levels.
- 22. Notices.** All notices shall be given in writing and shall be effective upon receipt. Notices to Customers shall be sent to the address shown in Customer's order. Notice to Xerox shall be sent to: XOG Service Sales, P.O. Box 1000, MS 60-372, Wilsonville, Oregon 97070-1000.
- 23. Entire Agreement.** This document, the quotation, if any, and any applicable supplements provided by Xerox shall contain the entire Agreement between the parties. This Agreement may not be modified except by written amendment signed by an authorized representative of each party.
- 24. Termination.** Either party can terminate the Agreement at any time with three (3) months prior written notice.

Supplemental—For U.S. and Canada On-Site Service Terms and Conditions

These Terms and Conditions are supplemental to the general terms and conditions for Service Agreements and specifically describe the on-site service program for those products which are eligible. These are applicable to the following services:

- Warranty Conversion
- Extended On-Site Service
- Annual On-Site Service

- 1. Remedial Service.** In the event of product failure, Xerox will, at its option, repair the defective product by means of telephone support or on-site service at no charge for parts and labor or replace the product with a comparable product.

To obtain service under this Service Agreement, the Customer must first contact Xerox Telephone Support personnel or that of its authorized service representative. Telephone Support personnel will work to resolve issues professionally and quickly, however, the Customer must reasonably assist Xerox.

If telephone support is unsuccessful, Xerox or its authorized representative will repair the product on-site anywhere within the normal service area in the United States and Canada without charge for parts, labor or travel, or at its option, Xerox may provide a comparable replacement product.

- 2. Relocation of Products.** Relocation of products to a site other than the site specified initially by Customer may affect the availability of service and will relieve Xerox of its obligation to provide on-site service unless:

a) Customer notifies Xerox thirty (30) days prior to such relocation; b) Xerox confirms that the relocation does not affect the availability of service; and c) Customer agrees to pay any adjustment of charges which may result from the relocation.

Upon request of Customer, Xerox will supervise product relocation, including de-installation, crating, uncrating and reinstallation, or perform other associated services at time and material rates.

- 3. Obligations of Customer.** Customer shall permit Xerox access to the products whenever service is required. Customer shall ensure that the user cooperates with Xerox to the extent necessary to permit service to be performed efficiently and without interruption.

Customer shall permit Xerox to use any Customer equipment or facilities that Xerox reasonably deems necessary for the performance of service.

Customer shall ensure that the site meets the environmental specifications contained in the user manual supplied with the product to be serviced. If a product under service fails through operation in a site not meeting Xerox' specification, Xerox may refuse to provide service until the site meets such specifications.

- 4. Obligations of Xerox.** Xerox shall carry or provide Workers Compensation and Comprehensive Automobile and General Liability Insurance as appropriate. Certificates of Insurance which evidence such coverage shall be provided to Customer upon request.

Xerox reserves the right to determine the assignment of its employees in providing service hereunder.