



**GRAVOGRAPH**

**EXTENDED  
SERVICE  
AGREEMENT  
TERMS AND CONDITIONS**

### **1. SERVICES**

The Corporation ("GNH"), Customer Service shall provide service on the equipment ("Equipment") identified herein during the principle period of maintenance (PPM) designated, exclusive of GNH holidays, weekends and evenings. In furtherance hereof, GNH shall:

- A. Provide required service for reliable Equipment operation to GNH published specifications at the time of Equipment sale. One annual Preventative Maintenance shall be performed during the PPM period, it is the sole responsibility of the Buyer to request their annual Preventive Maintenance and will be scheduled at New Hermes sole discretion unless otherwise stated herein at current rates. Such preventative maintenance may be performed concurrently with remedial maintenance service.
- B. Provide the parts necessary to maintain the Equipment to GNH specifications. New parts or used parts of equal functional quality shall be used in providing maintenance. All parts removed for replacement shall become the property of GNH. Replacement parts under this Agreement are defined as those items that fail through normal use and service. The Equipment maintained per this Agreement shall be repaired, but not exchanged, unless GNH determines it is necessary.
- C. Install Engineering Change Notices (ECNs) deemed necessary by GNH to maintain Equipment operation to GNH specifications at time of sale. Said installations shall be performed concurrently with a scheduled preventative maintenance visit and with the concurrence of the Buyer.
- D. At the Buyer's request, provide work beyond the PPM. In such cases, the additional coverage shall be billed at current billable maintenance rates and provisions unless otherwise stated, and is offered as an "as available" basis.
- E. Not provide operating supplies or accessories such as Belts, Cutters, and Spindles nor will GNH paint or refinish the Equipment or furnish materials therefore.
- F. A charge will be made for onsite service in accordance with the terms on the face of this Agreement.
- G. Parts and workmanship are warranted for 30 days from date of service provided the Equipment is operated as recommended and serviced according to recommended service guidelines.

### **2. CHARGES**

The Extended Service charge shown on the face of this Agreement is based on a specific number and configuration of GNH Equipment, use time, type of coverage, and location. GNH reserves the right to make changes in these charges as a result of any modification of this Agreement, including cancellation.

Buyer understands and agrees that all prices and rates contained herein are exclusive of any federal, state, or local sales use or excise taxes, and that such taxes are the Buyer's responsibility. Buyer further agrees that any taxes levied (other than Taxes on GNH Income or Personal Property) on GNH relative to this Agreement shall be the responsibility of Buyer, and shall be invoiced accordingly by GNH.

### **3. PAYMENT**

The Extended Service charge shall be billed annually in advance and payment in full shall be made within thirty (30) days from date of invoice. All services not covered by the maintenance charge shall be billed by GNH upon completion of the services rendered and shall be payable in full upon receipt of invoice.

Unpaid balances more than thirty (30) days from date of invoice shall be subjected to an interest charge of one and one half percent (1 ½%) per month computed from the due date of each invoice previously issued, or the maximum rate legally permitted, whichever is less.

Annual Agreement must be paid in advance. Payment plans must be honored for the entire term of the Agreement once the first payment is made. A service charge will be applied for all payment plans. No refunds will be made if customer cancels Agreement before completion date. GNH reserves the right to suspend any/all technical support and onsite service in conjunction with any previous invoices that are unpaid.

### **4. RELOCATION**

Buyer agrees that if the Equipment is to be relocated within the existing facility or to an address different from that listed herein. Buyer shall provide written notification to GNH sixty (60) days prior to relocation and the following shall apply:

- A. GNH personnel shall supervise the dismantling and packing of the Equipment at current billable maintenance rates and provisions. The buyer shall furnish all packing material and labor required for the dismantling, packing, unpacking, and the placement of the Equipment in the new location.
- B. Buyer accepts all responsibility for shipping charges incurred with the relocation of the Equipment.
- C. Upon relocation, GNH personnel shall inspect, repair damages, and install the Equipment. Charges for these services shall be billed to the Buyer at current billable maintenance rates and provisions.
- D. Any Buyer who uses their machine as part of a traveling business will be subject to a 50% premium charge added to the Extended Service charges.

### **5. BUYER'S RESPONSIBILITIES**

Buyer agrees to report any Equipment malfunctions or problems. Buyer also agrees to discuss symptoms and the nature of problem with appropriate service personnel to determine possible cause and remedy prior to dispatching a GNH service representative. Additionally, Buyer agrees to:

- A. Allow authorized service representatives to inspect the Equipment periodically, and further agrees to provide GNH representative with full access to the Equipment for performing maintenance as required.
- B. Provide adequate working space and facilities, including heat, light, ventilation, electric current, outlets, and the like, to be used by GNH representatives, and adequate storage space, if required, for spare parts. All such facilities shall be within the immediate proximity of the Equipment to be serviced and shall be provided at no charge to GNH.
- C. Unless otherwise stated herein, not perform, or cause to be performed, maintenance or repair to the Equipment during the term of this Agreement by anyone other than authorized GNH service representatives, except for daily or weekly preventive maintenance as defined by GNH. New Hermes, Inc. has the option to cancel, without refunding any monies, this Extended Service Agreement if customer violates this provision by allowing outside service representatives to perform any maintenance work on New Hermes Equipment.
- D. Notify GNH in writing of any changes in configuration or scheduled operational use time that exceed the present coverage of this Agreement. Such notification must be forwarded to GNH within thirty (30) days of change. Additions to maintenance charges shall become effective on the date the changes were implemented.
- E. Maintain a proper environment for the Equipment as specified in the GNH installation drawing of the Maintenance Manual or as recommended in writing by the local GNH service representative.
- F. Issue and/or modify the purchase order to reflect any changes in period and/or price concurrently with any configuration change or renewal of this Agreement.
- G. Customer will provide Credit Card Number or Purchase Order Number for replacement parts. If the parts are not returned to GNH within Thirty- (30) day the Credit card or P.O. will be charged. If the part is returned between thirty-one (31) and forty-five (45) days GNH will refund the amount of the invoice less a 15% restocking fee. If the part is returned after Forty-five (45) days GNH will refund the amount of the invoice less a 25% restocking fee. Failure to comply with this will result in cancellation of this agreement and may put future orders on hold.
- H. Agreement is not transferable if unit is sold.

## 6. CANCELLATION

- A. Either party shall have the right to cancel the Agreement upon thirty- (30) days prior written notice if the other party does not comply with any of the Terms and Conditions contained herein. Provided that the party wishing to cancel shall first have given the defaulting party written notice of the nature of the claimed default and a reasonable opportunity to cure consistent with the nature of the claimed default.
- B. In the event Buyer fails to make payment in accordance with paragraph 3, GNH at its option may immediately suspend Service or cancel this Agreement upon written notice.
- C. GNH shall have the right to cancel this Agreement, or suspend service hereunder, by reason of Buyer's bankruptcy or insolvency or the pendency of any proceedings against buyer under any statute for the relief of debtors.
- D. GNH reserves the right to discontinue this Agreement at any time. GNH will provide no less than thirty- (30) day's notice of discontinuation.

## 7. LIMITATION OF LIABILITY

- A. GNH agrees to perform all work in a careful and workmanlike manner. GNH further agrees that any work performed incorrectly will be corrected without additional charge to Buyer. This shall be Buyer's exclusive remedy other than cancellation pursuant to Section 6. Buyer agrees that GNH shall not be liable to the Buyer as a result in any delay in furnishing or failure to furnish service or parts hereunder or for any failure to restore equipment operation, except to the maximum extent or refunding a prorated share of the maintenance charge paid should cancellation of the Agreement per Paragraph 6A occur. Buyer acknowledges and agrees that such limitation of liability, without limiting the generality of the foregoing, extends to loss of data, loss of actual or anticipated revenue, loss due to failure of any system or component and/or damage to business reputation or good will. Buyer may bring arising out of transactions hereunder no action, regardless of form, more than one (1) year after the cause of action has accrued.

**BUYER AGREES THAT IN NO EVENT SHALL GNH BE LIABLE FOR ANY SPECIAL INCIDENTAL OR CONSEQUENTIAL DAMAGES EVEN IF GNH HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. UNDER NO CIRCUMSTANCES OR COMBINATION OF CIRCUMSTANCES SHALL GNH BE HELD LIABLE FOR DAMAGES IN EXCESS OF THE TOTAL YEARLY CHARGE PER THE AFFECTED EQUIPMENT.**

## 8. EXCLUSIONS

This agreement is the nature of an extended, limited service agreement, not an insurance agreement. Therefore, the maintenance charge does not include service calls or parts arising from:

- (1) Abuse, misuse, modification, or mishandling of the Equipment.
- (2) Damage due to forces external to the machine including, but not limited to, the following Acts of God: flooding, power surges, power failures, defective electrical work, transportation, foreign equipment attachments or Buyer supplied utilities or services such as gas.
- (3) Operation outside of the environmental specifications for the Equipment.

## 9. GENERAL

- A. **GNH DISCLAIMS ALL WARRANTIES, EXPRESSED OR IMPLIED, WITH REGARD TO THE SERVICES AND MATERIALS PROVIDED HEREUNDER, INCLUDING WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A SPECIAL PURPOSE ARISING OUT OF OR IN CONNECTION WITH THE PERFORMANCE OF AGREEMENT.**
- B. GNH, at its option, reserves the right to subcontract maintenance for Equipment covered by the Agreement that was not manufactured by GNH.
- C. The Terms and Conditions of this Agreement supersede those of all other oral or written agreements between the parties with respect to service on the Equipment.
- D. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their successors, administrators, legal representatives, and assigns (where permitted by this Agreement). Neither party shall assign any rights or obligations of this Agreement without the prior written consent of the other party. No refunds will be made on the unused portion of this Agreement.
- E. If GNH is precluded from actually performing service under this Agreement by a strike at Buyers Facility or any other concerted labor action, The Buyer shall continue to make payments in accordance with the Agreement whether or not service is actually performed.
- F. Should a court of competent jurisdiction be invalid, illegal or unenforceable, the validity hold any provisions of this Agreement, legality and enforceability of the remaining provisions of this Agreement shall not be affected or impaired thereby.
- G. Buyer agrees not to actively solicit any individual who is, or has been, an employee of GNH and concerned with the work performed under this Agreement, to perform such work directly for the Buyer, at any time during the term of the Agreement.
- H. GNH agrees that all personnel engaged by it in performance of this agreement shall be GNH employees (except as indicated in B above) and under its control. GNH shall maintain in full force and effect all Workers Compensation Insurance required under applicable law, and shall also maintain Commercial General Liability Insurance with a combined single limit of \$1,000,000 each occurrence and an aggregate limit of \$2,000,000. On Buyer's request, Buyer will be supplied a Certificate of Insurance evidencing coverage, which coverage should set forth a prior notice provision before said policy would be cancelled.
- I. GNH shall have no responsibility to Buyer with respect to information claimed by Buyer to be proprietary, confidential or a trade secret, unless GNH shall have executed a separate written agreement governing such responsibilities. Buyer acknowledges that GNH service personnel do not have the authority to execute such agreements, and all communications in connection with such agreements shall be referred to the address for notices provided herein.
- J. This Agreement is governed and shall be construed pursuant to the laws of the state of Georgia. The Buyer consents that any lawsuit which might be brought, would be brought in the state of Georgia and said buyer agrees that Georgia would have exclusions jurisdiction for any dispute arising under this agreement.
- K. This agreement will automatically renew at current rates. Upon receipt of notification, the Extended Service Agreement customer has 30 days to terminate the automatic renewal of this agreement by providing written notification of termination to Gravograph-New Hermes, Inc., Attn: Service Department, 2200 Northmont Pkwy, Duluth, Georgia 30096.
- L. No terms or conditions, other than those stated herein, shall be binding upon New Hermes, Inc., its employees or agents.
- M. No liability shall attain in favor of GNH as against any officer, director, member, agent or employee of a Company, but GNH will look solely to the assets of that Company for satisfaction of this Agreement.

Signature of Authorized Agent: \_\_\_\_\_

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

Account #: \_\_\_\_\_