

## **General Conditions of Purchase Lexmark International MiddleEast LLC, Dubai (LIME)**

### **Article 1: OVERVIEW**

The following Conditions of Purchase shall apply to all orders of Lexmark International MiddleEast LLC, Dubai (LIME), whose registered office is located at Dubai Internet City, Building 9 - Office 223, PO BOX 502569, Dubai - UAE (hereinafter "LEXMARK") except for any additional conditions expressly stated in LEXMARK's order and its enclosures. The present General Conditions prevail over any terms and conditions of Supplier.

This order is LEXMARK's offer to Supplier to purchase the goods or services described herein; acceptance of this order from Supplier shall take place upon Supplier's reception of the order, unless the Supplier expressly without delay notifies Lexmark otherwise. The term "Goods" shall be intended to refer to both "goods" and "services" and, accordingly, "goods delivery" shall be intended to refer as well to "services provided."

If any provision of these General Conditions should be held invalid or impracticable, the validity of the remaining provisions shall not be affected. Any invalid or impracticable provision shall be replaced by such valid and practical provision as most closely reflects the economic intent and purpose of the original provision.

Any modifications or amendments hereto and from the terms stated on the order form shall be in written form to be valid and confirmed in writing by LEXMARK.

Silence or absence of response from LEXMARK can by no means be considered as tacit acceptance of modifications or adjunctions proposed by the Supplier.

### **ARTICLE 2: SUB-CONTRACTING**

Supplier cannot, without LEXMARK's prior written agreement, subcontract the fulfillment of the order or of any obligation relating to it.

The supply of specific services and/or components and materials that are necessary for the fulfillment of the order and that are normally bought by the Supplier, is not considered as sub-contracting as per this article.

### **ARTICLE 3: ASSIGNMENT**

Supplier shall not assign the fulfillment of the order and/or any claims against LEXMARK to any third parties or cause any claims against LEXMARK to be collected by any third parties without the consent of LEXMARK.

If Supplier should assign any claims against LEXMARK to a third party without the consent of LEXMARK in violation of this provision, such assignment shall nevertheless be valid. However, LEXMARK may at its sole discretion render performance to Supplier or the third party in full satisfaction of its obligations under the agreement.

### **ARTICLE 4: PRICE**

Prices specified in the order shall be fixed prices. The price covers all the work and services performed by the Supplier which is necessary for the proper performance of the order. In particular, the price covers any and all costs for packaging, transportation, insurance, expenses, royalties, duties, taxes or other fees of any nature.

### **ARTICLE 5: PAYMENT TERMS**

The payments will be made by bank transfer on a 60 days end of month basis, which means at the end of two complete months (60 days) following the month of receipt of a correctly completed invoice (as per Article 6 "Invoicing" below). However, if the Goods are delivered after the invoice is received by LEXMARK, the payment terms shall be 60 days end of month from the date of delivery according to article 11 below "Delivery" of the Goods

### **ARTICLE 6: INVOICING**

The invoices will be addressed by the Supplier to LEXMARK's address as indicated on the order form. Correctly completed invoices must state, in particular and without limitation, the invoice date (date of creation) or alternatively the tax point, LEXMARK's order number, the invoice number (different number for each invoice), Supplier and LEXMARK's respective corporate names and VAT numbers (where applicable), split of the gross/net/VAT amounts and VAT rates (where applicable) and the currency of invoice and exchange rate (if applicable).

### **ARTICLE 7: SETOFF**

LEXMARK MAY, TO THE EXCLUSION OF SUPPLIER AND TO THE EXTENT PROVIDED FOR BY LAW, SETOFF COUNTERCLAIMS IT MAY HAVE AGAINST SUPPLIER, ARISING UNDER THIS OR ANY OTHER TRANSACTION.

### **ARTICLE 8: SUPPLIER'S INSOLVENCY**

If LEXMARK should become aware of any risk that it may incur because of Supplier's insolvency, LEXMARK will ask Supplier to give evidence, within 5 working days, of Supplier's capability to fulfill its obligations. If Supplier does not provide such guarantee in this timeframe, LEXMARK may delay any fulfillment of Lexmark's obligations while awaiting Supplier's situation to adjust, or may, at its sole discretion, terminate the contract without notice.

### **ARTICLE 9: CONFIDENTIAL INFORMATION**

The Supplier undertakes that it shall not use nor communicate to any third party any information received from LEXMARK or about LEXMARK on the basis of one of its orders, unless it is necessary for the proper fulfillment of the order. This secrecy provision shall apply after termination of the order, as well as after its fulfillment.

The Supplier undertakes to return, either upon LEXMARK's first request, or at the termination of this agreement, all documents, parts, items or products handed over on the basis of their commercial relations or containing information considered by LEXMARK as confidential.

Except with LEXMARK's prior written consent, the Supplier undertakes not to transmit or communicate to any party in its country or in any foreign country, any information given by LEXMARK within one of its orders, as well as any lesson or experience resulting from this information (such as documents, products, know-how, etc.). The Supplier shall allow access to the confidential information only to those employees who have signed a secrecy obligation, safeguarding the adherence of the confidentiality obligation defined herein, before they gain access to the information.

The Supplier shall not disclose to LEXMARK any information which it considers confidential. Accordingly, LEXMARK shall not be obliged to consider information received from the Supplier as confidential, including, without limitation, manuals, drawings and other documents. Captions or wordings on or accompanying the Supplier's documents or Goods which could contradict the principle stated in this paragraph shall not have any consequences or entail any obligation for LEXMARK.

### **ARTICLE 10: INDUSTRIAL PROPERTY RIGHTS**

The Supplier shall assume sole liability, to an unlimited amount, towards third parties for infringement of industrial property rights. In particular, the Supplier shall conduct disputes with third parties in agreement with Lexmark, as well as legal disputes, at its own expense.

The liability of the Supplier shall include all detriments by Lexmark.

If standards of Lexmark in the order form, in a product specification or other documents relating to the definition of the purchased Goods can lead to the infringement of industrial property rights, the Supplier shall inform Lexmark without undue delay. Otherwise the Supplier shall be liable for the infringement of proprietary rights of third parties.

The Supplier shall inform Lexmark without delay after becoming aware thereof, of the proprietary rights which the Supplier has become aware of prior to the conclusion or during the performance of the agreement, including the Supplier's own and third-party industrial property rights at its disposal, and industrial property rights of third parties ascertained by applying the diligence usual in the trade, which could impede or influence the operation of the contractual item for Lexmark.

If the infringement of industrial property rights is asserted by a third party and an impairment or prohibition of the contractual use of the contractual items results therefrom, the Supplier shall modify or substitute the contractual items in such a manner that they are no longer subject to the industrial property rights, but comply with the contractual provisions, or to effect the right of use in such manner that a contractual use is made possible for Lexmark free of charge. If this is not possible, Lexmark may rescind the Agreement or demand damages instead of performance.

LEXMARK may intervene, at its own expense, in any possible conflict. The provisions of the present article shall continue to apply after the termination or expiration of the agreement.

### **ARTICLES 11: DELIVERY**

#### **11.1: PACKAGING / TRANSPORTATION / TERMS OF DELIVERY**

Goods must be packaged according to the type of product and means of transportation. Packaging shall reflect instructions on the front page of order, if any, and shall comply with local and international regulations for transport and transit. Packages must bear LEXMARK's order number and show quantity or gross and net weights. Prepaid transportation charges must be supported by a paid freight bill or equivalent. The delivery terms shall be DDP, Named Place of Destination (Delivery Duty Paid, Incoterm ICC 2000).

#### **11.2: PLACE OF DELIVERY**

Absent any written agreement stating otherwise, the delivery shall take place at the destination designated by LEXMARK (even if the Goods are invoiced "port of departure"), between 8.00 am and

12.00 am and between 13.30 pm to 16.00 pm during working days, except Saturdays. No Goods will be received outside these times.

### **11.3: QUANTITY**

Only the weight and quantity acknowledged by LEXMARK will be taken into consideration and be decisive for the payment of invoices. Any expenses resulting from omissions or errors on the delivery form shall be exclusively borne by the Supplier.

### **11.4: TIME OF DELIVERY**

The delivery date specified by LEXMARK shall be binding and shall mean the date at which the Goods must be delivered.

If the Supplier is in default, LEXMARK reserves the right to cancel the order and shall then be entitled to make its purchase from another supplier of its choice, and to claim from the Supplier compensation for any damage/loss suffered as result of the delay in the performance.

### **11.5: QUALITY, LIABILITY FOR DEFECTS**

The Supplier shall be liable for defects during the periods prescribed by statute (but no less than 12 months), commencing on the date of transfer of risk or, if acceptance has been provided for, upon acceptance by Lexmark, and guaranteeing the contractual and defect-free condition and defect free functioning of the products and services for which the Supplier is responsible. The period of liability is extended by the time the products or services can not be used correctly.

The Supplier warrants that its Goods comply with the legal requirements, safety rules and industry standards in force at the time of delivery (in particular, but not limited to: WEEE, ROHS, battery ordinance, packaging ordinance, CE label in accordance with EU Directive 1999/5/EC).

If the delivered Goods are defective or if they do not comply with the specifications, LEXMARK is, subject to statutory provisions more favourable to it, entitled to:

(i) require the delivery of Goods complying with the specifications or non defective Goods and return to the Supplier, at the latter's risk and expense, the non-conforming or defective Goods, or to

(ii) require a reduction of the purchase price, or to

(iii) terminate immediately, fully or partly, the concerned order, without any indemnity at its charge, and claim the reimbursement of the purchase price and the indemnification of any damage/loss.

Payment of invoices do not imply acceptance of the quality of the delivered Goods and do not imply any waiver by LEXMARK of its right to any legal action if the Goods turn out to be of insufficient quality.

Any assistance which may be provided by LEXMARK to the Supplier for the fulfillment of the works covered by this order as well as any controls which LEXMARK reserves the right to make during production may not be considered as implying approval of the Supplier's methods or acceptance of the quality of its works.

If the Supplier participated in the definition of the specifications of the works covered by this order, LEXMARK's statement of these specifications may not, except in the event of an explicit agreement to the contrary, either cancel or limit the Supplier's obligation to deliver a work complying with the terms of the agreement, non-counterfeiting and responding to the needs LEXMARK has exposed to the Supplier.

### **11.6: TRANSFER OF RISK**

Transfer of risk shall occur in accordance with DDP Incoterms ICC 2000.

### **11.7: TRANSFER OF TITLE, ACCEPTANCE, INSPECTION FOR DEFECTS**

The supply of movables which are to be produced or manufactured and installed services shall require a written acceptance by LEXMARK. The transfer of title occurs upon delivery of the Goods to Lexmark's premises.

Upon delivery, Lexmark shall inspect only for obvious defects. In all other respects LEXMARK is released from statutory or contractual obligations to inspect and object to defects.

### **ARTICLE 12: TAXES**

Absent any agreement to the contrary, no action may be taken against LEXMARK for the payment of duties and miscellaneous taxes incumbent upon the vendor according to any legislation in force.

### **ARTICLE 13: LEXMARK OWNED MATERIAL**

Any tools, equipment, material or replacement or attachments thereto and/or documentation provided or paid for by LEXMARK shall remain LEXMARK's property and shall only be used by Supplier for work performed for LEXMARK. Such property held by Supplier

(i) shall be held at Supplier's risk (with Supplier responsible for insuring against loss or damage),

(ii) may be removed by LEXMARK at any time, and

(iii) must be maintained and repaired by Supplier at Supplier's expense.

### **ARTICLE 14: LIABILITY AND INSURANCE**

Absent any agreement to the contrary, and in any event without any effect on the date of transfer of ownership, Supplier remains fully liable for the Goods until delivery to LEXMARK or to any other person empowered by LEXMARK; similarly, the Supplier shall be liable for any loss or damage which it causes during the performance of any of the duties derived from the present order to LEXMARK's movable and immovable property and to LEXMARK's employees.

Supplier shall at its expense indemnify, hold harmless and (at LEXMARK's request) defend LEXMARK and its subsidiaries, and its and their officers, employees, affiliates and customers against any and all claims arising from or relating to Supplier's action or inactions. Supplier shall for the entire term of the agreement, including the applicable guarantee and warranty periods, maintain a third party liability insurance policy providing for terms and conditions customary in the industry (minimum liability limit: USD 2 million per loss event) a Property damage, a Public Liability, an Employer's Liability and other applicable comprehensive insurance which is adequate in amount and scope of coverage to protect Lexmark hereunder and against any claims under applicable worker's compensation or other laws. Such insurance shall be primary insurance and shall not limit Supplier's liability under this order or otherwise. Supplier shall furnish proof of appropriate insurance coverage at LEXMARK's request. Any lower liability limits shall be subject to LEXMARK's consent.

### **ARTICLE 15: COUNTRY OF ORIGIN**

The Supplier must state the country of origin of the delivered Goods on the invoice and delivery form. The Supplier shall compensate LEXMARK for all expenses and damages borne by LEXMARK as a result of false or inaccurate declarations about the countries of origin of Goods.

### **ARTICLE 16: CANCELLATION**

This order and any contract or agreement arising hereunder may be terminated at any time upon written notice by LEXMARK to Supplier. Upon receipt of such notice, Supplier shall stop work immediately and terminate all orders and subcontracts to the extent that they relate to the terminated work. There shall be no charges for terminating the order. LEXMARK's sole responsibility to Supplier upon such termination shall be to pay the price for such Goods as have been delivered as of the time of termination and only to the extent that such Goods have been accepted by LEXMARK. In no event shall LEXMARK be liable to Supplier for cost of material, labor and for loss of any anticipated profit.

### **ARTICLE 17: PUBLICITY**

Without any prior agreement by LEXMARK, the Supplier shall not advertise in any way the fact that it has furnished or has undertaken to furnish Goods to LEXMARK, nor in a general manner its business relations with LEXMARK.

This provision shall apply after termination of the order, as well as after its fulfillment for a period of three (3) years.

### **ARTICLE 18: GIFTS**

In order to preserve an indisputable impartiality and honesty of the relations between LEXMARK and its suppliers, no gifts nor gratuities shall be given in any form whatsoever to any LEXMARK or Supplier employees or members of their families. Gifts include personal or family invitations, personal services, favours, discounts and other preferential treatment of any sort.

### **ARTICLE 19: COMPLIANCE WITH LAW**

The Supplier shall comply with all applicable laws, regulations, and rules of competent government authorities (including, but not limited to, Data Protection Law and other privacy laws, export control laws and export licensing requirements, safety laws and employment laws) relating to the performance of all obligations arising out of this order.

### **ARTICLE 20: APPLICABLE LEGISLATION**

These General Conditions of Purchase, as well as any contractual relationship between the parties, are governed by United Arab Emirates law. The UN Convention on Contracts for the International Sales of Goods dated April 11, 1980 shall not apply.

### **ARTICLE 21: COMPETENCE**

If there is any difference or dispute between the parties which could not be settled amicably, it shall be referred to arbitration to Dubai International Arbitration Centre according to the Rules of commercial conciliation or Arbitration of Dubai Chamber of Commerce & Industry. The Arbitration shall be conducted by a panel of three arbitrators. Each party shall choose an arbitrator and the two arbitrators so chosen, shall nominate the third arbitrator. The decision of the arbitrate panel shall be final and binding to both parties.