

## **LEXMARK**

### **General Terms and Conditions for Lexmark Promotions (Reseller)**

#### **1. General Terms and Conditions**

Lexmark International Limited of Westthorpe House, Westthorpe, Marlow SL7 3RQ – (“Lexmark”), conducts from time to time special bonuses, awards and/or other sales assistance programs (“Promotion”) applicable to commercial resellers (“Reseller”). These General Terms and Conditions apply to all Lexmark Promotions for qualifying Resellers in respect of bonuses, awards and/or other sales assistance by Lexmark.

#### **2. Special Promotion Terms and Conditions**

Specific additional provisions for the relevant Promotion will be set out in special promotion terms and conditions (“Special Promotion Terms and Conditions”) applicable to that Promotion. These will include, but not be limited to, the qualification of Promotion products (“Products”), the duration of the Promotion, the nomination of the authorised Lexmark Wholesaler, and further terms and conditions concerning the entitlement to receive bonuses, awards and/or other sales assistance by Lexmark in accordance with the relevant Promotion.

Bonuses, awards and/or other sales assistance may be regarded as benefit in money’s worth and may be subject to taxation both by the Reseller and the employees of the Reseller. Lexmark recommends that a Reseller shall inform and advise Reseller’s employees about this tax obligation and seek tax advice, if necessary.

#### **3. Distribution Process, Sales qualifying for bonuses, awards and other sales assistance**

A Reseller may purchase Products from an authorised Lexmark wholesaler or, if Reseller is registered as an authorised Lexmark Partner, by means of a Lexmark distribution agreement, directly from Lexmark. A Reseller shall demonstrate the purchase of Products by means of presenting a copy of the relevant purchase invoice to Lexmark. However, Lexmark reserves the right to ask for the presentation of the original of the relevant purchase invoice.

Sales of Products will qualify for bonuses, awards and/or other sales assistance if Products are announced as generally available for sale by and purchased from Lexmark and invoiced by wholesaler to Reseller or, if Reseller is registered as an authorised Lexmark Partner, by means of a Lexmark distribution agreement directly by Lexmark to Reseller.

#### **4. Exclusions**

Other promotions and/or price discounts in existence at that time may not be combined with the Special Promotion unless otherwise stated in the Special Promotion Terms and Conditions Products. However, in no circumstances will Promotions apply to demonstration products.

If a Promotion requires the sale of Products to end customers, a Reseller shall not resell Promotion Products to other commercial resellers.

#### **5. Application for Promotion**

Unless otherwise specified in the Special Promotion Terms and Conditions Promotions a Reseller shall complete and submit the application form for the relevant Promotion provided by Lexmark by the date specified in the Special Promotion Terms and Conditions as the final date of the Promotion. Application forms which are improperly completed, incomplete or delayed in receipt will not be accepted by Lexmark. The decision of Lexmark as to whether this condition has been satisfied is in this complete discretion and final.

## **6. Documentation, Audits, Claims for Repayment**

Bonuses, awards and/or other sales assistance will be granted under the condition that Reseller fulfils the terms and conditions as set out in these General Terms and Conditions for Promotions and the Special Terms and Conditions applicable to the relevant Promotion. Reseller shall bear the burden of proving that Reseller is entitled to claim bonuses, awards and/or other sales assistance. In the event of a disagreement between a Reseller and Lexmark as to entitlement under a Promotion the decision of Lexmark shall be final.

Reseller shall document and retain all information relevant to the award of bonuses, awards and/or other sales assistance. Lexmark reserves the right to audit all the documentation of the Reseller required to be maintained by Reseller in respect of any Promotion. Audits shall be limited to the two-year period preceding the date on which notification of the audit is given to the Reseller. Lexmark shall provide the Reseller with at least two weeks' prior written notice of the beginning of any audit. Lexmark shall notify the Reseller of the audit results in writing. The audit of the related Promotion documentation shall, at Lexmark's choice, be held on the premises of the Reseller, of Lexmark, or at Lexmark's agent. If the audit is held outside Reseller's premises, Reseller shall at its own cost transmit all copies of all required documentation to Lexmark or a Lexmark agent as may be designated by Lexmark.

A Reseller shall lose any claim to receive bonuses, awards and/or other sales assistance and, if applicable, shall be required to repay any previously awarded bonuses, awards and/or other sales assistance, if a Reseller is unable to submit the required documentation, or if in the reasonable opinion of Lexmark the submitted documentation or any part thereof is not accurate unless Reseller is able to furnish additional proof of entitlement to bonuses, awards and/or other sales assistance satisfactory to Lexmark.

## **7. Miscellaneous**

In the event of any conflict between the Special Terms and Conditions of the relevant Promotion and these General Terms and Conditions for Lexmark Promotions, the Special Terms and Conditions of the relevant Promotion shall take precedence.

The Reseller consents to the storage and processing of any data received by Lexmark in the course of its business relationship with Reseller, to the extent necessary for the performance of the business of Lexmark.

Lexmark reserves the right to amend or terminate the Promotion or modify any provisions of these Terms and Conditions without prior notification to a Reseller. There is no entitlement of any Reseller to participate in Lexmark Promotions to receive bonuses, awards and/or other sales assistance by Lexmark.

A Reseller shall neither assign nor pledge or otherwise transfer any rights or obligations arising from the participation of the Promotion, except with the prior written consent of Lexmark which consent may be withheld in the complete discretion of Lexmark.

These Terms and Conditions shall be governed by –English law, with the exception of the UN Convention on Contracts for the International Sale of Goods.

Any disputes arising between the parties shall be heard and resolved exclusively by the competent commercial courts in –England.

Lexmark, May 2007