

LEXMAR GLOBAL, INC.
STANDARD TERMS AND CONDITIONS

By submitting any Purchase Order or other agreement whereby Purchaser expresses an interest to require LexMar Global, Inc., ("LexMar Global") to manufacture and/or deliver goods to or for Purchaser or any third party, Purchaser thereby agrees that these Standard Terms and Conditions ("Terms") govern and are incorporated in their entirety in any such Purchase Order or other similar agreement between Purchaser and LexMar Global, whether such Purchase Order or other agreement is in a form provided by Purchaser or by LexMar Global, and shall take precedence over any conflicting, ambiguous, or additional term in any such Purchase Order or other agreement provided by Purchaser. LexMar Global objects to any term or condition in any Purchaser or other document which is in addition to, different from, or an omission from those contained in these Terms and any such additional, conflicting, or different terms are void in the absence of LexMar Global's express written consent to the contrary.

1. LANGUAGE

1.1 All notices or other communications under or relating to the Contract shall be in writing in English. Any translation will be for guidance only.

2. AGREEMENT, SPECIFICATION, AND VARIATION

2.1 A Quotation and may be withdrawn or modified at any time prior to acceptance in its entirety by Purchaser. No Contract shall exist until Purchaser sends a Purchase Order (PO) to LexMar Global accepting the terms of a Quotation that has not been withdrawn in their entirety and without amendment or supplement, until LexMar Global sends its Order Acknowledgement (OA) to Purchaser, or until LexMar Global commences work on or appropriates Goods to the Contract. LexMar Global hereby agrees to manufacture and deliver the Goods and otherwise perform pursuant to the Contract. Purchaser agrees to pay LexMar Global for the Goods and otherwise perform pursuant to the Contract. In the event of any conflict or ambiguity among the Order Documents, Purchaser and LexMar Global hereby acknowledge and agree that the OA shall control over any other document and these Terms shall take precedence over any other document except the OA. Any contract between LexMar Global and Purchaser and formed as a result of an exchange of documents or oral promises must consist of all the terms in the OA and herein, unless such term herein is expressly contradicted by a provision in the OA, in which case the term herein shall be void and the OA term shall control.

LEXMAR GLOBAL'S ACCEPTANCE OF ANY PO, WHETHER IN WRITING OR OTHERWISE, IS HEREBY EXPRESSLY CONDITIONED ON CUSTOMER'S ASSENT TO ANY ADDITIONAL OR DIFFERENT TERMS HEREIN OR IN THE OA. LexMar Global's acknowledgment of the PO is a counteroffer incorporating these Terms and in the event Purchaser objects to any such provision, Purchaser must object prior to LexMar Global's performance or, in any event, within two (2) business days of the date of LexMar Global's OA.

2.2 LexMar Global may alter the specification of any Goods if this does not materially affect their performance or utility.

2.3 If any variation in the Goods or the Contract is agreed or is required for compliance with any applicable law, regulation or safety recommendation, Purchaser shall pay such additional amount as is fair and reasonable and LexMar Global shall have reasonable additional time to perform the Contract.

3. PAYMENT

3.1 Unless specified in the Contract, the Price shall exclude taxes and duties, packaging, shipping, insurance, documentation and installation charges, and reasonable additional charges for complying with any special requirements of Purchaser. Payment shall be made in U. S. Dollars at LexMar Global's offices in the Commonwealth of Massachusetts, U. S. A., clear of any banking transaction charges and without deduction, set off or counterclaim.

3.2 Time of payment is of the essence of every Contract. Without limiting LexMar Global's remedies if payment is overdue, Purchaser shall pay to LexMar Global late fees on any amounts past due under the Contract at the rate of eighteen percent (18.0%) per annum, unless such amount is in violation of any usury law applicable to the Contract, in which case the late fee shall be the maximum amount allowed by such applicable law. In addition, Purchaser shall pay to LexMar Global a sum equal to any loss suffered by LexMar Global arising from exchange rate fluctuations. In the event Purchaser fails to make payments timely, and without limiting the remedies otherwise available to LexMar Global, LexMar Global may cancel the Contract and any other contracts between Purchaser and LexMar Global, suspend or cancel services being provided by LexMar Global, and/or suspend or cancel deliveries to Purchaser, all without penalty notwithstanding any other contractual provision to the contrary. 3.3 LexMar Global may delay or withhold performance under the Contract until Purchaser has made any payment or opened any letter of credit or established any other payment arrangements which are due to be made, opened or established and its time for performance shall be extended accordingly.

4. DELIVERY TERMS

4.1 In the absence of written agreement to the contrary, the means of shipment shall be at the discretion of LexMar Global. Purchaser shall pay all costs of shipment from the factory shipping point. Risk of loss shall pass to the purchaser on delivery to the carrier by LexMar Global at designated FOB point, notwithstanding any provisions for payment of freight or insurance by LexMar Global or the form of the shipping documents. Risk or loss of merchandise sent to LexMar Global for adjustment shall remain with the purchaser until such is received by LexMar Global.

5. WARRANTY

5.1 If within the Applicable Warranty Period any Goods prove defective by reason of faulty design, workmanship or materials LexMar Global will adjust, repair or replace them as it sees fit free of charge provided that:

- (a) LexMar Global receives written notice of the defect (with reasonable relevant information) from Purchaser within the Applicable Warranty Period and within forty-eight (48) hours of Purchaser's actual knowledge of the existence of the defect;
- (b) the Goods have been used solely for their proper purpose and in accordance with the operating instructions;
- (c) the defect has not been caused by fire, accident, misuse, neglect, act of God, incorrect installation by any individual other than LexMar Global's authorized agent, unauthorized alteration, repair or maintenance, the use of sub-standard consumables, or reasonable and customary wear and tear;
- (d) the defect has not arisen from any design, specification, component or material supplied by or on behalf of Purchaser;
- (e) no part of the Goods has been replaced with a part not supplied or approved by LexMar Global;
- (f) Purchaser is not in breach of the Contract;
- (g) Purchaser shall be liable for any costs incurred by LexMar Global in responding to claims caused by operator error or incorrect application or other default or negligence of Purchaser or other third party;
- (h) Purchaser shall accord LexMar Global sufficient access to the Goods to enable its staff to inspect and adjust, repair, remove or replace the Goods;
- (i) the costs of all consumables shall be paid by Purchaser.

5.2 LexMar Global may repair the Goods in situ or have them returned to its premises. If the latter, they shall be packaged as LexMar Global instructs and shipped at Purchaser's expense. Costs of shipping back to Purchaser shall be borne by LexMar Global where the defect is covered by this warranty.

5.3 If the Goods incorporate goods or services provided by a third party, the obligations of LexMar Global with respect to such goods or services shall not exceed the warranty obligations of such third party to LexMar Global nor exceed any time limit upon those obligations.

5.4 The Applicable Warranty Period for any Goods replaced or repaired or any corrective services pursuant to the initial warranty shall be the remaining period, if any, of such initial warranty period.

5.5 The Applicable Warranty Period is not extended by any reshipment following any repair made by LexMar Global even if such repairs are made pursuant to LexMar Global's warranty obligations hereunder.

6. EXCLUSION AND LIMITATION OF LIABILITY

6.1 THE WARRANTIES SET FORTH HEREIN ARE EXPRESSLY IN LIEU OF ALL OTHER WARRANTIES EXPRESSED OR IMPLIED, INCLUDING THE WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. ANY ADDITIONAL WARRANTY NOT EXPRESSLY SET FORTH IN THESE TERMS IS AN ADDITIONAL TERM UNACCEPTABLE TO LEXMAR GLOBAL, WHICH HEREBY OBJECTS TO ANY SUCH ADDED WARRANTY. LexMar Global shall have no liability to Purchaser or anyone else for any special, indirect, incidental, or consequential damages (including loss of profit, revenue, benefit, anticipated savings or goodwill, loss of use of any asset, loss of data, business interruption, management costs or third party liability), even if LexMar Global has been advised of the possibility of such damages. The warranties set forth herein shall run in favor of Purchaser only and shall not benefit the heirs, successors, or assigns of Purchaser and LexMar Global's liability shall be limited to refunding any monies paid in respect of such Goods.

6.2 Purchaser shall not rely upon any representation concerning the Goods unless made by LexMar Global in writing in the Contract.

7. TERMINATION

7.1 LexMar Global may terminate separately all or any portion of the Contract and every other contract with Purchaser if:

- (a) Purchaser fails to make payments to LexMar Global under any contract as they fall due or Purchaser otherwise breaches any such contract and the breach or non-payment is not remedied within seven days of notice from LexMar Global; or
- (b) Purchaser is, or is deemed to be, insolvent or suspends payment or

performance of its obligations or threatens to do so, or LexMar Global has reasonable grounds for believing it will fail to discharge its obligations under any contract or Purchaser petitions for the protection of any bankruptcy court or tribunal from its creditors or is involuntarily subjected to the jurisdiction of such court or tribunal by any one or more of its creditors or any administrator or other receiver or manager is appointed in relation to Purchaser or any of its property; or control of Purchaser passes from the present shareholders, owners or controllers to other persons whom LexMar Global in its sole discretion regards as prejudicial to its reasonable interests; or

- (d) in the reasonable opinion of LexMar Global Purchaser has ceased or threatened to cease to trade; or
- (e) where Purchaser is an individual or partnership, he or any partner dies or any steps are taken with a view to making a bankruptcy order against him or any partner.

7.2 If the Contract is terminated or if, at any time, Purchaser is in breach of the Contract, LexMar Global (without prejudice to its other rights) may do any of the following:

- (a) declare immediately payable any unpaid portion of the Price, proceed against Purchaser for the same and/or damages, and allocate any payment by Purchaser as LexMar Global deems appropriate;
- (b) suspend further performance of any Contract and/or any credit granted to Purchaser on any account (and the time for delivery by LexMar Global shall be extended by the period of such suspension);
- (c) take possession of and store or dispose of any materials and other assets of Purchaser held by or on behalf of LexMar Global and apply any proceeds of sale in payment of any sums owing under or damages arising in connection with any Contract including any interest and costs arising thereon;
- (d) exercise any rights under any available letter of credit or security or bailment terms securing performance under the Contract.

8. INTELLECTUAL PROPERTY AND CONFIDENTIALITY

8.1 LexMar Global retains ownership of all inventions, designs, copyrights and processes and all and any other intellectual or industrial property rights whether or not registered or capable of registration and all goodwill associated thereto relevant to the Goods and all specifications, designs, programs or other material issued by or on behalf of LexMar Global. Purchaser acknowledges that any such item is confidential and agrees not to use it or any other confidential information of LexMar Global for any purpose (other than as necessary to use the Goods for their intended purpose) nor reproduce it in any form nor disclose it to third parties. Purchaser shall not seek to abstract from the Goods any confidential information regarding their design, construction or otherwise (and without limiting the foregoing shall not decompile any software comprised in the Goods) and all rights subsisting in such material are reserved. Purchaser shall obtain similar promises as those set out in this section from its customers and shall be liable to LexMar Global for any damages arising out of its failure to do so. Purchaser shall upon request sign and/or require its customers to sign LexMar Global's form of non-exclusive license to use programs necessary to operate the Goods. All obligations of LexMar Global under any Contract are conditional upon execution of such agreement and compliance with its terms.

9. FORCE MAJEURE

LexMar Global shall not be liable for any failure to perform its obligations hereunder by reason of any cause whatsoever beyond its control (including without limitation trade dispute; fire, flood or act of God; armed conflict; equipment or supply difficulties; any rule or action of any public authority; transportation delays; refusal or delay in granting any necessary license or permit; or any repudiatory event by Purchaser). In such circumstances it may terminate the Contract whereupon

Purchaser shall pay a sum equal to the costs to LexMar Global of performing the Contract and LexMar Global's liability shall be limited to repayment of any sums paid in respect of undelivered Goods (or unperformed services) less such costs.

10. USE OF GOODS

10.1 Purchaser shall:

- (a) use the Goods only for the purposes and in the manner for which they were designed and supplied; train all persons likely to use or come into contact with the Goods appropriately and supply them with copies of applicable literature supplied by LexMar Global; provide clear warning of any hazards to all third parties who use or may be affected by or rely upon the Goods and provide notice of the limitations of their effectiveness; and adopt and comply with safe working practices. Purchaser shall not remove or obscure any warning notices displayed on the Goods and shall make sure that any third party to whom the Goods are supplied agrees not to remove or obscure such warning notices and shall take such steps as are reasonable to enforce such agreement;
- (b) promptly comply with any safety recommendation made to it in respect of the Goods (including recall of them) and shall assure compliance by all relevant persons and shall pay LexMar Global's reasonable charges for additional or replacement parts (including installation costs) supplied by LexMar Global for this purpose;
- (c) maintain and make available to LexMar Global all records necessary to enable Goods to be traced to their ultimate buyer or end user;

(d) indemnify LexMar Global against any liability in relation to any breach of Purchaser's obligations under this section.

10.2 Prior to their delivery to LexMar Global Purchaser shall notify LexMar Global of the nature of any materials or other items to be held or worked on by LexMar Global under the Contract, shall provide adequate warnings and instructions where such materials or items are or may be hazardous to safety and shall ensure that they comply with any requirements or descriptions in the Contract.

10.3 Purchaser shall indemnify LexMar Global for any loss, damage or claim which arises from or relates to such materials or items and which could not have been prevented by LexMar Global acting in accordance with Purchaser's reasonable written instructions and was not caused by the negligence or willful default of LexMar Global or its employees.

11. GENERAL

11.1 Purchaser shall indemnify LexMar Global against all liability in relation to any specification, design, information or component which Purchaser has supplied or arranged for the supply to LexMar Global and warrants that the use of such specifications, designs, information or components will not infringe the rights of any third party.

11.2 In the event of a breach of any provision of the Contract by Purchaser, and in addition to any other remedies available to LexMar Global, Purchaser shall pay all costs and expenses, including attorneys' fees and disbursements, incurred by LexMar Global in enforcing the Contract or in defending itself thereunder, provided that LexMar Global is the prevailing party in such proceedings.

11.3 No indulgence, forbearance, partial exercise of any right or remedy or previous waiver shall prejudice any rights or remedies. Remedies shall be cumulative and no choice of remedy shall preclude any other remedy.

11.4 Purchaser shall not assign, mortgage, charge, sub-let or otherwise dispose of the Contract or any rights thereunder in whole or in part.

11.5 After termination (howsoever caused) or cancellation, promises and obligations hereunder relating to payment, transfer of title, risk of loss, limitations on warranties and liabilities, intellectual property rights, confidentiality, responsibility for legal fees, and indemnification obligations shall survive and continue in full effect.

11.6 All Contracts shall be governed and construed in accordance with laws of the Commonwealth of Massachusetts or such other jurisdiction in which the Goods were manufactured and Purchaser irrevocably submits to exclusive jurisdiction of the state and/or federal courts of the Commonwealth of Massachusetts or such other jurisdiction in which the Goods were manufactured without prejudice to which LexMar Global may apply for any provisional or interim relief in any court having jurisdiction in Purchaser's country or the country where the Goods are then located. Notwithstanding anything herein to the contrary, and in addition to any other remedy available to LexMar Global at law or equity, in the event Purchaser has failed to comply with the payment provisions of the Contract, LexMar Global shall be entitled to an immediate writ of possession for all or any portion of the Goods then in the possession of Purchaser.