LEXMARK CLOUD SERVICES CUSTOMER AGREEMENT

BEFORE ACCPETING THIS LEXMARK CLOUD SERVICES CUSTOMER AGREEMENT (THE "CUSTOMER AGREEMENT"), CUSTOMER ACKNOWLEDGES AND AGREES THAT IT HAS READ THE TERMS AND CONIDTIONS OF THIS CUSTOMER AGREEMENT, UNDERSTANDS IT, AND AGREES TO BE LEGALLY BOUND BY ITS TERMS AND CONDITIONS BY CLICKING ON THE CORRESPONDING CHECKBOX "I ACCEPT". CUSTOMER'S REPRESENTATIVE WHO ACCEPTS THIS AGREEMENT WARRANTS THAT THEY HAVE THE RIGHT, POWER AND AUTHORITY TO ENTER INTO THIS CUSTOMER AGREEMENT FOR CUSTOMER WITH THE LEGAL AUTHORITY TO BIND THE CUSTOMER. IF CUSTOMER DOES NOT ACCEPT THESE TERMS, CUSTOMER MAY NOT ACCESS OR USE THE CLOUD SERVICES.

This **Lexmark Cloud Services Customer Agreement** is offered by **Lexmark International Technology Sàrl** having offices at **Route de Pré-Bois 20, 1215 Geneva, Switzerland** ("Lexmark") and Customer agrees to the terms and conditions of this Customer Agreement by accessing the link provided by Lexmark, confirming the company data and respective Lexmark Cloud Services and clicking on the corresponding checkbox "I accept", each also referred to individually as a "Party" or collectively as the "Parties". This Customer Agreement shall be considered executed on the date Customer, through its designated representative, clicks the box that states it accepts this Customer Agreement ("**Effective Date**").

1. DEFINITIONS

For purposes of this Customer Agreement, the following terms will have the respective meanings indicated below:

1.1 **"Client Components"** means the software client component(s) in object code form that Customer is permitted to download, install and use in connection with the Cloud Services and includes all additional client components, upgrades, enhancements and new version releases of any of the foregoing that may be provided by Lexmark from time to time and any accompanying documentation.

1.2 **"Cloud Services"** means the software-as-a-service and any other cloud offerings as described in the Documentation and made available by Lexmark to Reseller for resale to customers and which are ordered by Customer from Reseller under a Sales Order to Reseller.

1.3 **"Customer"** means the person or legal entity lawfully obtaining from Lexmark the rights to use the Cloud Services pursuant to this Customer Agreement and having no further right to distribute or resell the Cloud Services.

1.4 **"Customer Content"** means any information, data, or other content provided to Lexmark, its affiliates, and their respective agents by or on behalf of Customer or an end user, for use in connection with the Cloud Services. Customer Content excludes usage data, in aggregated, anonymised, or other de-identified form, derived from the use of the Cloud Services.

1.5 **"Day"** or **"days"** means calendar day(s).

1.6 **"Documentation"** means the administrative and end user documentation for the applicable Cloud Service that is made available by Lexmark to Reseller for resale to Customer.

1.7 **"IPR" or "Intellectual Property Rights"** means any patent, copyright, Trademark, trade secret or other intellectual property right.

1.8 **"Licensed Software"** means the software applications, updates and upgrades that Customer is authorised to download, install and/or use which are governed by an end user license agreement provided with the software applications and/or which can be automatically downloaded with the software application and which may be used without the Cloud Services.

1.9 **"Reseller"** means the entity that has contracted directly with (i) Lexmark to resell the Cloud Services to its Customers, (ii) Customer for the sale of a subscriptions to the Cloud Services.

1.10 **"Sales Order"** means the written document specifying the Cloud Services ordered by Customer under the agreement between Customer and Reseller which incorporates this Customer Agreement and includes any addenda, supplements or additional product specific terms for the Cloud Services as described in the Documentation and required by Lexmark.

1.11 **"Territory"** means the countries in Europe, Middle East, and Africa excluding those countries where (i) export or re-export of any Client Components is prohibited by European Union or local law, (ii) access or use of any Cloud Services or Lexmark Services is prohibited by European Union or local law, or (iii) the laws do not allow for data to be stored or transmitted to servers housed in the United States or European Economic Area..

1.12 **"Trademark"** means all trademarks and service marks owned by Lexmark, its subsidiaries, affiliates, successors, and assigns, including any and all common law and registered rights throughout the world.

2. USAGE OF CLOUD SERVICES; LICENSED SOFTWARE DISTRIBUTION.

2.1 Subject to the terms and conditions of this Customer Agreement, Customer may access the respective Cloud Services as indicated by Customer on the enrolment site and in accordance with the Documentation.

2.2 Subject to the terms and conditions of this Customer Agreement and the agreement between Customer and Reseller for the Cloud Services, Lexmark grants Customer a nonexclusive, nontransferable license to download, reproduce, install, and use copies of the Client Components solely in connection with the permitted use of the applicable Cloud Services.

2.3 Any Licensed Software and Documentation that is available through the Cloud Services for download and/or distribution is the copyrighted work of Lexmark and/or its

licensors. Subject to the terms and conditions of this Customer Agreement and the agreement between Customer and Reseller for the Cloud Services, Lexmark grants Customer a personal, nonexclusive, non-transferable license in the Territory to distribute the Licensed Software to its end users for use solely on or in connection with Lexmark products.

2.4 Copying or reproducing the Licensed Software to any other server or location for further reproduction or redistribution is prohibited except in accordance with this Customer Agreement.

2.5 Customer may distribute a copy of the Licensed Software to Customer's end users provided Customer follows all of Lexmark's direction and procedures for downloading and distributing the Licensed Software.

2.6 The Licensed Software and the corresponding software license may be downloaded using the printer enrolment tool. Use of the Licensed Software is subject to the license terms of the license agreement that accompanies or is provided with the Licensed Software. If Customer desires to have Licensed Software installed on a non-Customer controlled printer or device, Customer shall (i) obtain the express authorisation of such device's owner or authorised user to have such Software installed on such printers or other devices, and (ii) provide a copy of the applicable end user software license to such device's owner or authorised user concurrent with the distribution of the Licensed Software. If Customer fails to obtain the express authorisation of or provide such software license to such device's owners or authorised user, Customer agrees to indemnify, defend and hold Lexmark harmless from any damages, claims, causes of action and expenses (including attorneys' fees) ("Claims") to the extent such Claims would not have occurred had Customer obtained such authorisation or provided such software license to such device's owner or authorised user.

2.7 Customer shall not create derivative works of the Licensed Software or attempt to decompile or reverse-engineer the Licensed Software, except as and only to the extent expressly permitted to do so by applicable law for the purposes of inter-operability, error correction, and security testing. If Customer has such statutory rights, Customer will notify Lexmark in writing of any intended reverse engineering or reverse compilation.

2.8 In the event Lexmark provides or makes available any error corrections or updates to the Licensed Software, Licensee agrees to provide such error corrections or updates to its end users in accordance with Section 2.6 of this Schedule.

2.9 Lexmark reserves the right to terminate Customer's right to distribute the Licensed Software without liability to Customer in the event Lexmark, in its sole opinion, believes an infringement claim appears likely or is made about the Licensed Software.

3. CUSTOMER RESPONSIBILITIES; RESTRICTIONS

3.1 Responsibilities. Customer (i) is solely responsible for providing and maintaining at its own expense all equipment, hardware, software and services necessary to connect to, access and use the Cloud Services, including, without limitation, the equipment, hardware, software and services described in the Documentation; (ii) is solely responsible for ensuring the security and maintaining the confidentiality of all user identifications and passwords and will notify Lexmark of any unauthorised use of any user identification or password or any other breach of security known to Customer; (iii) will use commercially reasonable efforts to prevent unauthorised access to or use of Cloud Services and Client Components and will promptly notify Lexmark of any such unauthorised access or use; (iv) will promptly deploy updated Client Components provided by Lexmark; and (v) use Cloud Services and Client Components only in accordance with this Customer Agreement, Documentation, Schedules and applicable laws and government regulations.

3.2 Restrictions. Customer will not directly or indirectly: (a) make the Cloud Services or Client Components available to anyone other than end users; (b) sell, resell, rent or lease the Cloud Services; (c) sublicense, sell, lend, rent, lease, give, transfer, assign or otherwise dispose of all or any portion of the Client Components or Documentation or otherwise use the Cloud Services, Client Components or Documentation to process the data of any person or entity other than Customer; (d) use the Cloud Services to store or transmit infringing, libelous, or otherwise unlawful or tortious material, or to store or transmit material in violation of third-party privacy or IPRs; (e) use the Services to store or transmit uses, worms, time bombs, Trojan horses and other harmful or malicious code, files, scripts, agents or programs; (f) interfere with or disrupt the integrity or performance of the Cloud Services; (g) attempt to gain unauthorised access to the Cloud Services or their related systems or networks; (h) remove, obscure, or alter any notice of copyright, trademark, trade secret, or other proprietary right related to the Client Components or Documentation; or (i) engage in, permit or fail to prevent any unauthorised use of the Cloud Services, Client Components or Documentation. Furthermore, except and only to the extent that such activity is expressly permitted by applicable law notwithstanding these limitations, Customer will not directly or indirectly: (i) modify or create any derivative work based upon any Cloud Service, Client Components or Documentation; or (ii) reverse engineer, disassemble or decompile any of the Client Components or attempt to discover or recreate the source code to any Client Components.

3.3 Client Component Backups. Upon installing the Client Components as permitted herein, Customer may retain any installers and executables that Reseller has made available but use them only for backup purposes. Customer may make one copy of the Client Components in machine-readable form for the purpose of backup in the event the installers or executables are damaged or destroyed, and one copy of the Documentation for backup purposes only; provided, that any backup copy of the Client Components and Documentation must include all copyright, trademark, and other proprietary notices contained on the original.

3.4 Third-Party Software Notice. Portions of any Client Components provided to Customer by Lexmark constituting third party software, including software provided under a public license, ("Third-Party Software") may be subject to the terms and conditions of certain software license agreements. Such software license agreements are set forth in a file accompanying the documentation for such Client Component. Unless stated otherwise therein, the use of such Third-Party Software will be

governed exclusively by the terms and conditions of such software license agreements.

4. PROPRIETARY RIGHTS

4.1 Ownership. Customer acknowledges that, as between Customer and Lexmark, the Cloud Services, Licensed Software, Client Components and Documentation constitute and/or involve valuable IPR of Lexmark, and Customer will not contest or challenge Lexmark ownership thereof or of any associated IPR. No title to or ownership of any Cloud Services, Licensed Software, Client Components or Documentation, or any IPR in or to any Cloud Service, Licensed Software, Client Components or Documentation, is transferred to Customer under this Customer Agreement. Without limiting the generality of the foregoing, Lexmark reserves all of its right, title and interest (including, without limitation, any and all IPR) in and to the Cloud Services, Licensed Software, Client Components and the Documentation.

5. CUSTOMER CONTENT

5.1 Customer Content. Except for the license granted under Section 5.2, Customer reserves all of its ownership rights in the Customer Content and all associated IPR.

5.2 License to Lexmark. Customer hereby grants to Lexmark a non-exclusive, non-transferable, royalty-free license to translate, transmit, transfer, reproduce, and use Customer Content to the extent reasonably necessary to perform its obligations under this Customer Agreement. Without limiting the foregoing, Lexmark may display and distribute Customer Content to Customer in connection with the provision of the Cloud Services.

5.3 Customer Content Backups. Customer assumes all risk, responsibility and liability (if any) for any loss or damage to itself or to others resulting from failure to maintain adequate backup copies of the Customer Content. Upon termination or expiration of the applicable Schedule, Lexmark will not perform any further data backup for the Cloud Services covered by such applicable Schedule.

5.4 LEXMARK MAKES NO WARRANTY WHATSOEVER, EXPRESS OR IMPLIED, WITH RESPECT TO ANY MATERIALS OR ITEMS FURNISHED BY OR ON BEHALF OF CUSTOMER OR ANY END USER.

6. DATA & SECURITY

Customer agrees to the terms set forth in the Lexmark Cloud Services Data Processing Addendum which is made available by Lexmark under the following link: Lexmark Cloud Services Data Processing Addendum.

7. FEEDBACK

Customer grants to Lexmark and its Affiliates a worldwide, perpetual, irrevocable, royalty-free license to use and incorporate into its products or services any suggestion, enhancement request, recommendation, correction or other feedback provided by Customer or end users relating to the operation of the Cloud Services.

8. INDEMNIFICATION

8.1 Customer Indemnification. Customer will indemnify, defend and hold harmless Lexmark, its affiliates and their respective officers, directors, agents and employees (collectively, "Lexmark Parties") from and against any and all claims, actions, demands, losses, judgments, fines or expenses (including, without limitation, reasonable attorneys' fees) arising out of: (a) Customer's use of the Cloud Services in any unlawful manner or in a manner not authorised by this Customer Agreement or the applicable Schedule; (b) an allegation that the Customer Content provided by Customer infringes, misappropriates or otherwise violates any IPR of any third party; or constitutes defamation, invasion of privacy or the violation of any right of publicity or other similar right of any third party; (c) any inaccuracies or defects in the Customer Content or other materials furnished by Customer hereunder; (d) an allegation that Customer's provision of Customer Content or use of Customer Content with the Cloud Services violates any law, including any applicable data protection law or privacy law; or (e) any breach of the obligations of Customer under Sections 3.1. To the extent this Section 8.1 is inconsistent with any other provision of this Customer Agreement, with respect to the subject matter hereof, this Section 8.1 shall take precedence.

8.2 Right to Participate. The indemnified Party shall have the right to participate, at its sole expense, in any suit instituted against it. In no event will an indemnifying Party admit liability on behalf of the indemnified Party without the indemnified Party's prior written consent.

9. DISCLAIMER; LIMITATION OF LIABILITY

9.1 AS BETWEEN LEXMARK AND CUSTOMER, TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, LEXMARK MAKES NO WARRANTY OF ANY KIND, WHETHER EXPRESS, IMPLIED, STATUTORY OR OTHERWISE, AND SPECIFICALLY DISCLAIMS ANY IMPLIED WARRANTIES, INCLUDING, WITHOUT LIMITATION, ANY IMPLIED WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE OR USE, NON-INFRINGEMENT, AND ANY IMPLIED WARRANTY ARISING FROM COURSE OF PERFORMANCE, COURSE OF DEALING OR USAGE OF TRADE. ANY AND ALL LICENSED SOFTWARE, CLOUD SERVICES, AND OTHER ITEMS AND SERVICES FURNISHED BY OR ON BEHALF OF LEXMARK ARE PROVIDED "AS-IS," AND AS AVAILABLE EXCLUSIVE OF ANY WARRANTY WHATSOEVER.

9.2 THE CLOUD SERVICES MAY BE SUBJECT TO LIMITATIONS, DELAYS, SERVICE OUTAGES, AND OTHER PROBLEMS INHERENT IN THE USE OF THE INTERNET AND ELECTRONIC COMMUNICATIONS. LEXMARK IS NOT RESPONSIBLE FOR ANY DELAYS, DELIVERY FAILURES, OR OTHER DAMAGE RESULTING FROM SUCH PROBLEMS. LEXMARK DISCLAIMS ALL LIABILITY AND INDEMNIFICATION OBLIGATIONS FOR ANY HARM OR DAMAGES CAUSED BY ANY THIRD PARTY.

9.3 Limitation of Liability.

9.3.1 Subject to Section 9.3.3., under no circumstances shall Lexmark be liable for any of the following types of loss or damage arising under or in relation to this Customer Agreement (howsoever arising) whether arising for breach of contract, misrepresentation (whether tortious or statutory), tort (including but not limited to negligence), breach of statutory duty, liability under indemnities or otherwise):

(a) any loss of profits; or
(b) any loss of sales, business, or contracts; or
(c) any loss of anticipated savings; or
(d) any loss of goodwill or reputation; or
(e) any loss of revenue; or
(f) any wasted expenditure; or
(g) any exemplary or punitive damages; or
(h) any loss of use, destruction, damage, degradation, alteration or corruption of data or information, regardless of whether any of the above types of loss or damage are direct, indirect, or consequential; or
(i) any indirect or consequential loss or damage whatsoever, even if such party has been apprised of the likelihood or possibility of such loss or damages occurring.

9.3.2 Subject to Section 9.3.3 Lexmark will not be liable or responsible to Customer or to any third party for any liabilities, damages, losses, penalties, costs, or expenses suffered by Customer or any third party (howsoever arising, whether in breach of contract, tort - including negligence - or otherwise):

(a) for any loss of use, damage, corruption, alteration, destruction, unreliability, illegality, inaccuracy, incompleteness, unavailability, invalidity, or degradation of any data for any reason whatsoever and howsoever arising; or
(b) for any loss or unauthorised disclosure of any data or breach of the Lexmark's security obligations in respect of any data howsoever arising, except to the extent resulting from the wilful and unexcused cessation by Lexmark of the performance of its security obligations under this Agreement on the direction of Lexmark's senior management; or
(c) arising from:
    (i) any use by or on behalf of Customer or any third party of any data; or
    (ii) any conclusions or results obtained or drawn from any data or the Cloud Services or Lexmark Services; or
    (iii) any services provided (or not provided) by or on behalf of Customer or any third party using (or otherwise in connection with) any of the data or the Cloud Services or Lexmark Services.

9.3.3 Nothing in this Customer Agreement shall exclude or limit Lexmark's liability for: (a) death or personal injury caused by its negligence; (b) fraud or fraudulent misrepresentation; (c) or for any other liability which cannot be excluded or limited by applicable law.

9.3.4 Subject to the above Sections 9.3.1, 9.3.2 and 9.3.3, the total aggregate liability of Lexmark under or in relation to this Customer Agreement (howsoever arising) including (but not limited to) liability for breach of contract, misrepresentation (whether tortious or statutory), tort (including but not limited to negligence), breach of statutory duty, liability under any indemnities or otherwise in respect of all events (connected or unconnected) in any twelve (12) months period preceding the month in which any such liability is first asserted or, if asserted in the first twelve (12) months period of this Customer Agreement, Euro 10,000 or the amounts paid by Customer in accordance with the Sales Order during that twelve (12) months period, whichever is lower.

10. TERMINATION OF CLOUD SERVICES

10.1 Termination of the Cloud Services. Customer's and its end users' access to the Cloud Services may be immediately restricted, suspended or terminated, as determined by Lexmark in its sole discretion, due to (a) a breach of the terms of this Customer Agreement; (b) Customer or an end user engaging in any activity detrimental to the Cloud Services, Licensed Software, Lexmark computer systems or any other end user; or (c) a breach by Reseller of its payment of obligations to Lexmark with respect to the services it is reselling to Customer in connection with this Customer Agreement.

10.2 Termination of Reseller's Agreement with Lexmark. In the event of any termination or the expiration of Reseller's agreement with Lexmark authorising Reseller to resell the Cloud Services, each Customer's agreement to the Cloud Services shall remain in effect until the end of its then-current term and shall continue to be governed by this Customer Agreement, provided that Customer is not in breach of this Customer Agreement and Lexmark has received all payments due in connection with such subscription. Following a termination or expiration of Reseller's agreement with Lexmark, Lexmark is under no obligation to provide Cloud Services directly to Customer or to assume a direct contractual relationship with Customer.

10.3 Shared Accounts. Customer acknowledges that if the Cloud Services are provisioned in an account in which Lexmark Cloud Services purchased from Lexmark or another third party are also provisioned, access to such account may be suspended or terminated due to breach of the agreement governing such other Lexmark Cloud Services, and that in no case will any such suspension or termination give rise to any liability to Customer for a refund or other compensation.

10.4 No Refunds. In no event will any termination, expiration or suspension of the Cloud Services, this Customer Agreement or Reseller's agreement with Lexmark give rise to any liability of Lexmark to Customer for refunds or damages.

11. MISCELLANEOUS

11.1 Compliance with Laws. Each Party will comply with all applicable laws, rules, regulations, orders, and other requirements, now or hereafter in effect, of governmental authorities having jurisdiction in connection with its activities under this Customer Agreement.

11.2 Notices. Any notices that Lexmark is required to provide to Customers shall be provided to Reseller or Customer as determined by Lexmark in its sole discretion based upon the circumstances and designated contact information for notices available to Lexmark in the Cloud Services.

11.3 Assignment. Customer will not assign (whether voluntarily, involuntarily, by operation of law or otherwise) this Customer Agreement or any of its rights under this Customer Agreement. Any assignment in violation of the foregoing will be null and void.

11.4 Non-Waiver. The failure of either Party to insist upon or enforce performance by the other Party of any provision of this Customer Agreement, or to exercise any right or remedy under this Customer Agreement or otherwise by law, will not be construed as a waiver or relinquishment of such Party's right to assert or rely upon the provision, right, or remedy in that or any other instance.

11.5 Severability. If any term or provision of this Customer Agreement is for any reason deemed illegal or invalid, such illegality or invalidity will not affect the validity of the remainder of this Customer Agreement, and each such term or provision will be valid and enforceable to the fullest extent permitted by law.

11.5 Excused Performance. Lexmark will not be liable for, or be considered to be in breach of or default on account of, any delay or failure to perform as required by this Customer Agreement as a result of any cause or condition beyond such Lexmark's reasonable control.

11.6 Applicable Law and Venue. This Customer Agreement and all disputes arising under or in connection with this Customer Agreement will be construed and governed in accordance with the laws of Switzerland, without regard to any rules of conflicts or choice of law provisions that would require the application of the laws of any other jurisdiction. In each case, this Customer Agreement will be construed and enforced without regard to the United Nations Convention on the International Sale of Goods. Any dispute, controversy, or claim arising out of, or in relation to, this contract, including the validity, invalidity, breach, or termination thereof, shall be resolved by arbitration in accordance with the Swiss Rules of International Arbitration of the Swiss Chambers' Arbitration Institution in force on the date on which the Notice of Arbitration is submitted in accordance with these Rules. The number of arbitrators shall be one. The seat of the arbitration shall be Geneva, Switzerland. The arbitral proceedings shall be conducted in English language.

11.7 Additional Terms; Amendment. Additional or inconsistent pre-printed terms, acknowledgements, confirmations, and other communications, whether or not signed or accepted, will not supplement or supersede the terms of this Customer Agreement and/or Schedule or Exhibit unless so agreed in a separate, signed amendment specifically referencing this Customer Agreement or such Schedule or Exhibit. Lexmark reserves the right to amend the terms and conditions of this Customer Agreement. Any such amendments shall take effect upon thirty (30) days' prior notice unless Customer objects to the amendment in writing prior to expiration of the thirty (30) days' notice period. Lexmark may make immaterial changes or modifications merely reflecting changes in law or judicial precedent, and correct clerical errors or procedural errors with respect to orders, shipments, or invoices without any right of Customer to object to such changes, modifications, or corrections.

11.8 Conflicting Terms. In the event of any conflict or inconsistency between this Customer Agreement and any Schedule or Exhibit, this Customer Agreement will control.

11.9 Export. Customer acknowledges that Lexmark products and related software and/or technology (collectively, the "Controlled Items") are subject to export control and sanctions laws of the United States, EU and/or other jurisdictions. The Controlled Items may not be shipped, transferred, re-exported into any country, or used for any purpose prohibited by any applicable international and national legal instruments that apply to the Controlled Items, including the U.S. Export Administration Regulations. Moreover, software may not be exported, re-exported, or downloaded by any person or entity subject to U.S. or international sanctions regardless of location.

11.10 Entire Agreement. This Customer Agreement constitutes the entire agreement of the Parties regarding the subject matter hereof and replaces any prior or contemporaneous oral or written communications between the Parties. Any translation of the Customer Agreement shall be for informative purposes only, and the English version of the Customer Agreement shall prevail.